UTAH STATE BULLETIN

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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

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EXECUTIVE DOCUMENTS

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

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

Governor's Proclamation 2010/2/S: Calling the Fifty-Eighth Legislature Into a Second Special Session

P R O C L A M A T I O N

WHEREAS, since the adjournment of the 2010 General Session of the Fifty-Eighth Legislature of the State of Utah, matters have arisen that require immediate legislative attention; and,

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

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do by this Proclamation call the Fifty-Eighth Legislature of the State of Utah into a Second Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 17th day of November 2010, at 1:00 p.m., for two purposes only:

(1) to exercise its statutory authority under Title 63J, Part 5, Federal Funds Procedures Act, relating to federal funds allocated by the United States Congress under the 2010 Education Jobs Fund bill; and

(2) for the Senate to consent to appointments made by the Governor since the close of the 2010 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 10th day of November, 2010.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Greg Bell
Lieutenant Governor

2010/2/S

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 November 02, 2010, 12:00 a.m., and November 15, 2010, 11:59 p.m. are included in this, the December 01, 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 December 31, 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 March 31, 2011, the agency may notify the Division of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Division of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page

Commerce, Occupational and Professional Licensing
R156-78B
Prelitigation Panel Review Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34215
FILED: 11/02/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to first, implement the provisions of S.B. 145 enacted during the 2010 Legislative General Session; second, to incorporate provisions that have not changed but were not adequately addressed by rule including Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements with regard to issuance of subpoenas for medical records; third, to incorporate new provisions that have evolved into current practices; fourth, to address requests for pre-litigation review by incarcerated persons for malpractice claims that occurred while the person was incarcerated and the alleged malpractice is against the State of Utah; and fifth, to clarify ambiguities; and sixth, to make technical changes. (DAR NOTE: S.B. 145 (2010) is found at Chapter 97, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: Section R156-78B-2 adds definitions for the following terms: "date of the panel's opinion," "issuance of an opinion" and "issue an opinion"; "file," "filing", or "filed"; "findings", "conclusions", "determinations", or "results"; "HIPPA"; "panel opinion", or "opinion"; and "service". In addition, the definition of "pleadings" is modified. Subsection R156-78B-4(2) is changed to clarify that except as otherwise required by Title 78B, Chapter 3, the Division may permit a deviation from this rule when it finds compliance to be impractical or unnecessary. Subsection R156-78B-4(3) addressing the computation of time is changed to address the Division's four day work week. In Section R156-78B-5, added wording to this section which provides that "counsel" means active members of the Utah State Bar or active members of any other state bar and allows for counsel from a foreign licensing state. Subsections R156-78B-7(2) and (3) are changed to better address the provisions governing the process for service of pleadings. Subsection R156-78B-7(4) is added so there is a provision addressing date of service. In Section R156-78B-9, the word "shall" is changed to "may" in Subsections R156-78B-7(4)(c) and (5)(e) to provide the Division better flexibility in this circumstance. A new Subsection R156-78B-7(6) is added to address requests made by incarcerated persons. It provides that if a request, notice, or other documentation indicates that the alleged malpractice occurred while the petitioner was incarcerated and the alleged malpractice claim is against the State of Utah, its agencies or employees, the request shall be denied based upon Subsection 63G-7-301(5)(j). It further provides that subsequent requests or communication from an incarcerated petitioner whose request has been denied will not receive response unless the petitioner files an amended request and notice that demonstrates that the alleged malpractice did not occur while the petitioner was incarcerated, or that the alleged malpractice claim is not against the State of Utah, its agencies or employees. In Section R156-78B-11, a clarification is made to this very seldom used section to provide that the Division may authorize a prehearing conference by exception and under the direction of a panel chair. Subsection R156-78B-12(1) is added to clarify that pre-litigation panel hearings are informal as provided by Subsection 78B-3-416(1)(c) and are not governed by Title 63G, Chapter 4, Utah Administrative Procedures Act, and they are closed to the public as provided by Subsection 78B-3-417(5)(a). Subsection R156-78B-12(2) is added to codify an existing standard into rule establishing the duration of a pre-litigation hearing. Subsection R156-78B-12(12) is changed to modify the title of the section from "Subpoenas and Fees" to "Subpoenas–Discovery and Perpetuation of Testimony". The title of Subsection R156-78B-12(12)(a) is modified from "Issuance of Subpoenas" to "Subpoenas for Medical Records Authorized – Discovery and Perpetuation of Testimony Prohibited". The body of Subsection R156-78B-12(12)(a) is modified to remove subpoena authority to compel the appearance of witnesses at pre-litigation panel hearings which appears to exceed our statutory authority set forth in Subsection 78B-3-417(2). The existing Subsection R156-78B-12(12)(b) governing payment of witness fees is removed consistent with the removal of the Division's authority to compel the appearance of witnesses at a pre-litigation panel hearing. A new Subsection R156-78B-12(12)(b) is added to address the requirements and process for issuance of subpoenas for medical records. The subsection specifies that the subpoena must be prepared in proper form by the person requesting the subpoena and must be accompanied by either a release from the individual who is the subject of medical records from the individual's guardian or conservator, or by an affidavit with the proscribed text set forth in Table IV. The affidavit incorporates the requirements of Subsection 78B-3-417(2), which is the current standard, and in addition addresses compliance with the requirements of HIPAA that HIPAA places upon the person seeking access to medical records pursuant to a subpoena issued under 45 CFR 164.512(e). Specifically, the person seeking access to medical records must certify that they will provide the specified satisfactory assurances to the covered entity from whom the medical records are sought. A new Subsection R156-78B-12(12)(b) also provides that if the covered entity fails or refuses to provide the medical records subject to the administrative subpoena that enforcement must be sought through a court of competent jurisdiction under Section 78B-6-313 of the Judicial Code. Subsections

R156-78B-14(1) and (2) are changed, along with the accompanying definitions in Section R156-78B-2, to clarify the distinction between a panel determination and a panel opinion and the fact that a panel renders and files its determinations and opinions with the Division. Subsection R156-78B-14(3) clarifies and establishes that it is the panel's responsibility to render and file its determination and opinion and the Division's responsibility to issue the panel's determination and opinion. Subsection R156-78B-14(4) organizes and clarifies the circumstances and timing for the Division's issuance of a certificate of compliance. Subsection R156-78B-14(4) clarifies that a certificate of compliance issued by the Division shall be accompanied by the supporting documentation including the applicable panel determination or finding, supplemental memorandum opinion, determination on petitioner's affidavit of respondent's failure to reasonably cooperate in the scheduling of a pre-litigation hearing, required affidavits of merit, etc. Subsection R156-78B-14(4) clarifies that a certificate of compliance will not be issued to a person who fails to timely file a required affidavit of merit. Subsection R156-78B-15(1) clarifies the deadline for submitting an affidavit alleging failure to reasonably cooperate in scheduling a hearing. Subsection R156-78B-15(2) establishes that an affidavit alleging failure to reasonably cooperate in scheduling a hearing shall set forth a specific factual basis. Subsection R156-78B-15(3) provides what "failure to reasonably cooperate in scheduling a hearing" includes. Subsection R156-78B-15(4) establishes that an affidavit alleging failure to reasonably cooperate in scheduling a hearing must comply with Section R156-78B-6 governing pleadings and Section R156-78B-7 governing filing and service. Subsection R156-78B-15(5) establishes a right for a respondent to respond to an affidavit alleging failure to reasonably cooperate in scheduling a hearing within five days after the filing of the affidavit. The response must be in the form of a counter affidavit. Subsection R156-78B-15(6) establishes that the Division shall review petitioner's affidavit alleging failure to reasonably cooperate in scheduling a hearing and respondent's counter affidavit, if any, and determine whether respondent failed to reasonably cooperate in scheduling a hearing. If so then the Division is required to issue a certificate of compliance to petitioner in conjunction with its determination. If not, it is required to issue a notice to petitioner that the petitioner must timely file an affidavit of merit before the Division can issue a certificate of compliance. Subsection R156-78B-16a(1) clarifies that the required affidavit of merit consists of two or more affidavits, one executed by counsel or by a pro se claimant and one or more signed by an appropriate health care provider. Subsection R156-78B-16a(2) provides that required affidavits must comply with Section R156-78B-6 governing pleadings and Section R156-78B-7 governing filing and service. Section R156-78B-16b clarifies and specifies the content requirement, or its substantial equivalent, of an affidavit of merit by counsel or a by a pro se claimant. Subsection R156-78B-16c(1) clarifies and specifies the content requirement, or its substantial equivalent, of an affidavit of merit by a health care provider. Subsection R156-78B-16c(2) clarifies when a portion of the required content is waived. Section R156-78B-16d clarifies the type of health care provider or providers who are required to complete an affidavit of merit to support the issuance of a certificate of compliance. Subsection R156-78B-16e(1) clarifies and specifies the content requirement, or its substantial equivalent, of an affidavit for a 60-day extension to file an affidavit of merit. Subsection R156-78B-16e(2) establishes a right for a respondent to respond to an affidavit for a 60-day extension to file an affidavit of merit within 5 days after the filing of the affidavit. The response must be in the form of a counter affidavit. Technical changes were also made throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 78B-3-416(1)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: In General: there will be a cost of approximately $50 to reprint and distribute this rule. The new program aspects of S.B. 145 implemented by this rule may increase the workload for the Pre-litigation Program, in particular the workload of administering the new: 1) affidavits alleging failures to reasonably cooperate in scheduling a hearing; 2) affidavits supporting requests for extension of time to file an affidavit of merit; and 3) affidavits of merit. The fiscal note for this bill was $8,500. During FY 2009, the Pre-litigation Program opened 338 cases, closed 361 cases, and scheduled 196 hearings. The breakout in outcome of the cases closed was as follows: No Merit – 144; Meritorious – 20; Stipulated – 72; Dismissed – 67; Split Decision - 29; and Jurisdiction – 29. It is estimated that more than one half of the no merit and jurisdiction cases will move forward to litigation. This is approximately 100 cases. In addition, it is estimated that virtually all of the stipulated and split decision cases will move forward to litigation. This is approximately 100 more cases, for a total of approximately 200 other than meritorious cases going forward to litigation. Specific analysis of the new workload by type of affidavit or activity is as follows. Affidavits submitted to Support the Issuance of an Administrative Subpoena for Medical Records: the current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The Division may reject and return many subpoenas as the parties to pre-litigation and/or their counsel work through a learning curve. The cost of many of these workload modifications cannot be accurately predicted. Affidavits alleging Failure to Reasonably Cooperate in Scheduling a Hearing: the current process for jurisdiction cases involves simply issuing a certificate of compliance indicating the loss of jurisdiction once the 180-day jurisdictional timeframe has run, unless the parties have agreed to a longer time frame. Under the new requirements upon the timely filing of this type of affidavit by petitioner's counsel, the Division of Occupational and Professional Licensing (DOPL) will await the time period for the filing of a counter affidavit by respondent's counsel. DOPL will then evaluate the affidavits and either: 1) issue a determination agreeing with petitioner's counsel and issue a certificate of compliance; or 2) issue a determination disagreeing with

petitioner's counsel and send a notice petitioner to submit an affidavit of merit within 30-days in order to receive a certificate of compliance. There will certainly be multiple filings in this category, perhaps as many as half of these cases or approximately 15 cases. This is a significant new workload. Affidavits of Merit: An affidavit of merit is required in the following situations: loss of jurisdiction cases in which an affidavit alleging failure to reasonably cooperate in scheduling a hearing is not submitted, or is submitted but is not supported; and cases that go to a pre-litigation hearing and receive a finding/opinion of no merit with regard to either the standard of care or damages, or both. As indicated this will be somewhere in the vicinity of 200 cases. Current process for loss of jurisdiction cases is as set forth above. Current process for non-meritorious cases is to simply send out a certificate of compliance together with the associated findings and opinion. The new process will turn a 1-step process into a 2-step process in which the opinion and findings will go out separately and the Division will then wait for 30 or 60 days, depending on the type of case, for the submittal of affidavits of merit, one from the petitioner or petitioner's counsel and one or more from health care providers. If an affidavit of merit is timely received, the Division will then send out the certificate of compliance. If not, it will close the case and send out a notice of case closure or dismissal. Affidavits requesting an Extension of Time to File Affidavit of Merit: Finally, an undetermined but significant number of petitioners will request a 60-day extension to file their required affidavit of merit. This is required to be done in the form of an affidavit. Respondent's counsel will be given an opportunity to respond by a counter affidavit. DOPL will then evaluate the affidavits and determine whether to grant the extension and issue the appropriate determination. Paper, Envelopes, and Postage: additional paper, envelope, and multiple mailings for each of the cases affected by the new affidavit requirements times multiple mailings per case are expected to increase by as many as 1,000 mailings per year or an increase in cost of $450. State Courts: there may be an impact to state courts in that they may see a decrease in the number of filings of cases due to the new affidavit requirements. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent’s attorney fees and court costs. The amount of this impact cannot be quantified. State-Owned Medical Facilities: there may be a cost savings from a decrease in the number of medical malpractice cases involving state government owned health care facilities and/or their employees due to the new affidavit requirements. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent's attorney fees and court costs. The amount of these cost savings cannot be quantified. The current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The changes and the underlying process it entails may increase the cost of those who are currently not in compliance with the requirements of HIPAA. The learning curve will likely result in many subpoenas initially being rejected and returned for reworking and resubmission. These cost increases cannot be quantified.

♦ LOCAL GOVERNMENTS: There may be a cost savings from a decrease in the number of medical malpractice cases involving local government-owned health care facilities and/or their employees due to the new affidavit requirements in most cases. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent's attorney fees and court costs. The amount of these cost savings cannot be quantified. The current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The changes and the underlying process it entails may increase the cost of those who are currently not in compliance with the requirements of HIPAA. The learning curve will likely result in many subpoenas initially being rejected and returned for reworking and resubmission. These cost increases cannot be quantified.

♦ SMALL BUSINESSES: There may be a cost savings from a decrease in the number of medical malpractice cases involving small businesses that own and operate medical facilities and/or their employees due to the new affidavit requirements in most cases. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent's attorney fees and court costs. The amount of these cost savings cannot be quantified. The current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The changes and the underlying process it entails may increase the cost of those who are currently not in compliance with the requirements of HIPAA. The learning curve will likely result in many subpoenas initially being rejected and returned for reworking and resubmission. These cost increases cannot be quantified. There will be a cost increase to small businesses who are petitioners or who represent petitioners due to the new affidavit of merit requirements. The attorney and health care provider affidavits of merit will be costly, perhaps as much as $500 - $750, or even more in a complex case.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There may be a cost savings to health care providers from a decrease in the number of medical malpractice cases against them due to the new affidavit of merit requirements. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of

merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent's attorney fees and court costs. The amount of these cost savings cannot be quantified. The current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The changes and the underlying process it entails may increase the cost of those who are currently not in compliance with the requirements of HIPAA. The learning curve will likely result in many subpoenas initially being rejected and returned for reworking and resubmission. These cost increases cannot be quantified. The new requirements will result in a cost increase to health care providers who are petitioners or an attorney represents petitioners due to the new affidavit of merit requirements in most cases. The attorney and health care provider affidavits of merit will be costly in a complex case. This filing may result in a cost savings to insurance companies that insure health care providers in that there may be a decrease in the number of medical malpractice cases against their policyholders that move forward to litigation due to the new affidavit of merit requirements in most cases. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent's attorney fees and court costs. The amount of these cost savings cannot be quantified. The cost savings could in turn drive a reduction in the cost of medical malpractice insurance at some point.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This filing may result in a cost savings to a health care provider because there may be a decrease in the number of medical malpractice cases against them that move forward to litigation due to the new affidavit of merit requirements in most cases. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent's attorney fees and court costs. The amount of these cost savings cannot be quantified. The current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The changes and the underlying process it entails may increase the cost of those who are currently not in compliance with the requirements of HIPAA. The learning curve will likely result in many subpoenas initially being rejected and returned for reworking and resubmission. These cost increases cannot be quantified. This change will result in a cost increase to health care providers who are petitioners or an attorney represents petitioners because of the new affidavit of merit requirements in most cases. It will result in a cost increase for the attorney and health care provider affidavits of merit, the latter of which could be as high as $500 - $750, or even more in a complex case.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing implements new statutory changes, the fiscal impact of which was addressed in the passage of the legislation. It also provides new definitions, clarifies HIPAA requirements, addresses prelitigation cases by incarcerated individuals, clarifies ambiguities, and makes other technical corrections. The rule summary addresses in detail the cost impact of implementing the statutory amendments and the cost impact of other changes. No further fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ W. Ray Walker by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/09/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 401 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-78B. Prelitigation Panel Review Rule.
R156-78B-2. Definitions.

In addition to the definitions in Section 78B-3-403, which shall apply to this rule:

(1) "Answer" means a responsive answer to a request.

(2) "Date of the panel's opinion", "issuance of an opinion", and "issue an opinion", as used in Subsections 78B-3-423(1)(a)(i), 78B-3-416(3)(a)(i)(A), and 78B-3-418(1)(a), respectively, mean the date the Division issues a panel opinion filed with the Division by a prelitigation panel.

([~~2~~]3) "Director" means the Director of the Division of Occupational and Professional Licensing.

(4) "File", "filing", or "filed" means a pleading or document filed with the Division with service to all parties as required in Section R156-78B-7.

(5) "Findings", "conclusions", "determinations", or "results", as used in Section 78B-3-419, means a written outcome of a prelitigation panel whether each claim against each health care provider has merit, and if meritorious, whether the conduct complained of resulted in harm to the claimant.

(6) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, enacted by Congress in Pub. L. No 104-91 as implemented by 45 CFR Parts 160 and 164, as amended.

(7) "Issue" or "issued", as it relates to a written action or notice permitted or required from the Division, means the finalization of an action or notice by the Division as reflected by an authorized signature and date on the action or notice.

([~~3~~]8) "Meritorious claim" means that there is a basis in fact and law to conclude that the standard of care has been breached and the petitioner has been injured thereby, such that the petitioner has a reasonable expectation of prevailing at trial.

([~~4~~]9) "Motion" means a request for any action or relief permitted under Sections 78B-3-416 through 78B-3-420 or this rule.

([~~5~~]10) "Nonmeritorious claim" means that the evidence before the panel is insufficient to conclude that the case is meritorious, but does not necessarily mean the case is frivolous.

([~~6~~]11) "Notice" means a notice of intent to commence action under Section 78B-3-412.

([~~7~~]12) "Panel" means the prelitigation panel appointed in accordance with Subsection 78B-3-416(4) to review a request.

(13)(a) "Panel opinion" or "opinion" as shortened in context with reference to a panel opinion, as used in Sections 78B-3-418, 78B-3-419, and 78B-3-423, means the supplemental memorandum opinion rendered by the prelitigation panel as required by Subsection R156-78B-14(2), that articulates the basis for the panel's findings, determinations or results as to whether each claim against each health care provider has merit and, if meritorious, whether the conduct complained of resulted in harm to the claimant.

(b) If a supplemental memorandum opinion is not timely rendered by the prelitigation panel, "panel opinion" or "opinion" means the prelitigation panel findings, conclusions, determinations, or results.

([~~8~~]14) "Party" means a petitioner or respondent.

([~~9~~]15) "Person" means any natural person, sole proprietorship, joint venture, corporation, limited liability company, association, governmental subdivision or agency, or organization of any type.

([~~10~~]16) "Petitioner" means any person who files a request with the [~~d~~]Division.

([~~11~~]17) "Pleadings" include the requests, answers, motions, briefs and any other documents filed by the parties to a request.

([~~12~~]18) "Request" means a request for prelitigation panel review under Section 78B-3-416.

([~~13~~]19) "Respondent" means any health care provider named in a request.

(20) "Service" means service as set forth in Subsection R156-78B-7.

R156-78B-3. Authority - Purpose.

This rule is adopted by the [~~d~~]Division under the authority of Subsection 78B-3-416(1)(b) to define, clarify, and establish the process and procedures which govern prelitigation panel reviews.

R156-78B-4. General Provisions.

(1) Purpose.

This rule is intended to secure the just, speedy and economical determination of all issues presented to the [~~d~~]Division.

(2) Deviation from Rule.

Except as otherwise required by Title 78B, Chapter 3, t[~~T~~]he [~~d~~]Division may permit a deviation from this rule [~~insofar as it may~~]when it finds compliance [~~therewith~~]to be impractical or unnecessary.

(3) Computation of Time.

The time within which any act shall be done, as herein provided, shall be computed by excluding the first day and including the last, unless the last day is Friday, Saturday, Sunday or a state holiday, and then it is excluded and the period runs until the end of the next day which is [~~neither a Saturday, Sunday nor a holiday~~]a scheduled workday for the Division. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon [~~him~~]the party and the notice or paper is served upon [~~him~~]the party by mail, three days shall be added to the prescribed period.

R156-78B-5. Representations - Appearances.

(1) Representation of Parties.

(a) A party may be represented [~~himself~~]by counsel or may represent onself individually, or if not an individual, may represent itself through an officer or employee[~~, or may be represented by counsel~~]. For the purpose of this provision, the term "counsel" means active members of the Utah State Bar or active members of any other state bar.

(b) Counsel from a foreign licensing state shall submit a notice of appearance to the presiding officer along with a certificate of good standing from the foreign licensing state.

(2) Entry of Appearance of Representation.

Parties shall promptly enter their appearances by giving their names and addresses and stating their positions or interests in the proceeding. When possible, appearances shall be entered in writing concurrently with the filing of the request for petitioner and no later than 10 days from service of the request for respondent.

R156-78B-6. Pleadings.

(1) Docket Number and Title.

Upon receipt of a timely Request for Prelitigation Review, the [~~d~~]Division shall assign a two letter code identifying the matter as involving this type of request (PR), a two digit code indicating the year the request was filed, a two digit code indicating the month the request was filed, and another number indicating chronological position among requests filed during the month. The [~~d~~]Division shall give the matter a title in substantially the following form:

TABLE I

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

John Doe,
Petitioner — Request for Prelitigation Review

-vs-

Richard Roe, No. PR-XX-XX-XXX
Respondent

(2) Form and Content of Pleadings.

Pleadings must be double-spaced and typewritten and presented on standard 8 1/2" x 11" white paper. They must identify the proceeding by title and docket number, if known, and shall contain a clear and concise statement of the matter relied upon as a basis for the pleading, together with an appropriate prayer for relief when relief is sought. A request shall, by affirmation, set forth the date that the required notice was served, shall include a copy of the notice and shall reflect service of the request upon all parties named in the notice and request. When a petitioner fails to attach a copy of the notice to petitioner's request, the [~~d~~]Division shall return the request to the petitioner with a written notice of incomplete request and conditional denial thereof. The notice shall advise the petitioner that his request is incomplete and that the request is denied unless the petitioner corrects the deficiency within the time period specified in the notice and otherwise meets all qualifications to have the request granted.

(3) Signing of Pleadings.

Pleadings shall be signed by the party or their counsel of record and shall indicate the addresses of the party and, if applicable, their counsel of record. The signature shall be deemed to be a certification that the signer has read the pleading and that, to the best of his knowledge and belief, there is good ground to support it.

(4) Answers.

A respondent named in a request may file an answer relative to the merits set forth in the petitioner's notice. Affirmative defenses shall be separately stated and numbered in an answer or raised at the time of the hearing. Any answer must be filed no later than 15 days following the filing of the request.

(5) Motions.

(a) Motions to be Filed in Writing.

Motions shall be in writing unless the motion could not have been anticipated prior to the prelitigation panel hearing.

(b) Time Periods for Filing Motions and Responding Thereto.

(i) Motions to Withdraw a Request.

Any motion to withdraw a request shall be filed no later than five days before the prelitigation panel hearing.

(ii) Motions Directed Toward a Request.

Any motion directed toward a request shall be filed no later than 15 days after service of the request.

(iii) Motions Directed Toward the Composition of a Panel.

Any motion directed toward the composition of a panel shall be filed no later than five days after discovering a basis therefore.

(iv) Motions to Dismiss.

Any motion to dismiss shall be filed no later than five days after discovering a basis therefore.

(v) Extraordinary Motions for Discovery or Perpetuation of Evidence.

Any motion seeking discovery or perpetuation of evidence for good cause shown demonstrating extraordinary circumstances shall be filed no later than 15 days before the prelitigation panel hearing.

(vi) Response to a Motion.

A response to a motion shall be filed no later than five days after service of the motion and any final reply shall be filed no later than five days after service of the response to the motion.

(c) Affidavits and Memoranda.

The [~~d~~]Division or panel shall permit and may require affidavits and memoranda, or both, in support or contravention of a motion.

(d) The [~~d~~]Division or panel may permit or require oral argument on a motion.

R156-78B-7. Filing and Service.

(1) Filing of Pleadings. All pleadings shall be filed with the [~~d~~]Division with service thereof to all parties named in the notice. The [~~d~~]Division may refuse to accept pleadings if they are not filed in accordance with the requirements of this rule.

(2) Process for Service.

(a) All [~~P~~]pleadings and documents issued by the [~~d~~]Division or panel that are required to be served shall at the option of the Division be served [~~either~~]by personal service, [~~or by~~] first class mail, registered mail, certified mail, or by express mail. Personal service shall be made upon a party in accordance with the Utah Rules of Civil Procedure by any peace officer within the State of Utah or by any person specifically designated by the [~~d~~]Division. [~~When an attorney has entered an appearance on behalf of any party, service upon that attorney constitutes service upon the party so represented.~~]

(b) A request for a prelitigation proceeding filed by a petitioner shall be served in accordance with the same process for service required for a notice of intent as set forth in Subsection 78B-3-412(3). All other pleadings or documents filed by a party shall at the option of the party be served by personal service, first class mail, registered mail, certified mail, or by express mail.

(c) When an attorney has entered an appearance on behalf of any party, service upon that attorney constitutes service upon the party so represented.

(3) Proof of Service.

(a) There shall appear on all pleadings or documents required to be served a certificate of service certifying the appropriate method of service as set forth in Subsection (2), in substantially the following form:

TABLE II

I hereby certify that I have this day served the foregoing document upon the parties of record in this proceeding set forth below (by delivering a copy thereof in person) (by mailing a copy thereof, properly addressed by first class mail) (by registered mail) (by certified mail) (by certified mail, return receipt requested) (by type of express mail):

(Name of parties of record)
(addresses)

Dated this (day) day of (month), (year).

(Signature)
(Title)

(b) Any pleading or document filed with the Division shall be accompanied by documentation of the service reflected in the certificate of service.

(4) Date of Service.

Pleadings or documents shall be considered served on the date of personal service or mailing date, as set forth in Subsection (2).

R156-78B-8. Panel Selection and Compensation.

(1) The [~~d~~]Division shall commence the selection and appointment of panel members following the issuance of a notice of hearing pursuant to this rule.

(2) The selection and appointment of panel members shall be in accordance with Subsections 78B-3-416(4) and (5).

(3) (a) In accordance with Subsection 78B-3-416(4), whenever multiple respondents are identified in a request, the [~~d~~]Division shall select and appoint a panel to sit in consideration of all claims against any respondent as follows:

(i) one lawyer member who is the chairman in accordance with Subsection 78B-3-416(4)(a);

(ii) one lay panelist member in accordance with Subsection 78B-3-416(4)(c);

(iii) one licensed health care provider who is practicing and knowledgeable for each specialty represented by the respondents in accordance with Subsection 78B-3-416(4)(b)(i); and

(iv) if a hospital or their employees are named as a respondent, one member who is an individual currently serving in a hospital administration position directly related to hospital operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, in accordance with Subsection 78B-3-416(4)(b)(ii).

(b) The distinction between a hospital administrator and a person serving in a hospital administration position referenced in Subsection 78B-3-416(4)(b)(ii) is significant and is hereby emphasized.

(c) The person serving in a hospital administration position referenced in Subsection 78B-3-416(4)(b)(ii) shall be from a different facility than the facility which is the subject of the alleged medical liability case, but may be from the same umbrella organization provided the panel member certifies under oath that he is free from bias or conflict of interest with respect to any matter under consideration as required by Subsection 78B-3-416(6).

(d) Petitioner and respondent may stipulate concerning the type of health care provider to be selected and appointed by the [~~d~~]Division, unless the stipulation is in violation with the panel composition requirements set forth in Subsection 78B-3-416(4)(b).

(4) Upon stipulation of all parties, a motion to evaluate damages may be submitted to the [~~d~~]Division whereupon the [~~d~~]Division may appoint an additional panel member to assist in evaluating damages.

(5) The [~~d~~]Division shall ensure that panelists possess all qualifications required by statute and this rule.

(6) Upon appointment to a prelitigation panel, each member thereof shall sign a written affirmation in substantially the following form:

TABLE III

I, (panel member), hereby affirm that, as a member of a prelitigation panel, I will discharge my responsibilities without bias towards any party. I also affirm that, to the best of my knowledge, no conflict of interest exists as to any matter which will be entrusted to my consideration as a panel member.
Dated this (day) day of (month), (year).

(Signature)

(7) Panel members shall be entitled to per diem compensation and travel expenses according to a schedule as established and published by the [~~d~~]Division.

R156-78B-9. Action upon Request - Scheduling Procedures - Continuances.

(1) Action upon Request.

Upon receiving a request, the [~~d~~]Division shall issue an order approving or denying the request.

(2) Criteria for Approving or Denying a Request.

The criteria for approving or denying a request shall be whether:

(a) the request is timely filed in accordance with Subsection 78B-3-416(2)(a);

(b) the request includes a copy of the notice in accordance with Subsection 78B-3-416(2)(b) and documentation that the notice was served in accordance with Section 78B-3-412; and

(c) the request has been mailed to all health care providers named in the notice and request as required by Subsection 78B-3-416(2)(b).

(3) Legal Effect of Denial of Request.

The denial of a request restarts the running of the applicable statute of limitations until an appropriate request is filed with the [~~d~~]Division.

(4) Scheduling Procedures.

(a) If a request is approved, the order approving the request shall direct the party who made the request to contact all parties named in the request and notice to determine by agreement of the parties:

(i) what type of health care provider panelists are requested;

(ii) at least two dates acceptable to all parties on which a prelitigation panel hearing may be scheduled; and

(iii) whether or not the case will be submitted in accordance with Section R156-78B-13 and if so, the nature of the submission.

(b) The order shall direct the party who made the request to file the scheduling information with the [~~d~~]Division, on forms available from the [~~d~~]Division, no later than 20 days following the issuance of the order.

(c) If the party so directed fails to comply with the directive without good cause, the [~~d~~]Division [~~shall~~]may schedule the hearing without further input from the party.

(d) No later than five days following the filing of the approved form, the [~~d~~]Division shall issue a notice of hearing setting a date, time and a place for the prelitigation panel hearing.

No hearing shall take place within the 35 day period immediately following the filing of a Request for Prelitigation Review, unless the parties and the [~~d~~]Division consent to a shorter period of time.

(e) The [~~d~~]Division shall thereafter promptly select and appoint a panel in accordance with Subsections 78B-3-416(4) and (5) and this rule.

(5) Continuances.

(a) Standard.

In order to prevail on a motion for a continuance the moving party must establish:

(i) that the motion was filed no later than five days after discovering the necessity for the motion and at least two days before the scheduled hearing;

(ii) that extraordinary facts and circumstances unknown and uncontrollable by the party at the time the hearing date was established justify a continuance;

(iii) that the rights of the other parties, the [~~d~~]Division, and the panel will not be unfairly prejudiced if the hearing is continued; and

(iv) that a continuance will serve the best interests of the goals and objectives of the prelitigation panel review process.

(b) If a continuance is granted, the order shall direct the party who requested the continuance to contact all parties named in the request and notice to establish no less than two dates acceptable to all parties, on which the prelitigation panel hearing may be rescheduled.

(c) The order shall direct the party who requested the continuance to file the scheduling information with the [~~d~~]Division, on forms approved by the [~~d~~]Division, no later than five days following the issuance of the order.

(d) If a party so directed is the petitioner and the petitioner fails to comply with the directive without good cause, the [~~d~~]Division shall dismiss the request without prejudice. Upon issuance of the order of dismissal by the [~~d~~]Division, the applicable statute of limitations on the cause of action shall no longer be tolled. The petitioner shall be required to file another request prior to the scheduling of any further proceeding and, until this request is filed, the statute of limitations shall continue to run.

(e) If a party so directed is the respondent and the respondent fails to comply with the directive without good cause, the [~~d~~]Division [~~shall~~]may establish a date for the prelitigation panel hearing acceptable to petitioner and disallow any further motions for continuances from respondent.

(f) No later than three days following the filing of the dates, the [~~d~~]Division shall issue a notice of hearing resetting a date, time and a place for the prelitigation panel hearing.

(6) Requests Made By Incarcerated Person.

(a) If a request, notice, or other documentation indicates that the alleged malpractice occurred while the petitioner was incarcerated and the alleged malpractice claim is against the State of Utah, its agencies or employees, the request shall be denied based upon Subsection 63G-7-301(5)(j).

(b) Subsequent requests by or communications from a petitioner whose request has been denied under this subsection will not receive response unless the petitioner files an amended request and notice that demonstrates:

(i) that the alleged malpractice did not occur while the petitioner was incarcerated; or

(ii) that the alleged malpractice claim is not against the State of Utah, its agencies or employees or as provided in Section 63G-7-202.

R156-78B-10. Consequences of Failure to Appear at a Scheduled Hearing.

(1) Except as provided by Section R156-78B-13:

(a) If a party or a representative appointed by the party fails to appear for a hearing without good cause after due notice has been provided as to the scheduling of the hearing, the hearing shall proceed in the party's absence and the party shall lose the right to present any further evidence to the panel.

(b) If neither party nor their representatives appear for a hearing without good cause after due notice has been provided as to the scheduling of the hearing, the [~~d~~]Division shall dismiss the request without prejudice. The dismissal shall terminate the tolling of the applicable statute of limitations under Subsection 78B-3-416(3).

R156-78B-11. Prehearing [~~Procedure~~]Conferences.

The [~~d~~]Division may, in exceptional circumstances as approved by a panel chair, upon written notice to all parties of record, schedule a prehearing conference with the panel for the purposes of formulating or simplifying the issues, obtaining admissions of fact and genuineness of documents which will avoid unnecessary proof, and agreeing to other matters as may expedite the orderly conduct of the prelitigation proceeding[~~s~~] or the settlement thereof. Agreements reached during the conference shall be recorded in an appropriate order unless the parties enter into a written stipulation on the matters or agree to a statement thereof made on the record by the chairman of the panel.

R156-78B-12. Hearing Procedures.

(1) Authority Governing Hearing Procedures.

Prelitigation panel hearings are informal as provided by Subsection 78B-3-416(1)(c) and are not governed by Title 63G, Chapter 4, Utah Administrative Procedures Act, and they are closed to the public as provided by Subsection 78B-3-417(5)(a).

(2) Duration of Prelitigation Hearings.

The duration of a prelitigation hearing shall be limited to two hours except as otherwise permitted to be extended in duration by the panel chair.

(3) Hearings Closed to the Public.

[~~All~~]In accordance with Subsection 78B-3-417(5)(a), prelitigation hearings are closed to the public.

([~~2~~]4) Attendance of Panel Members.

Except where a case is submitted in written form in accordance with Section R156-78B-13, all panel members appointed shall be present during the entire hearing.

([~~3~~]5) Order of Presentation of Evidence.

Unless otherwise directed by the panel at the hearing, the order of procedure and presentation of evidence will be as follows:

(a) Petitioner;

(b) Respondent; and

(c) Petitioner, if the panel chair permits petitioner to present rebuttal evidence.

([~~4~~]6) Method of Presentation of Evidence.

Evidence may be presented by any party on a narrative basis or through direct examination of said party by their counsel of record. The panel may make inquiry of any party pertinent to the issues to be addressed. If a motion to evaluate damages has been granted, the panel may properly take evidence as to that issue. As set forth in Section 78B-3-417, no party has the right to cross-examine, rebut, or demand that customary formalities of civil trials and court proceedings be followed. The panel may, however, request special or supplemental participation of some or all parties in particular respects, including oral argument, evidentiary rebuttal, or submission of briefs.

([~~5~~]7) Rules of Evidence.

Formal rules of evidence are not applicable. Any relevant evidence may be admitted if it is the type of evidence commonly relied upon by prudent people in the conduct of their affairs. The panel shall give effect to the rules of privilege recognized by law. Irrelevant, immaterial, and unduly repetitious evidence shall be excluded.

([~~6~~]8) Burden of Proof.

The petitioner shall be responsible for establishing a meritorious claim against any respondent, and if the issue of damages is presented, the amount of damages.

([~~7~~]9) Standard of Proof.

The standard of proof for prelitigation hearings is a preponderance of the evidence.

([~~8~~]10) Use of Evidence.

Use of evidence, documents, and exhibits submitted to a panel shall be in accordance with Subsection 78B-3-417(1) and Section 78B-3-418.

([~~9~~]11) Record of Hearing.

On its own motion, the panel may record the proceeding for the sole purpose of assisting the panel in its subsequent deliberation and issuance of an opinion. The record may be made by means of tape recorder or other recording device. No tape recorder or other device shall be used by anyone otherwise present during the proceeding to record the matter. Upon issuance by the panel of its opinion, the record of the proceeding shall be destroyed.

([~~10~~]12) Subpoenas[~~—and Fees~~] - Discovery and Perpetuation of Testimony.

(a) [~~Issuance of -~~]Subpoenas for Medical Records Authorized - Discovery and Perpetuation of Testimony Prohibited.

The [~~d~~]Division may issue subpoenas for the [~~attendance of witnesses and the~~]production of medical records directly related to a claim of medical liability in accordance with Subsection 78B-3-417(2) and (3). However, except as permitted by Subsection 78B-3-417(2) and (3) and in accordance with Subsection 78B-3-417(4), there is not discovery or perpetuation of testimony in prelitigation panel hearings, except upon special order of the panel, and for good cause shown demonstrating extraordinary circumstances.

(b) [~~Payment of Witness Fees~~]Requirements and Process for Issuance of Subpoenas for Medical Records.

[~~A subpoenaed witness who appears for a prelitigation panel review shall be entitled to witness fees and mileage to be paid by the requesting party. Witnesses shall receive the same fee and mileage allowed by law to witnesses in a district court. A witness subpoenaed by a party may, at the time of service of the subpoena, demand one day's witness fee and mileage in advance and unless the fee is tendered, the witness shall not be required to appear.~~]A request for a subpoena for medical records shall be prepared by the person requesting it in proper form for issuance by the Division and shall be supported by:

(i) a written release for the medical records signed by the individual who is the subject of the medical record or by that individual's guardian or conservator; or

(ii) an affidavit prepared by the person requesting the subpoena which shall include the indicated text:

TABLE IV

I hereby certify:
(1) that the medical record subject to the requested subpoena is believed by the person requesting the subpoena ("requester") to be directly related to the medical liability claim to which the subpoena is related;
(2) that the requester will comply with the requirements of HIPAA as set forth in 45 CFR 164.512(e), which governs the release of protected health information in the course of administrative proceedings;
(3) that more specifically with regard to the requirements of HIPAA, the requester will provide a written statement and documentation to the covered entity from whom the medical records are sought demonstrating satisfactory assurances that:
(a) the requestor provided the subject of the records notice of the subpoena, information about the governing prelitigation proceeding, a time period to object to the release of the subject's medical records, and that either no objections were filed or that objections were filed but resolved by a court of competent jurisdiction and the subpoena is consistent with the resolution, as specified in 45 CFR 164.512(e)(1)(ii)(A) and detailed in 45 CFR 164.512 (e)(1)(iii); or
(b) the parties to the prelitigation proceeding have agreed to a qualified protective order and have presented it to a court of competent jurisdiction or the requestor has requested a qualified protective order from a court of competent jurisdiction, as specified in CFR 164.512(e)(1) (ii)(B) and detailed in 45 CFR 164.512(3)(1)(iv); and
(4) that if the recipient of the subpoena for medical records fails or refuses to comply with the subpoena, the requester understands that resolution of the issues regarding the subpoena needs to be through a court of competent jurisdiction.

R156-78B-14. Determination - Supplemental Opinion - Issuance of Panel Opinion - Certificate of Compliance.

(1) Panel Determination.

As soon as is reasonably practicable following the conclusion of a hearing or submission of a case to the panel in accordance with Section R156-78B-13, and, if applicable, submission of briefs by the parties, the panel shall render and file with the [~~d~~]Division a determination whether [~~any claim against any respondent is meritorious~~]each claim against each health care provider has merit or has no merit, and if meritorious whether the conduct complained of resulted in harm to the claimant. If applicable, the determination shall also reflect the panel's evaluation of the damages sustained by the petitioner.

(2) Supplementary Memorandum Opinion.

Within 30 days after filing its determination, the panel shall render and file with the Division a memorandum opinion explaining the panel's determination. The chairman of the panel shall be responsible for the preparation of the memorandum opinion of the panel, but may delegate the initial preparation of the opinion to another member of the panel.

(3) Issuance of Panel Determination and Opinion.

In accordance with Subsections 78B-3-416(3)(a)(i)(A) and 78B-3-418(1)(a), it is the responsibility of a prelitigation panel to render its panel determination and opinion and file them with the Division, and the Division's responsibility to issue the panel determination and opinion.

(4) Certificate of Compliance.

(a) The Director or designee shall issue a certificate of compliance which recites that the petitioner has fully complied with the prelitigation panel requirements of Title 78B, Chapter 3, as follows:

(i) in the case of a meritorious finding or determination, the Division shall issue the certificate of compliance to the petitioner [~~W~~]within 15 days after:

(A) the filing of [~~receiving~~]the panel's memorandum opinion; or

(B) in the case of the panel's memorandum opinion not being filed, within 15 days after the deadline for the filing of the memorandum opinion;[~~the Director or designee shall issue a certificate of compliance which recites that petitioner has fully complied with the requirements of Section 78B-3-416. With respect to the tolling of the statute of limitations referenced in Section 78B-3-416(3), the 60 day time period mentioned therein shall begin to run as of the date the Director causes the certificate of compliance to be served, the three day mailing period set forth in Section R156-78B-4(3) to be applied.~~]

(ii) in the case of a determination made under Subsection 78B-3-416(3)(d)(ii)(A), within 15 days after petitioner's filing of an affidavit of respondent's failure to reasonably cooperate in the scheduling of a prelitigation hearing;

(iii) in the case of a submission of a written stipulation that no useful purpose would be served by convening a prelitigation panel submitted under Subsection 78B-3-416(3)(e), within 15 days after the filing of the stipulation; and

(iv) in all other cases where an affidavit of merit is required as specified by Section 78B-3-423, within 15 days after the timely filing of the affidavit of merit.

(b) The Division shall include with its service of a certificate of compliance copies of supporting documentation including the applicable panel determination or finding, supplemental memorandum opinion, determination on petitioner's affidavit of respondent's failure to reasonably cooperate in the schedule of a prelitigation hearing, required affidavits of merit, etc.

(c) In accordance with Subsection 78B-3-423(6), a certificate of compliance shall not be issued to a person who fails to timely file a required affidavit of merit.

R156-78B-15. Affidavits alleging Failure to Reasonably Cooperate in Scheduling a Hearing.

(1) As required by Subsection 78B-3-416(3)(c)(ii), an affidavit submitted by a petitioner alleging a respondent's failure to reasonably cooperate in scheduling a prelitigation hearing shall be submitted within 180 days of petitioner's request for prelitigation panel review.

(2) The affidavit alleging respondent's failure to reasonably cooperate in scheduling a prelitigation hearing filed under Subsection (1) shall set forth specific factual allegations that:

(a) respondent failed to reasonably cooperate in scheduling a hearing; and

(b) the hearing could not be held within the jurisdictional time frame of 180 days from the date of the request for prelitigation review.

(3) Failure to reasonably cooperate in scheduling a hearing may include one or more of the following reasons:

(a) a respondent failed to agree upon a first and second choice of dates for a prelitigation hearing;

(b) a respondent failed to reasonably participate in determining the type of health care providers requested for the prelitigation hearing panel; or

(c) a respondent submitted a motion for and obtained a continuance of the prelitigation hearing and failed to timely submit a notice of availability for a rescheduled hearing.

(4) An affidavit alleging failure to reasonably cooperate in scheduling a prelitigation hearing shall comply with Section R156-78B-6 governing pleadings and Section R156-78B-7 governing filing and service.

(5) A respondent may file a response to an affidavit alleging failure to reasonably cooperate in scheduling a prelitigation hearing within five days after the service of the affidavit. Any response shall be in the form of a counter affidavit.

(6) The Division shall review petitioner's affidavit alleging failure to reasonably cooperate in scheduling a hearing and respondent's counter affidavit, if any, and make a written determination within 15 days of the filing of petitioner's affidavit, under either Subsections 78B-3-416(3)(d)(ii)(A) or (B). The written determination shall be accompanied by a certificate of compliance or a notice to file an affidavit of merit, as appropriate.

R156-78B-16a. Affidavits of Merit - In General.

(1) The required affidavit of merit under Subsection 78B-3-423(1) shall consist of two or more affidavits, one executed by counsel or by a pro se claimant as required by Subsection 78B-3-423(2)(a) and one or more signed by an appropriate health care provider or providers as required by Subsections 78B-3-423(2)(b) and (3).

(2) The required affidavits shall comply with Section R156-78B-6 governing pleadings and Section R156-78B-7 governing filings and service.

R156-78B-16b. Affidavits of Merit - Affidavit of Counsel.

Each affidavit of merit executed by counsel or by a pro se claimant as required by Subsections 78B-3-423(1) and (2)(a) shall include the following text immediately prior to the affiant's signature:

TABLE V

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I hereby certify that the affiant has consulted with and
reviewed the facts of the case with an appropriate health care
provider (or providers) and that the provider (or providers) has
(have) determined after a review of the medical record and other
relevant material involved in the particular action that there is a
reasonable and meritorious cause for the filing of a medical
liability action. The affidavit(s) of merit are attached.
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R156-78B-16c. Affidavits of Merit - Affidavit of Health Care Provider or Providers.

(1) Each affidavit of merit signed by a health care provider as required by Subsections 78B-3-423(1) and (2)(b) shall

include the following text immediately prior to the affiant's signature:

TABLE VI

I hereby certify that I am an appropriate health care provider qualified to render an affidavit of merit in this medical malpractice case as specified by Subsection 78B-3-423(3).
I further certify that I have reviewed the medical records and other relevant material involved in this medical malpractice case and have determined that in my opinion:
(1) There are reasonable grounds to believe that the applicable standard of care was breached.
(2) The breach was a proximate cause of the injury claimed in the notice of intent to commence action.
(3) The specific reasons for my opinion are as follows (explanation).

(2) As provided by Subsection 78B-3-423(2)(c), the statement that there are reasonable grounds to believe that the applicable standard of care was breached shall be waived if the claimant received an opinion that there was a breach of the applicable standard of care under Subsection 78B-3-418(2)(a)(i).

R156-78B-16d. Affidavits of Merit - Appropriate Health Care Provider Affiant or Affiants.

The appropriate health care provider who is required to issue an affidavit of merit under Subsection 78B-3-423(3) and R156-78B-16c is clarified as follows. The health care provider shall:

(1) if none of the respondents is a physician under Title 58, Chapter 67, Utah Medical Practice Act, or an osteopathic physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, be one or more health care providers who hold an active and in good standing license in Utah or another state in the same specialty or the same class of license as the respondents; or

(2) if at least one of the respondents is a physician under Title 58, Chapter 67, Utah Medical Practice Act, or an osteopathic physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, be exclusively a physician who is licensed and in good standing in Utah or another state to practice medicine in all of its branches.

R156-78B-16e. Affidavits of Merit - Request for 60-day Extension to File.

(1) In accordance with Subsection 78B-3-423(4), a petitioner's request for a 60-day extension to file an affidavit of merit shall be supported by an affidavit signed by the petitioner's or petitioner's attorney that includes the following text immediately prior to the affiant's signature:

TABLE VII

I hereby certify that the claimant is unable to timely submit an affidavit of merit as required by Subsection 78B-3-423(1) because:
(1) a statute of limitations would impair the action; and
(2) the affidavit of merit could not be obtained before the expiration of the statute of limitations for the following reason or reasons (describe).
I further certify that this affidavit has been served on each respondent in accordance with Section R156-78B-7 on the earlier of:
(a) the required time frame specified in Subsection 78B-3-423(1)(b)(i); or
(b) the date this affidavit was filed with the Division.

(2) Any respondent may submit a response to a request for extension to file an affidavit of merit within five days after the service of the affidavit. Any response shall be in the form of a counter affidavit.

(3) The Division shall review a petitioner's affidavit in support of petitioner's request for a 60-day extension to file an affidavit of merit and respondent's counter affidavit, if any, and render a determination within 15 days after the filing of the request.

KEY: medical malpractice, prelitigation, certificate of compliance, affidavit of merit
Date of Enactment or Last Substantive Amendment: [~~January 21, 2010~~]2011
Notice of Continuation: April 9, 2007
Authorizing, and Implemented or Interpreted Law: 78B-3-416(1)(b)

Commerce, Occupational and Professional Licensing
R156-83-306
Drugs Approved for Online Prescribing, Dispensing, and Facilitation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34237
FILED: 11/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to first, implement what the Division and the Board believe to have been the legislative intent regarding adding Chantix (varenicline) to the list of drugs approved for online prescribing, dispensing, and facilitation; and second, to more specifically address hormonal contraceptive methods of administration.

SUMMARY OF THE RULE OR CHANGE: Section R156-83-306 is amended by adding a parenthetical limiting hormonal contraceptive methods. Specifically, injectable and implantable methods are excluded. Additionally, the drug varenicline (Chantix), a smoking-cessation drug, is added to the list of approved drugs for online prescribing, dispensing, and facilitation.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $50 to print and distribute the rule once the

proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: This proposed amendment will not result in direct, measurable costs, and/or benefits for local governments.
♦ SMALL BUSINESSES: The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contractor pharmacies and internet facilitators. However, the aggregate impact of the proposed amendments cannot be quantified. It should be noted however that this is a new licensing act and no one has been licensed under the act to date.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contract pharmacies and internet facilitators. It should be noted however that this is a new licensing act and no one has been licensed under the act to date. The proposed amendments will also affect the method of delivery and potentially the cost to consumers. However, the aggregate impact of the proposed amendments cannot be quantified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contract pharmacies and internet facilitators. It should be noted however that this is a new licensing act and no one has been licensed under the act to date. The proposed amendments will also affect the method of delivery and potentially the cost to consumers. However, the individual impact of the proposed amendments cannot be quantified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to authority granted in statute, the Division amends the list of approved online prescriptions to exclude injectable and implantable hormonal based contraceptives and to add the drug cessation medication varenicline. The fiscal impact to businesses from this amendments is difficult to ascertain as there are yet no licensees under this new law.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/07/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-83. Online Prescribing, Dispensing, and Facilitation Licensing Act Rule.
R156-83-306. Drugs Approved for Online Prescribing, Dispensing, and Facilitation.

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

(1) finasteride;
(2) sildenafil citrate;
(3) tadalafil;
(4) vardenafil hydrochlorid;[~~ and~~]
(5) hormonal based contraception (except injectable or implantable methods); and
(6) varenicline.

KEY: licensing, online prescribing, internet facilitators
Date of Enactment or Last Substantive Amendment: [~~July 8, 2010~~]2011
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a), 58-83-101

Commerce, Real Estate
R162-2a
Utah Housing Opportunity Restricted Account

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 34223
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is proposed to reformat existing provisions from Rule R162-12 into a statutory numbering scheme and to eliminate provisions that duplicate the statute (Section 61-2-204). (DAR NOTE: The proposed repeal of Rule R162-12 is under DAR No. 34224 in this issue, December 1, 2010, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Procedures are outlined by which a qualified applicant may apply to receive money from the Utah Housing Opportunity Restricted Account.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2-204

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to the state budget is anticipated.
♦ LOCAL GOVERNMENTS: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to local governments is anticipated.
♦ SMALL BUSINESSES: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to small businesses is anticipated.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to affected persons is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no fees or costs to submit an application to receive money from the Utah Housing Opportunity Restricted Account. There are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing renumbers the Division rules to mirror the statutory numbering scheme and removes duplicative provisions. As indicated in the rule summary, there will be no impact to businesses as the rule filing contains the same substance as the old rule.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.
R162-2a. Utah Housing Opportunity Restricted Account.
R162-2a-1. Utah Housing Opportunity Restricted Account.

(1) The authority to promulgate administrative rules by which an organization may apply to receive money from the account is granted by Section 61-2-204(10).

(2) As used in this section, "qualified entity" means an applicant that meets the qualifications of Section 61-2-204(7).

(3) To apply, a qualified entity shall, no later than August 1, submit to the division:

(a) contact information for the applicant;

(b) proof that the entity is tax exempt under Section 501(c)(3), Internal Revenue Code;

(c) proof that the entity provides support to organizations that create affordable housing for those in severe need as a primary part of its mission;

(d) a statement of the purpose for which the application is submitted;

(e) an explanation of how the entity proposes to use a disbursement of money to promote affordable housing for those in severe need; and

(f) an explanation of the internal management controls and financial controls of the entity that would ensure that any funds received would be used only for authorized purposes.

(4) Each year, the division shall make a disbursement to the qualified applicant that appears most likely to effectively and efficiently use the funds to promote affordable housing for those in severe need.

(5) Disbursement shall be made no later than December 31 each year.

KEY: Utah Housing Opportunity Restricted Account, application procedures
Date of Enactment or Last Substantive Amendment: 2011
Authorizing, and Implemented or Interpreted Law: 61-2-204

Commerce, Real Estate
R162-2c-201
Licensing and Registration Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34225
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is proposed: 1) to reflect changes in licensing policies at the national level; 2) to comply with state law requiring the division to determine that an applicant for licensure is legally present in the United States; and 3) to establish certain restrictions regarding the names under which licensed entities may conduct the business of residential mortgage loans.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) a licensee who allows the license to expire and thereafter applies for a new license will not be required to re-take the 20-hour national pre-licensing course, but will be required to complete certain continuing education; 2) all individuals applying for licensure shall complete, sign, and submit to the division a social security verification form; and 3) mortgage entities are prohibited from operating under a business name that closely resembles the name of another licensed entity or that is otherwise confusing or misleading.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The state budget currently in place for processing license applications will not be affected by these amendments, which simply change some of the criteria that staff will consider in determining whether an applicant qualifies for licensure.
♦ LOCAL GOVERNMENTS: Local governments do not license with the division, nor do they enforce licensing rules. No fiscal impact to local governments is anticipated.
♦ SMALL BUSINESSES: A small business that pays licensing costs for its employees will experience a savings from this amendment in that it will not have to pay the costs of the 20-hour national pre-licensing course, which is not required under the nationwide rules for an employee who allows a license to expire and is therefore required to reapply as a new applicant. The provision regarding the social security verification form does not apply to small businesses and, therefore, poses no costs. The provision regarding business names will require a small business to choose a name that is unique and not misleading or confusing, but it is not anticipated that this requirement will pose a financial burden to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: A person who allows a license to expire and thereafter reapplies as a new applicant will experience a savings from this amendment in that the person will not have to pay the costs of the 20-hour national pre-licensing course. The provision regarding the social security verification form does not affect the costs of obtaining a license. The provision regarding business names is not applicable to persons other than small businesses or businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs of obtaining a license remain the same under these amendments. No change in compliance costs are anticipated for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing is a cost savings to those who reapply as a new licensee after allowing their license to expire; they will not be required to complete the 20-hour national pre-licensing course. No appreciable financial impact to businesses is expected from the requirement to file a social security verification form or from the prohibition against using a confusing or misleading business name.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.
R162-2c. Utah Residential Mortgage Practices and Licensing Rules.
R162-2c-201. Licensing and Registration Procedures.

(1) Mortgage loan originator.

(a) To obtain a Utah license to practice as a mortgage loan originator, an individual who is not currently and validly licensed in any state shall:

(i) evidence good moral character pursuant to R162-2c-202(1);

(ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(iii) obtain a unique identifier through the nationwide database;

(iv) successfully complete, within the 12-month period prior to the date of application, [~~60 hours of pre-licensing education as follows:~~

~~(A)~~]40 hours of Utah-specific pre-licensing education as approved by the division;[~~ and~~]

[~~(B)~~](v)(A) successfully complete 20 hours of pre-licensing education as approved by the nationwide database according to the nationwide database outline for national course curriculum; or

(B) if the individual previously passed the 20-hour national course, obtained a license, and thereafter allowed the license to expire, successfully complete continuing education:

(I) approved by the nationwide database; and

(II) in the number of hours that would have been required to renew the expired license in the year in which the individual allowed the license to expire;

[~~(v)~~](vi) take and pass the examinations that meet the requirements of Section 61-2c-204.1(4) and that:

(A) are approved and administered through the nationwide database; and

(B) consist of a national component and a Utah-specific state component;

[~~(vi)~~](vii) request licensure as a mortgage loan originator through the nationwide database;

[~~(vii)~~](viii) authorize a criminal background check and submit fingerprints through the nationwide database;

[~~(viii)~~](ix) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;[~~ and~~]

(x) complete, sign, and submit to the division a social security verification form as provided by the division; and

[~~(ix)~~](xi) pay all fees through the nationwide database as required by the division and by the nationwide database.

(b) To obtain a Utah license to practice as a mortgage loan originator, an individual who is currently and validly licensed in another state shall:

(i) evidence good moral character pursuant to R162-2c-202(1);

(ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(iii)(A) successfully complete, within the 12-month period prior to the date of application, 40 hours of Utah-specific mortgage loan originator prelicensing education; and

(B) take and pass the Utah-specific state examination component;

(iv) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(v) request licensure as a mortgage loan originator through the nationwide database;

(vi) authorize a criminal background check through the nationwide database; [~~and~~]

(vii) complete, sign, and submit to the division a social security verification form as provided by the division; and

[~~(vii)~~](viii) pay all fees through the nationwide database as required by the division and by the nationwide database.

(2) Principal lending manager. To obtain a Utah license to practice as a PLM, an individual shall:

(a) qualify as a mortgage loan originator through the nationwide database;

(b) evidence good moral character pursuant to R162-2c-202(1);

(c) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(d) obtain approval from the division to take the Utah-specific PLM prelicensing education by evidencing that the applicant has, within the five years preceding the date of application, had three years of full-time active experience as a mortgage loan originator;

(e) within the 12-month period preceding the date of application, successfully complete 40 hours of Utah-specific PLM prelicensing education as certified by the division;

(f)(i) if currently licensed in Utah as a mortgage loan originator, take and pass a principal lending manager examination as approved by the commission; or

(ii) if not currently licensed in Utah as a mortgage loan originator, take and pass:

(A) the Utah-specific state examination component; and

(B) a principal lending manager examination as approved by the commission;

(g) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(h) register in the nationwide database by selecting the "principal lending manager" license type and completing the associated MU4 form; [~~and~~]

(i) complete, sign, and submit to the division a social security verification form as provided by the division; and

[~~(i)~~](j) pay all fees through the nationwide database as required by the division and by the nationwide database.

(3) Associate lending manager. To obtain a Utah license to practice as an ALM, an individual shall:

(a) comply with this Subsection (2)(a) through (g);

(b) register in the nationwide database by selecting the "associate lending manager" license type and completing the associated MU4 form; and

(c) pay all fees through the nationwide database as required by the division and by the nationwide database.

(4) Mortgage entity.

(a) To obtain a Utah license to operate as a mortgage entity, a person shall:

[~~(a)~~](i) establish that all control persons meet the requirements for moral character pursuant to R162-2c-202(1);

[~~(b)~~](ii) establish that all control persons meet the requirements for competency pursuant to R162-2c-202(2);

[~~(c)~~](iii) register any other trade name with the Division of Corporations and Commercial Code;

[~~(d)~~](iv) register the entity in the nationwide database by:

[~~(i)~~](A) submitting an MU1 form that includes:

[~~(A)~~](I) all required identifying information;

[~~(B)~~](II) the name of the PLM who will serve as the entity's qualifying individual;

[~~(C)~~](III) the name of any individuals who may serve as control persons;

[~~(D)~~](IV) the entity's registered agent; and

[~~(E)~~](V) any other trade name under which the entity will operate; and

[~~(ii)~~](B) creating a sponsorship through the nationwide database that identifies the mortgage loan originator(s) sponsored by the entity;

[~~(e)~~](v) register any branch office operating from a different location than the entity;

[~~(f)~~](vi) pay all fees through the nationwide database as required by the division and by the nationwide database;

[~~(g)~~](vii) provide to the division proof that any assumed business name or other trade name is registered with the Division of Corporations and Commercial Code;

[~~(h)~~](viii) provide to the division all court documents related to any criminal proceeding not disclosed through a previous application or renewal and involving any control person;

[~~(i)~~](ix) provide to the division complete documentation of any action taken by a regulatory agency against:

[~~(i)~~](A) the entity itself; or

[~~(ii)~~](B) any control person; and

[~~(iii)~~](C) not disclosed through a previous application or renewal; and

[~~(j)~~](x) provide to the division a notarized letter on company letterhead, signed by the owner or president of the entity, authorizing the PLM to use the entity's name.

(b) Restrictions on entity name. No license may be issued by the division to an entity that proposes to operate under a name that closely resembles the name of another entity licensee, or that the division determines might otherwise be confusing or misleading.

(5) Branch office.

(a) To register a branch office with the division, a person shall:

(i) obtain a Utah entity license for the entity under which the branch office will be registered;

(ii) submit to the nationwide database an MU3 form that includes:

(A) all required identifying information; and

(B) if registering on or after November 1, 2010, the name of the ALM who will serve as the branch lending manager;

(iii) create a sponsorship through the nationwide database that identifies the mortgage loan originator(s) who will work from the branch office; and

(iv) pay all fees through the nationwide database as required by the division and by the nationwide database.

(b) A person who registers another trade name and operates under that trade name from an address that is different from the address of the entity shall register the other trade name as a branch office pursuant to this Subsection (5).

(6) Licenses not transferable.

(a) A licensee shall not transfer the licensee's license to any other person.

(b) A licensee shall not allow any other person to work under the licensee's license.

(c) If a change in corporate structure of a licensed entity creates a separate and unique legal entity, that entity shall obtain a unique license, and shall not operate under any existing license.

(7) Expiration of test results.

(a) Scores for the mortgage loan originator licensing examination shall be valid for five years.

(b) Scores for the PLM exam shall be valid for 90 days.

(8) Incomplete PLM or ALM application.

(a) The division may grant a 30-day extension of the 90-day application window upon a finding that:

(i) an applicant has made a good faith attempt to submit a completed application; but

(ii) requires more time to provide missing documents or to obtain additional information.

(b) If the applicant does not supply the required documents or information within the 30-day extension, the division may deny the application as incomplete.

(9) Nonrefundable fees. All fees are nonrefundable, regardless of whether an application is granted or denied.

(10) Other trade names.

(a) The division shall not approve a license for any person operating under an assumed business name that poses a reasonable likelihood of misleading the public into thinking that the person is:

(i) endorsed by the division, the state government, or the federal government;

(ii) an agency of the state or federal government; or

(iii) not engaged in the business of residential mortgage loans.

(b) A mortgage entity that operates under another trade name shall register the other trade name by including it on the MU1 form and obtaining the required registration.

KEY: residential mortgage, loan origination, licensing, enforcement

Date of Enactment or Last Substantive Amendment: [~~October 9, 2010~~]2011

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-402(4)(a)

Commerce, Real Estate
R162-2c-203
Utah-Specific Education Certification

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34226
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is proposed so as to allow an individual whose license expires on 12/31/2010 the option of completing Division-approved continuing education courses in order to reinstate the license by the 02/28/2011 deadline, as imposed by the nationwide database.

SUMMARY OF THE RULE OR CHANGE: This amendment extends the expiration date of Division-approved continuing education courses from 12/31/2010 to 02/28/2011.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The state budget for reviewing and processing reinstatement applications is in place and will be

unaffected by this change. No impact to the state budget is anticipated.
♦ LOCAL GOVERNMENTS: Local governments do not license with the Division, nor do they oversee or enforce the licensing rules. Therefore, no fiscal impact to local governments is anticipated.
♦ SMALL BUSINESSES: As to small business that provide continuing education, the Division does not propose to charge a fee to extend the expiration date of any courses they offer. As to small mortgage businesses, the requirement to have licensees take continuing education remains unchanged, as does the costs of paying for the courses. Therefore, no fiscal impact to small businesses is anticipated.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Affected persons will continue to pay the costs of registering for continuing education classes. These costs are unchanged. Therefore, no fiscal impact to affected person is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: To comply, affected persons must take continuing education as required for reinstatement. This rule has long been in place, and the costs for the education vary, depending on which courses an individual chooses to take. However, this rule imposes no new compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In order to better coordinate with the federal law for mortgage licensees and the nationwide database, this rule filing amends the expiration date of prelicensing education course certifications. As discussed in the rule summary, no fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.
R162-2c. Utah Residential Mortgage Practices and Licensing Rules.
R162-2c-203. Utah-Specific Education Certification.

(1) School certification.

(a) A school offering Utah-specific education shall certify with the division before providing any instruction.

(b) To certify, a school applicant shall prepare and supply the following information to the division:

(i) contact information, including:

(A) name, phone number, and address of the physical facility;

(B) name, phone number, and address of any school director;

(C) name, phone number, and address of any school owner; and

(D) an e-mail address where correspondence will be received by the school;

(ii) evidence that all school directors and owners meet the moral character requirements outlined in R162-2c-202(1) and the competency requirements outlined in R162-2c-202(2);

(iii) school description, including:

(A) type of school; and

(B) description of the school's physical facilities;

(iv) list of courses offered;

(v) proof that each course has been certified by the division;

(vi) list of the instructor(s), including any guest lecturer(s), who will be teaching each course;

(vii) proof that each instructor:

(A) has been certified by the division;

(B) is qualified as a guest lecturer; or

(C) is exempt from certification under Subsection 203(5)(f);

(viii) schedule of courses offered, including the days, times, and locations of classes;

(ix) statement of attendance requirements as provided to students;

(x) refund policy as provided to students;

(xi) disclaimer as provided to students; and

(xii) criminal history disclosure statement as provided to students.

(c) Minimum standards.

(i) The course schedule may not provide or allow for more than eight credit hours per student per day.

(ii) The attendance statement shall require that each student attend at least 90% of the scheduled class time.

(iii) The disclaimer shall adhere to the following requirements:

(A) be typed in all capital letters at least 1/4 inch high; and

(B) state the following language: "Any student attending (school name) is under no obligation to affiliate with any of the mortgage entities that may be soliciting for licensees at this school."

(iv) The criminal history disclosure statement shall:

(A) be provided to students while they are still eligible for a full refund; and

(B) clearly inform the student that upon application with the nationwide database, the student will be required to:

(I) accurately disclose the student's criminal history according to the licensing questionnaire provided by the nationwide database and authorized by the division; and

(II) provide to the division complete court documentation relative to any criminal proceeding that the applicant is required to disclose;

(C) clearly inform the student that the division will consider the applicant's criminal history pursuant to R162-2c-202(1) in making a decision on the application; and

(D) include a section for the student's attestation that the student has read and understood the disclosure.

(d) Within 15 calendar days after the occurrence of any material change in the information outlined in Subsection (1), the school shall provide to the division written notice of that change.

(e) A school certification expires 24 months from the date of issuance and must be renewed before the expiration date in order for the school to remain in operation. To renew, a school applicant shall:

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

(ii) pay a nonrefundable renewal fee.

(2) Utah-specific course certification.

(a) A school providing a Utah-specific course shall certify the course with the division before offering the course to students.

(b) Application shall be made at least 30 days prior to the date on which a course requiring certification is proposed to begin.

(c) To certify a course, a school applicant shall prepare and supply the following information:

(i) instruction method;

(ii) outline of the course, including:

(A) a list of subjects covered in the course;

(B) reference to the approved course outline for each subject covered;

(C) length of the course in terms of hours spent in classroom instruction;

(D) number of course hours allocated for each subject;

(E) at least three learning objectives for every hour of classroom time;

(F) instruction format for each subject; i.e, lecture or media presentation;

(G) name and credentials of any guest lecturer; and

(H) list of topic(s) and session(s) taught by any guest lecturer;

(iii) a list of the titles, authors, and publishers of all required textbooks;

(iv) copies of any workbook used in conjunction with a non-lecture method of instruction;

(v) the number of quizzes and examinations; and

(vi) the grading system, including methods of testing and standards of grading.

(d) Minimum standards.

(i) All texts, workbooks, supplement pamphlets and other materials shall be appropriate, current, accurate, and applicable to the required course outline.

(ii) The course shall cover all of the topics set forth in the associated outline.

(iii) The lecture method shall be used for at least 50% of course instruction unless the division gives special approval otherwise.

(iv) A school applicant that uses a non-lecture method for any portion of course instruction shall provide to the student:

(A) an accompanying workbook as approved by the division for the student to complete during the instruction; and

(B) a certified instructor available within 48 hours of the non-lecture instruction to answer student questions.

(v) The division shall not approve an online education course unless:

(A) there is a method to ensure that the enrolled student is the person who actually completes the course;

(B) the time spent in actual instruction is equivalent to the credit hours awarded for the course; and

(C) there is a method to ensure that the student comprehends the material.

(3) Course expiration and renewal.

(a) A certification for a 40-hour Utah-specific prelicensing course expires two years from the date of certification.

(b) As of January 1, 2010, a 20-hour Utah-specific prelicensing course certified by the division shall be deemed expired, regardless of any expiration date printed on the certification.

(c)(i) A division-approved continuing education course[~~ shall expire on whichever of the following occurs first~~]:

(A) shall expire on the expiration date printed on the certificate; or

(B) if the course is due to expire on December 31, 2010, the expiration date shall be extended to February 28, 2011.

(ii) To renew a division-approved continuing education course, a school applicant shall, within six months following the expiration date:

(A) complete a renewal form as provided by the division; and

(B) pay a nonrefundable renewal fee.

(iii) To certify a continuing education course that has been expired for more than six months, a school applicant shall resubmit it as if it were a new course.

(iv) After a continuing education course has been renewed three times, a school applicant shall submit it for certification as if it were a new course.

(d) The division shall cease reviewing and certifying courses for continuing education on December 30, 2010.

(e) As of January 1, 2011, any division-approved continuing education course, regardless of when offered or completed, [~~for continuing education shall be approved through the nationwide database~~]may not be used to satisfy requirements for the 2011 renewal.

(4) Education committee.

(a) The commission may appoint an education committee to:

(i) assist the division and the commission in approving course topics; and

(ii) make recommendations to the division and the commission about:

(A) whether a particular course topic is relevant to residential mortgage principles and practices; and

(B) whether a particular course topic would tend to enhance the competency and professionalism of licensees.

(b) The division and the commission may accept or reject the education committee's recommendation on any course topic.

(5) Instructor certification.

(a) Except as provided in Subsection (f), an instructor shall certify with the division before teaching a Utah-specific course.

(b) Application shall be made at least 30 days prior to the date on which the instructor proposes to begin teaching.

(c) To certify as an instructor of mortgage loan originator prelicensing courses, an individual shall provide evidence of:

(i) a high school diploma or its equivalent;

(ii)(A) at least five years of experience in the residential mortgage industry within the past ten years; or

(B) successful completion of appropriate college-level courses specific to the topic proposed to be taught;

(iii)(A) a minimum of twelve months of full-time teaching experience;

(B) part-time teaching experience that equates to twelve months of full-time teaching experience; or

(C) participation in instructor development workshops totaling at least two days in length; and

(iv) having passed, within the six-month period preceding the date of application, the principal lending manager licensing examination.

(d) To certify as an instructor of PLM prelicensing courses, an individual shall:

(i) meet the general requirements of this Subsection 5(c); and

(ii) meet the specific requirements for any of the following courses the individual proposes to teach.

(A) Management of a Residential Mortgage Loan Office: at least two years practical experience in managing an office engaged in the business of residential mortgage loans.

(B) Mortgage Lending Law: two years practical experience in the field of real estate law; and either:

(I) current active membership in the Utah Bar Association; or

(II) degree from an American Bar Association accredited law school.

(C) Advanced Appraisal:

(I) at least two years practical experience in appraising; and

(II) current state-certified appraiser license.

(D) Advanced Finance:

(I) at least two years practical experience in real estate finance; and

(II) association with a lending institution as a loan originator.

(e) To certify as an instructor of continuing education courses, an individual shall demonstrate:

(i) knowledge of the subject matter of the course proposed to be taught, as evidenced by:

(A) at least three years of experience in a profession, trade, or technical occupation in a field directly related to the course;

(B) a bachelor or higher degree in the field of real estate, business, law, finance, or other academic area directly related to the course; or

(C) a combination of experience and education acceptable to the division; and

(ii) ability to effectively communicate the subject matter, as evidenced by:

(A) a state teaching certificate;

(B) successful completion of college courses acceptable to the division in the field of education;

(C) a professional teaching designation from the National Association of Mortgage Brokers, the Real Estate Educators Association, the Mortgage Bankers Association of America, or a similar association; or

(D) other evidence acceptable to the division that the applicant has the ability to teach in schools, seminars, or equivalent settings.

(f) The following instructors are not required to be certified by the division:

(i) a guest lecturer who:

(A) is an expert in the field on which instruction is given;

(B) provides to the division a resume or similar documentation evidencing satisfactory knowledge, background, qualifications, and expertise; and

(C) teaches no more than 20% of the course hours;

(ii) a college or university faculty member who evidences academic training, industry experience, or other qualifications acceptable to the division;

(iii) an individual who:

(A) evidences academic training, industry experience, or other qualifications satisfactory to the division; and

(B) receives approval from the commission; and

(iv) a division employee.

(g) Renewal.

(i) An instructor certification for prelicensing education expires 24 months from the date of issuance and shall be renewed before the expiration date. To renew, an applicant shall submit to the division:

(A) evidence of having taught at least 20 hours of classroom instruction in a certified mortgage education course during the preceding two years;

(B) evidence of having attended an instructor development workshop sponsored by the division during the preceding two years; and

(C) a renewal fee as required by the division.

(ii) An instructor certification for division-approved continuing education expires 24 months from the date of issuance and shall be renewed before the expiration date. To renew, an applicant shall submit to the division:

(A) evidence of having taught at least one class in the subject area for which renewal is sought within the year preceding the date of application; or

(B)(I) written explanation for why the instructor has not taught a class in the subject area within the past year; and

(II) documentation to evidence that the applicant maintains the required expertise in the subject matter; and

(C) a renewal fee as required by the division.

(iii) An instructor certification issued by the division on or before December 31, 2010 for continuing education shall expire December 31, 2010.

(iv) The division shall cease certifying instructors for continuing education on December 30, 2010.

(v) As of January 1, 2011, any instructor proposing to teach a continuing education course shall certify through the nationwide database.

(h) Reinstatement.

(i) An instructor may reinstate an expired certification within 30 days of expiration by:

(A) complying with Subsection (g) as applicable to the type of course taught; and

(B) paying an additional non-refundable late fee.

(ii) Until six months following the date of expiration, an instructor may reinstate a certification that has been expired more than 30 days by:

(A) complying with Subsection (g) as applicable to the type of course taught;

(B) paying an additional non-refundable late fee; and

(C) completing six classroom hours of education related to residential mortgages or teaching techniques.

(6)(a) The division may monitor schools and instructors for:

(i) adherence to course content;

(ii) quality of instruction and instructional materials; and

(iii) fulfillment of affirmative duties as outlined in R162-2c-301(6)(a) and R162-2c-301(7)(a).

(b) To monitor schools and instructors, the division may:

(i) collect and review evaluation forms; or

(ii) assign an evaluator to attend a course and make a report to the division.

KEY: residential mortgage, loan origination, licensing, enforcement
Date of Enactment or Last Substantive Amendment: [~~October 9, 2010~~]2011
Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-402(4)(a)

Commerce, Real Estate
R162-2c-204
License Renewal

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34227
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is proposed to reflect changes in licensing policies at the national level.

SUMMARY OF THE RULE OR CHANGE: An individual who completes pre-licensing education and obtains the associated license within a calendar year is not required to complete additional continuing education to renew the license in the same calendar year.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The state budget for processing license renewals currently in place will not be affected by this amendment, which simply changes the criteria that staff will look at in determining whether certain applicants qualify for renewal.
♦ LOCAL GOVERNMENTS: Local governments do not license with the division, nor do they enforce the licensing rules. No fiscal impact to local governments is anticipated.
♦ SMALL BUSINESSES: A small business that pays educational costs for licensees will experience a savings from this amendment in that they will not have to pay for continuing education in the same calendar year in which they pay for pre-licensing education.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Affected persons will experience a savings from this amendment in that they will not have to pay for continuing education in the same calendar year in which they pay for pre-licensing education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for renewing a license remain the same as currently in effect, except that a person will not have to pay for continuing education courses in the same year that the person completes pre-licensing education.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing is intended to bring the Division's license renewal procedures in line with the national standard of relieving new licensees from the continuing education requirement if they completed pre-licensing education in the same calendar year. As indicated in the rule summary, licensees will experience a cost savings as a result of this filing.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.
R162-2c. Utah Residential Mortgage Practices and Licensing Rules.
R162-2c-204. License Renewal.

(1) Renewal period.

(a) Any person who holds an active license as of October 31 shall renew by December 31 of the same calendar year.

(b) Any person who obtains a license on or after November 1 shall renew by December 31 of the following calendar year.

(2) Qualification for renewal.

(a) Character.

(i) Individuals and control persons applying for a renewed license shall evidence that they maintain good moral character, honesty, integrity, and truthfulness as required for initial licensure.

(ii) An individual applying for a renewed license may not have:

(A) a felony that resulted in a conviction or plea agreement during the renewal period; or

(B) a finding of fraud, misrepresentation, or deceit entered against the applicant by a court of competent jurisdiction or a government agency and occurring within the renewal period.

(iii) The division may deny an individual applicant a renewed license upon evidence, as outlined in R162-2c-202(1)(b), of circumstances that reflect negatively on the applicant's character, honesty, integrity, or truthfulness and that:

(A) occurred during the renewal period; or

(B) were not disclosed and considered in a previous application or renewal.

(iv) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standards for character, honesty, integrity, and truthfulness required of individual applicants.

(b) Competency.

(i) Individual applicants and control persons shall evidence that they maintain the competency required for initial licensure.

(ii) The division may deny an individual applicant a renewed license upon evidence, as outlined in R162-2c-202(2), of circumstances that reflect negatively on the applicant's competency and that:

(A) occurred during the renewal period; or

(B) were not disclosed and considered in a previous application or renewal.

(iii) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standard for competency required of individual applicants.

(c) Continuing education.

(i) Beginning January 1, 2011, an individual who holds an active license as of [~~October 31~~]January 1 of the calendar year shall complete[~~, within the renewal period ending December 31 of the same calendar year,~~] eight hours of non-duplicative continuing education:

(A) approved through the nationwide database; and

(B) consisting of:

(I) three hours federal laws and regulations;

(II) two hours ethics (fraud, consumer protection, fair lending);

(III) two hours non-traditional; and

(IV) one hour elective.

(ii) An individual who completes pre-licensing education and obtains [~~a~~]the associated license [~~on or after November 1~~]between January 1 and December 31 of the calendar year is exempt from continuing education for the renewal period ending December 31 of the same calendar year.

(iii) Continuing education courses shall be completed within the renewal period.

(iv) Continuing education courses shall be non-duplicative of courses taken in the preceding renewal period.

(3) Renewal procedures for the renewal period ending December 31, 2010. In order to renew by December 31, 2010:

(a) an individual licensee shall:

(i) evidence having completed a minimum of:

(A) 20 hours of prelicensing education as approved by:

(I) the division; or

(II) the nationwide database; or

(B) 28 hours of division-approved continuing education in the two previous renewal cycles;

(ii) evidence having taken and passed a Utah licensing examination as approved by the commission;

(iii) register in the nationwide database by May 31, 2010;

(iv)(A) evidence having completed, since the date of last renewal, continuing education approved by either the division or the nationwide database, non-duplicative of any hours required to satisfy the registration education requirement under this Subsection (3)(a)(i), and:

(I) totaling 14 hours if licensed as of October 1, 2009; or

(II) totaling eight hours if licensed on or after October 1, 2009; or

(B) if licensed as a mortgage loan originator, evidence having completed, since January 1, 2010, all requirements to obtain an ALM or a PLM license, pursuant to Subsection R162-2c-201;

(v) take and pass the national component of the licensing examination as approved by the nationwide database;

(vi) submit to the division the jurisdiction-specific documents and information required by the nationwide database; and

(vii) submit through the nationwide database:

(A) a request for renewal; and

(B) all fees as required by the division and by the nationwide database.

(b) an entity licensee shall:

(i) register in the nationwide database by May 31, 2010;

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database;

(iii) submit through the nationwide database a request for renewal;

(iv) renew the registration of any branch office or other trade name registered under the license of the entity; and

(v) pay through the nationwide database all renewal fees required by the division and by the nationwide database.

(4) Renewal procedures for the renewal period ending December 31, 2011. In order to renew by December 31, 2011,

(a) an individual licensee shall:

(i) evidence having completed, since the date of last renewal, continuing education:

(A) as required by Subsection (2)(c);

(B) non-duplicative of any continuing education hours taken in the previous renewal cycle; and

(C) approved by the nationwide database;

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database; and

(iii) submit through the nationwide database:

(A) a request for renewal; and

(B) all fees as required by the division and by the nationwide database.

(b) an entity licensee shall:

(i) submit through the nationwide database a request for renewal;

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database;

(iii) renew the registration of any branch office or other trade name registered under the entity license; and

(iv) pay through the nationwide database all renewal fees required by the division and by the nationwide database.

(5) Reinstatement.

(a) To reinstate an expired license, a person shall, by February 28 of the calendar year following the date on which the license expired:

(i) comply with all requirements for an on-time renewal; and

(ii) pay through the nationwide database all late fees and other fees as required by the division and the nationwide database.

(b) A person may not reinstate a license after February 28. To obtain a license after the reinstatement period described in Subsection (5)(a) expires, a person shall reapply as a new applicant.

KEY: residential mortgage, loan origination, licensing, enforcement
Date of Enactment or Last Substantive Amendment: [~~October 9, 2010~~]2011
Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-402(4)(a)

Commerce, Real Estate
R162-12
Utah Housing Opportunity Restricted Account

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 34224
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The substantive elements of this rule have been incorporated into proposed Rule R162-2a. Therefore, this rule is no longer needed. (DAR NOTE: The proposed new Rule R162-2a is under DAR No. 34223 in this issue, December 1, 2010, of the Bulletin.)

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-204(10)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to the state budget is anticipated from this filing.
♦ LOCAL GOVERNMENTS: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to local governments is anticipated from this filing.
♦ SMALL BUSINESSES: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to small businesses is anticipated from this filing.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to affected persons is anticipated from this filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In repealing this rule, the division and commission relieve affected persons of any obligation to comply with it. There are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule repeal as a substitute new rule containing the substance of these provisions is also proposed by the Division

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.
[~~R162-12. Utah Housing Opportunity Restricted Account.~~
~~R162-12-1. Authority and Definitions.~~
~~12.1.1 The following administrative rules are promulgated under the authority granted by Sections 61-2-5.5(1)(a) and 61-2-28.~~
~~12.1.2 Terms used in these rules are defined as follows:~~
~~(a) "Utah Housing Opportunity Restricted Account" means the restricted account created in the General Fund into which the following monies are deposited: contributions to the Department of Motor Vehicles for Utah Housing Opportunity special group license plates in accordance with Section 41-1a-422, private contributions, donations or grants from public or private entities, and interest and earnings on the funds in the account.~~
~~(b) "Qualified entity" means a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code, and that provides support to organizations that create affordable housing for those in severe need as a primary part of their mission.~~

~~R162-12-2. Proposals.~~
~~12.2.1 No later than August 1 of each year, a qualified entity may apply to the Division for a distribution of funds from the Utah Housing Opportunity Restricted Account to be used to provide support to organizations that create affordable housing for those in severe need.~~
~~12.1.2 An applicants shall provide to the Division as part of an application:~~
~~(a) contact information for the applicant;~~
~~(b) proof that the entity is tax exempt under Section 501(c)(3), Internal Revenue Code;~~
~~(c) proof that the entity provides support to organizations that create affordable housing for those in severe need as a primary part of its mission;~~
~~(d) a statement of the purpose for which the application is submitted, along with an explanation of how the entity would use a disbursement of money to promote affordable housing for those in severe need; and~~
~~(e) an explanation of the internal management controls and financial controls of the entity that would insure that any funds received would be used only for authorized purposes.~~

~~R162-12-3. Selection of Recipient.~~
~~12.3.1 The Division shall annually select one applicant to receive a distribution from the Utah Housing Opportunity Restricted Account. The Division shall select the recipient based on which applicant can, in the opinion of the Division, most effectively and efficiently use the funds to promote affordable housing for those in severe need.~~
~~12.3.2 The disbursement to the successful applicant shall be made no later than December 31 each year.~~

~~KEY: Utah Housing Opportunity Restricted Account~~
~~Date of Enactment or Last Substantive Amendment: April 7, 2008~~
~~Authorizing, and Implemented or Interpreted Law: 61-2-28~~]

Education, Administration
R277-419
Pupil Accounting

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34230
FILED: 11/10/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide new language including definitions to the Utah State Office of Education data reporting process for Youth in Custody.

SUMMARY OF THE RULE OR CHANGE: The amendments provide new or amended language to definitions, official records information, student membership information, and high school completion status information.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(e)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The amendments provide changes to the manner in which data are reported to ensure compliance and continuity of information, policy and practices. The amendments do not increase costs to the state.

♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The amendments provide changes to the manner in which data are reported to ensure compliance and continuity of information, policy and practices. There are no increased costs to school districts or charter schools as a result of this reporting.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule and the amendments to this rule apply to public education and do not affect small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. This rule and the amendments provide changes to the manner in which data are reported and do not affect individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments only change the way in which data is reported which does not result in any costs.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

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

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R277. Education, Administration.
R277-419. Pupil Accounting.
R277-419-1. Definitions.

A. "Aggregate Membership" means the sum of all days in membership during a school year for the student, program, school, LEA, or state.

B. "Board" means the Utah State Board of Education.

C. "Compulsory school age" means:

(1) a person who is at least five years old and no more than 17 years old on or before September 1;

(2) with respect to special education, a person who is at least three years old and no more than 21 years old on or before September 1[~~-~~];

(3) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

D. "Data Clearinghouse" means the electronic data collection system used by the USOE to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

E. "Electronic high school" means a rigorous program offering 9-12 grade level courses delivered over the Internet and coordinated by the USOE.

F. "Influenza pandemic (pandemic)" means a global outbreak of serious illness in people. It may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

G. "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

H. "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

[~~G~~]I. "LEA" means a local education agency, including local school boards/public school districts and charter schools.

[~~H~~]J. "Membership" means a public school student is on the current roll of a public school class or public school as of a given date:

(1) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(2) Removal from the roll does not mean that the LEA should delete the student's record, only that the student should no longer be counted in membership.

[~~I~~]K. "Minimum School Program (MSP)" means public school programs for kindergarten, elementary, and secondary schools described in Section 53A-17a-103(5).

[~~J~~]L. "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

[~~K~~]M. "Retained senior" means a student beyond the general compulsory education age who is authorized at the discretion of the LEA to remain in enrollment as a high school senior in the year(s) after the cohort has graduated due to:

(1) sickness;

(2) hospitalization;

(3) pending court investigation or action or both; or

(4) other extenuating circumstances beyond the control of the student.

[~~L~~]N. "S1" means the record maintained by the USOE containing individual student demographic and school membership data in a Data Clearinghouse file.

[~~M~~]O. "S2" means the record maintained by the USOE containing individual student data related to participation in a special education program in a Data Clearinghouse file.

P. "S3" means the record maintained by the USOE containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

[~~N~~]Q. "School day" means:

(1) a minimum of two hours per day per session in kindergarten and a minimum of four hours per day in grades one through twelve, subject to the following constraints:

(2)(a) All school day calculations shall exclude lunch periods and pass time between classes but may include recess periods that include organization or instruction from school staff.

(b) Each day that satisfies hourly instruction time shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.

[~~O~~]R. "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

[~~P~~]S. "School year" means the 12 month period from July 1 through June 30.

[~~Q~~]T. "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

[~~R~~]U. "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

[~~S~~]V. "SSID" means Statewide Student Identifier.

[~~T~~]W. "UCAT" means any public institution of higher education affiliated with the Utah College of Applied Technology.

[~~U~~]X. "Unexcused absence" means an absence charged to a student when the student was not physically present at school at any of the times attendance checks were made in accordance with Section R277-419-3B(3) and the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53A-11-101.

[~~V~~]Y. "USOE" means the Utah State Office of Education.

[~~W~~]Z. "Virtual education" means the use of information and communication technologies to offer educational opportunities to students in a manner that transcends traditional limitations of time and space with respect to their relationships with teachers, peers, and instructional materials.

[~~X~~]AA. "Year End upload" means the Data Clearinghouse file due annually by July 15 from school districts and charter schools to the USOE for the prior school year.

[~~Y~~]BB. "[~~YIC" means~~]Youth in Custody (YIC)" means a person under the age of 21 who is:

(1) in the custody of the Department of Human Services;

(2) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(3) being held in a juvenile detention facility.

R277-419-3. Minimum School Days, LEA Records, and Audits.

A. Minimum standards for school days

(1) LEAs shall conduct school for at least 990 instructional hours and 180 school days each school year; exceptions to the number of school days for individual students and schools are provided for in R277-419-7.

(2) The required school days and hours may be offered at any time during the school year, consistent with the law.

(3) Health Department Emergency or Pandemic

(a) The Board may waive the school day and hour requirement, following a vote of Board members, pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency.

(b) In the event that the Board is unable to meet in a timely manner, the State Superintendent of Public Instruction may issue a waiver following consultation with a majority of Board members.

(c) The waiver may be for a designated time period and for specific areas, school districts, or schools in the state, as determined by the health department directive.

(d) The waiver may allow for school districts to continue to receive state funds for pupil services and reimbursements.

(e) The waiver by the Board or State Superintendent of Public Instruction shall direct school districts to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.

(f) The waiver shall direct school districts to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.

(g) The Board may encourage school districts to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.

(4) Minimum standards shall apply to all public schools in all settings unless Utah law or this rule provides for specific exceptions. Local boards are encouraged to provide adequate school days and hours in the school district's yearly calendar to avoid the necessity of a waiver request except in the most extreme circumstances.

B. Official records

(1) To determine student membership, LEAs shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused;[~~ and~~]

(e) disability status (resource or self-contained, if applicable)[~~-~~]; and

(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).

(2)(a) Computerized or manually produced records for Career and Technical Education (CTE) programs shall be kept by teacher, class and Classification of Instructional Program (CIP) code.

(b) These records shall clearly and accurately show for each student in a CTE class the:

(i) entry date;

(ii) exit date; and

(iii) excused or unexcused status of absence.

(3) A minimum of one attendance check shall be made by each public school each school day.

C. Due to school activities requiring schedule and program modification during the first days and last days of the school year:

(1) For the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year.

(2) For the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period.

(3) Schools shall continue instructional activities throughout required calendared instruction days.

D. Audits

(1) An independent auditor shall be employed under contract by each LEA to audit its student accounting records annually and report the findings to the LEA board of education and to the Finance and Statistics Section of the USOE;

(2) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the USOE in cooperation with the State Auditor's Office and published under the heading of APP C-5;

(3) The USOE shall review student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in R277-484-7 and 8 and may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

R277-419-4. Student Membership.

A. Eligibility

(1) In order to generate membership for funding through the MSP for any clock hour of instruction on any school day, a student shall:

(a) not have previously earned a basic high school diploma or certificate of completion;

(b) not be enrolled in a YIC program with a YIC [~~service~~]time code other than [~~RSM, ~~]ISI-1 or ISI-2;

(c) not have unexcused absences on all of the prior ten consecutive school days;

(d) be a resident of Utah as defined under Sections 53A-2-201 through 213;

(e) be of compulsory school age or a retained senior;

(f)(i) be expected to attend a regular learning facility operated or recognized by the LEA on each regularly scheduled school day; or

(ii) have direct instructional contact with a licensed educator provided by the LEA at an LEA-sponsored center for tutorial assistance or at the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

(A) injury, illness, surgery, suspension, pregnancy, pending court investigation or action; or

(B) an LEA determination that home instruction is necessary.

(2) Students may generate MSP funding by participation in an LEA-sponsored or LEA-supported virtual education program other than the Utah Electronic High School that is consistent with the student's SEOP, has been approved by the student's counselor, and includes regular face-to-face instruction or facilitation by a designated employee of the LEA.

B. Reporting

(1) LEAs shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership shall be expressed in days.

[~~(3) Special education membership for YIC students shall be reported via the Data Clearinghouse.~~

]C. Calculations

(1) If a student was enrolled for only part of the school day or only part of the school year, the student's membership shall be prorated according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled. For example:

(a) If the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days.

(b) If the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(2) For students in grades 2 through 12, days in membership shall be calculated by the LEA using a method equivalent to the following: total clock hours of instruction for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day. For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be (900/990)*180, and the LEA would report 164 days.

(3) For students in grade 1, the first term of the formula shall be adjusted to use 810 hours as the denominator.

(4) For students in kindergarten, the first term of the formula shall be adjusted to use 450 hours as the denominator.

D. Constraints

(1) The sum of regular [~~and~~]plus self-contained special education and self-contained YIC membership days may not exceed 180 days;

(2) The sum of regular and resource special education membership days may not exceed 360 days[-];

(3) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

E. Exceptions

LEAs may also count a student in membership for the equivalent in hours of up to:

(1) one period each school day, if the student has been:

(a) released by school upon parent's request during the school day for religious instruction or individual learning activity consistent with the student's SEOP; or

(b) exempted from school attendance under 53A-11-102 for home schooling and participates in one or more extracurricular activities under R277-438;

(2) two periods each school day for time spent in bus travel during the regular school day to and from UCAT facilities, if the student is enrolled in CTE instruction consistent with the student's SEOP;

[~~(3) four periods each school day, if the student is enrolled in a YIC program with a YIC secure service code of ISI-2. State-funded YIC programs operating in facilities that provide residential care may receive funding for a maximum of 205 days, with prior USOE approval;~~

~~]~~([~~4~~]3) all periods each school day, if the student is enrolled in:

(a) a concurrent enrollment program that satisfies all the criteria of R277-713;

(b) a private school without religious affiliation under a contract initiated by an LEA which directs that the instruction be paid by public funds. Contracts shall be approved by the LEA board in an open meeting.

(c) a foreign exchange student program under 53A-2-206(2)(i)(B).

(d) Electronic High School or UCAT classes for credit which meet curriculum requirements, consistent with the student's SEOP and following written school counselor approval.

(e) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP:

(i) students may only be counted in (S1) membership and shall not have an S2 record;

(ii) the S2 record for these students shall only be submitted by the Utah Schools for the Deaf and the Blind.

R277-419-5. High School Completion Status.

A. The final status of all students who enter high school (grades 10-12) shall be accounted for, whether they graduate or leave high school for other reasons. LEAs shall use the following decision rules [~~and associated codes in the Data Clearinghouse~~]to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(1) dropped out[~~-(DO)~~], when no other status[~~-code~~] legitimately represents the reason for departure or absence from school;

[~~(2) died (DE);~~

~~(3) expelled (EX);~~

~~]~~([~~4~~]2) graduated with a high school diploma,[~~-(G*)~~] by satisfying one of the options specified in R277-705-4B or for an out-of-school youth of school age, completed an adult education secondary diploma or a Utah high school completion diploma as defined in R277-733;

([~~5~~]3) received a certificate of completion[~~-(CT)~~]:

(a) to qualify for a certificate, a student shall be in membership in twelfth grade on the last day of the school year; and

(b) meet any additional criteria established by the LEA consistent with its authority under R277-705-4C;

[~~(6) suspended (SU);~~

~~]~~([~~7~~]4) transferred out of state[~~-(TO);~~], out of the country, to a private school, to home schooling, or to an adult education program;

[~~(8) transferred out of the country (TC);~~

~~(9) transferred to a private school (TP);~~

~~(10) transferred to home schooling (TH);~~](5) transferred to higher education, without first obtaining either a diploma or certificate of completion;

(6) aged out of special education;

([~~11~~]7)(a) U.S. citizen who enrolled in another country as a foreign exchange student[~~-(FE)~~];

(b) non-U.S. citizen who enrolled in a Utah public school as a foreign exchange student under Section 53A-2-206(2)(i)(B) shall be identified by resident status(J for those with a J-1 visa, F for all others), not by an exit code;

([~~12~~]8) withdrawn[~~-(WD)~~] due to a situation so serious that educational services cannot be continued even under the conditions of R277-419-4(A)(1)(f)(ii);

[~~(13) transferred to adult education (AE);~~

~~(14) transferred to higher education (HE), without first obtaining either a diploma or certificate of completion; and~~

~~(15) aged out of special education (AO).~~](9) expelled or suspended;

(10) died.

B. LEAs shall report the high school completion status or exit code of each student to the USOE as specified in Data Clearinghouse documentation.

R277-419-7. Variances.

A. An exception for school attendance for public school students may be made at the discretion of the local board, in the length of the school day or year, for students with compelling circumstances. The time an excepted student is required to attend school shall be established by the student's IEP or SEOP.

B. Emergency/activity/weather-related exigency time shall be planned for in an LEA's annual calendaring. If school is closed for any reason, the instructional time missed shall be made up under the emergency/activity time as part of the minimum required time to qualify for full MSP funding.

C. Staff Planning, Professional Development, Student Assessment Time, and Parent-Teacher and Student Education Plan (SEP) Conferences.

(1) To provide planning and professional development time for staff, LEAs may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in R277-419-1[~~N~~]Q, are satisfied.

(2) Schools may conduct parent-teacher and student education plan conferences during the school day.

(3) Such conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year. Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(4) LEAs may designate no more than 12 instructional days at the beginning of the school year or at the end of the school year or both for the assessment of students entering or completing kindergarten. If instruction days are designated for kindergarten assessment:

(a) the days shall be designated by the LEA board in an open meeting;

(b) adequate notice and explanation shall be provided to kindergarten parents well in advance of the assessment period;

(c) assessment shall be conducted by qualified school employees consistent with Section 53A-3-410; and

(d) assessment time per student shall be adequate to justify the forfeited instruction time.

(5) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with the local board of education, consistent with Utah law and Board administrative rules.

(6) Total instructional time and school calendars shall be approved by local boards in an open meeting.

D. A school using a modified 45-day 15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if a school's schedule includes a minimum of 990 hours of instruction time in a minimum of 172 days.

KEY: education finance, school enrollment
Date of Enactment or Last Substantive Amendment: [~~May 12, 2010~~]2011
Notice of Continuation: October 5, 2007
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(e); 53A-1-404(2); 53A-1-301(3)(d); 53A-3-404; 53A-3-410

Education, Administration
R277-733
Adult Education Programs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34231
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide new and updated definitions and processes that include language to provide limited funding from the adult education appropriation to the Utah State Office of Education for oversight, monitoring, and evaluation of adult education programs. The amended rule also provides changes for determining residency status and the distribution of federal adult education funds by the Utah State Office of Education.

SUMMARY OF THE RULE OR CHANGE: The amendments provide a change to program standards; adult education program student eligibility; program, curriculum, outcomes and student mastery; allocation of adult education funds; and provides a new section on oversight, monitoring, evaluation, and reports.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes just update language and processes for the adult education program which does not result in any costs.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes just update language and processes for the adult education program which does not result in any costs.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule and the amendments to the rule apply to public education funding and distribution and do not affect small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, or local government entities. The changes just update language and processes for the adult education program and do not affect individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes just update language and processes for the adult education program which does not result in any costs.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

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

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R277. Education, Administration.
R277-733. Adult Education Programs.
R277-733-4. Program Standards.

A. Local Utah adult education programs shall comply with state and federal requirements and Board rules and follow procedures as defined in the Utah Adult Education Policy and Procedures Guide published, updated, and available from the USOE.

B. Local Utah adult education programs shall make reasonable efforts to market and inform prospective students within their geographic areas of the availability of the programs and provide enrollment information.

C. Utah adult education services may be offered to qualifying individuals whose primary residence is located in a community closely bordering Utah not conducive to commuting to the bordering state's closest adult education program. These individuals if approved by the adult education program in the school district providing the services, shall not be charged out-of-state Adult Education tuition.

D. Adult education programs/courses may also be made available to Utah residents who are between the ages of 16 and 18, as determined necessary by local adult education programs.

E. Local adult education programs shall make reasonable efforts to schedule classes at local community sites and times that meet the needs of adult education students.

F. Each eligible adult education student shall have a written Student Education Occupation Plan (SEOP) defining the student's goal(s) based upon a complete academic assessment, prior academic achievement, work experience and an established Entering Functioning Level. Annually, the plan shall be reviewed by the student and a designated program official and maintained in the student's file along with a signed data matching/agency sharing waiver release form.

G. Only courses identified in R277-733-7 qualify for adult education funds.

H. Local adult education programs shall establish and maintain a local adult education advisory committee consisting of representation from the Utah Department of Workforce Services, Vocational Office of Rehabilitation, higher education and other interested community members with the responsibility to advocate for exemplary adult education programs through collaboration and partnerships with businesses and other community agencies.

I. The USOE shall evaluate local programs through tri-annual site monitoring visits, [~~annual~~]monthly desk monitoring, and as needed, additional site visits or both, to assure compliance.

J. Education staff, including program administrators, assigned to provide education services shall be qualified and appropriate for their assignments.

K. The teaching certificate and endorsement held by a staff member of a school district or community-based program shall be important in evaluating the appropriateness of the teacher's assignment, but not controlling. For instance, elementary teachers may teach secondary age students who are performing academically at an elementary level in certain subjects. Individuals teaching an adult education high school completion class shall hold a valid Utah elementary or secondary education license and may issue adult education high school completion credits in multiple subjects. Non-licensed individuals providing instruction in ESOL, ABE, GED Test preparation or AHSC classes shall instruct under the supervision of a licensed program employee.

L. Individuals with post-secondary degrees not in possession of a Utah teaching license[~~s~~] may be considered for employment solely in an adult education program teaching adult students [~~following the completion of a student teaching field experience in an accredited adult education program~~]by obtaining an Alternative Route to License as defined in R277-518, Career and Technical Education Licenses.

M. Individuals with TESOL or ESOL credentials may be considered for employment solely in an adult education program teaching adult students following the completion of a student teaching experience in an accredited adult education program.

R277-733-6. Adult Education Program Student Eligibility.

A. An individual is eligible to be a Utah adult education student if

(1) the prospective adult education student is at least 16 years of age and the student's class has not graduated; or

(2) a prospective adult education student who is otherwise eligible provides [~~one of the following to establish Utah residency:~~]proof of Utah residency as defined in adult education policy.

[~~(a) valid state of Utah driver license;~~

~~(b) valid state of Utah driver privilege card;~~

~~(c) valid state of Utah identification card; or~~

~~(d) valid state of Utah resident fishing or hunting license.~~

~~(3) a prospective adult education student provides one of the following in the prospective student's name with the home mailing address (no post office boxes); documentation shall have been received no more than 12 months prior to the individual's registration request:~~

~~(a) mail from an in-state or out-of-state business;~~

~~(b) utility bill or work order;~~

~~(c) cell phone or telephone bill;~~

~~(d) employee pay stub;~~

~~(e) written statement on an employer's letterhead defining a job commitment;~~

~~(f) current year automobile registration;~~

~~(g) Utah state government agency form letter;~~

~~(h) Utah public library card;~~

~~(i) rent or mortgage payment statement;~~

~~(j) Utah voter registration card;~~

~~(k) Utah high school/college transcript or report card;~~

~~(l) tribal correspondence;~~

~~(m) approved or denied free or reduced lunch application from the individual's children's school that includes the individual's name on the application;~~

~~(n) daycare or nursery school record of the individual's children that includes the individual's name on the record;~~

~~(o) K-12 registration demographic card of children enrolled in a Utah school that includes the individual's name on the card.~~

~~]~~B. The following does not establish residency for purposes of adult education programs:

(1) mail addressed to occupant or resident;

(2) letters from friends or relatives;

(3) power of attorney documents;

(4) personal correspondence addressed to a post office box.

C. To be eligible for participation in an adult education program, a Utah resident shall be:

(1) an individual 17 years of age or older whose high school class/cohort has graduated; or

(2) an individual emancipated under Section 78-3a-1005; or

(3) an individual emancipated by marriage; or

(4) an individual who is at least 16 years of age who has not graduated from high school and who is no longer enrolled in a K-12 program of instruction; or

(5) a student 16 to 19 years of age whose class has not graduated and who is attending adult education classes as an alternative to a traditional public education program.

D. Non-Utah residents from states bordering Utah seeking enrollment into an adult education program in Utah shall be considered resident Utah students consistent with individual agreements between the Utah Adult Education Program and the individual states bordering Utah.

R277-733-8. Program, Curriculum, Outcomes and Student Mastery.

A. The Utah Adult Education Program shall offer courses consistent with the Utah Core curriculum under R277-700.

B. The Utah Core curriculum and teaching strategies may be modified or adjusted to meet the individual needs of the adult education student.

C. Written course descriptions for AHSC required and elective courses shall be developed by school district adult education programs for all classes taught, consistent with the Utah Core curriculum and Utah adult education curriculum standards, as provided by the USOE.

D. Written course descriptions for GED Test preparation, ESOL and ABE courses shall be developed cooperatively by school districts, CBOs and the USOE based on Utah Core curriculum standards, modified for adult learners.

E. Course descriptions shall contain adult education mastery criteria and shall stress mastery of adult life skill material consistent with Core objective standards and the Core curriculum.

F. Course content mastery shall be stressed rather than completion of predetermined seat time in a classroom.

G. Adult high school completion education is determined by the following prerequisite courses:

(1) ESOL competency AEFLA levels one through six;

(2) ABE competency AEFLA levels one through four.

H. AHSC courses for students seeking an Adult Education Secondary Diploma should meet federal AEFLA AHSC Levels I and II competency requirements with a minimum completion of 24 credits under the direction of a Utah licensed teacher as provided below:

(1) Adult High School Core Courses, as offered consistent with Utah Core objectives:

(a) 24.0 units of credit required through satisfaction of a course of study by demonstrated course competency or school district approved competency examination in correlation with the student's SEOP career focus;

(b) awarded adult education credit options including continuous professional employment training required for a professional license; or

(c) documented achievement of a trade or skill, basic or advanced military training;

(d) apprenticeship, union or registered work credentials;

(e) successfully passing all five GED Tests; academic credit for successfully passing all five GED Tests may only be applied toward an Adult Education Secondary Diploma if the proposed awarded units of credit were transcripted by June 30, 2009;

(f) transcripted college or university courses as they align to the following Core instructional areas:

(i) Language Arts: [~~3~~]4.0;

(ii) mathematics: [~~2~~]3.0, individualized mathematics courses to meet the life needs of adult learners;

(iii) science: [~~2~~]3.0, from the four science areas of chemistry, biological science, earth science, or physics;

(iv) social studies: 2.50, 1.0 in United States history, .50 in United States government and civics, .50 in geography; and .50 in world civilizations;

(v) arts: 1.50;

(vi) healthy lifestyles: 2.0, individualized courses meeting the life needs of adult learners that include: .25 - 1.50 health education, .25 - 1.50 individualized fitness for life courses;

(vii) career and technical education (CTE): 1.00;

(viii) general financial literacy: .50;

(ix) [~~education~~]information technology: .50 computer technology courses or successful completion of school district approved competency examination;

(x) electives: [~~9~~]6.0 units of credit.

I. The USOE Adult Education Section and local education programs shall disseminate clear information regarding revised adult education graduation requirements.

J. Adult education students receiving education services in a state prison or jail education program may graduate with an Adult Education Secondary Diploma upon completion of the state required 24.0 units of credit required under R277-700 and satisfied through completed credits or demonstrated course competency or a Utah High School Completion Diploma upon successful passing all five of the GED Tests consistent with students' SEOP career focus.

K. Adult Education Secondary Diploma graduation requirements may be changed or modified, or both, for adult students with documented disabilities through Individual Education Plans (IEPs) from age 16 up until their 22nd birthday or an adult education SEOP, or both to meet unique educational needs.

L. A student's IEP or adult education SEOP shall document the nature and extent of modifications, substitutions, or exemptions made to accommodate the student's disability(ies).

M. Modified graduation requirements for individual students shall:

(1) be consistent with the student's IEP or SEOP, or both;

(2) be maintained in the student's files;

(3) maintain the integrity and rigor expected for AHSC graduation.

N. School districts shall establish policies:

(1) allowing or disallowing adult education students participation in graduation activities or ceremonies; and

(2) allowing or disallowing adult education students from participating in the Utah Basic Skills Competency Test (UBSCT).

O. An adult education high school completion student may only receive an Adult Education Secondary Diploma earned through a designated Utah adult education program.

P. Adult education programs shall accept credits and grades awarded to students from other state recognized adult education programs, schools accredited by the Northwest [~~Association of Accredited Schools~~]Accreditation Commission or schools or programs approved by the Board without alteration.

Q. Adult education programs may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted from schools or private providers.

R. A school district/adult education program is the final decision-making authority for the awarding of credit and grades from non-accredited sources.

S. Adult education shall provide a program that allows students to transition between sites in a seamless manner.

T. An adult education student seeking a Utah High School Completion Diploma shall be offered a course of academic instruction designed to prepare the student to take the GED Tests.

U. A Utah High School Completion Diploma shall be issued by the Board and distributed by the GED testing centers as agents of the Board or directly by the USOE GED administrator. Receipt of the Utah High School Completion Diploma does not end entitlement to a free appropriate public education for a student eligible for special education under IDEA.

V. Upon completion of requirements for a Utah Adult Education Secondary Diploma, or a Utah High School Completion Diploma, adult education students may only continue in an adult education program to improve their basic literacy skills if:

(1) their academic skills are less than 12.9 grade level in an academic area of reading, math or English; and

(2) they lack sufficient mastery of basic educational skills to enable them to function effectively in society. The focus of instruction shall be solely literacy and is limited specifically to reading, math or English.

R277-733-10. Allocation of Adult Education Funds.

Adult education state funds shall be distributed to school districts offering adult education programs consistent with percentages defined in adult education policy in the following areas:

A. Base amount distributed equally to each participating school district with a Board-approved adult education plan and budget[~~- eight percent of appropriation~~].

B. Enrollee status students (not participants)[~~- 25 percent of appropriation~~].

C. Contact hours (instructional and non-instructional) for both enrollee status students and participants[~~- 18 percent of appropriation~~].

D. Adult Education Secondary Diplomas or Utah High School Completion Diplomas, whichever is awarded first.

E. Enrollee level gains: ESOL competency levels 1-6, ABE competency levels 1-4, and AHSC competency levels[~~-1-2 - 20 percent~~].

F. Enrollee adult education completed secondary credits[~~- nine percent~~].

F. Supplemental support, to be distributed to school districts for special program needs or professional development, as determined by written request and USOE evaluation of need and approval[~~- three percent or balance of appropriation~~].

(1) Any school district with pre-approved carryover adult education funds from the previous fiscal year may negotiate a request for supplemental funding as needed.

(2) Priority of supplemental funding shall be given to school districts whose initial adult education allocation is less than one percent of the state allotted total, as indicated on the state allocation table.

(3) Any balance of supplemental funds may be applied for by all remaining eligible school districts.

G. Adult education federal AEFLA funds shall be distributed based on a competitive application. Second or subsequent year AEFLA funding shall be based on performance criteria established by the USOE, defined in adult education policy.

[~~G~~]H. Funds, state (flow through) or federal (reimbursement) or both, may be withheld or terminated for noncompliance with state policy and procedures and associated reporting timelines as defined by the USOE.

R277-733-13. Oversight, Monitoring, Evaluation, and Reports.

The Board may designate no more than two percent of the total legislative appropriation for adult education services to be used specifically by the USOE for oversight, monitoring, and evaluation of adult education programs and their compliance with law and this rule.

KEY: adult education
Date of Enactment or Last Substantive Amendment: [~~November 9, 2009~~]2011
Notice of Continuation: October 5, 2007
Authorizing, Implemented, or Interpreted Law: Art X Sec 3; 53A-15-401; 53A-1-402(1); 53A-1-401(3); 53A-1-403.5; 53A-17a-119; 53A-15-404

Environmental Quality, Drinking Water
R309-110-4
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34243
FILED: 11/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change adds definitions for ultraviolet light (UV) disinfection terminology in support of the disinfection rule update and defines "detectable residual" for other disinfectants.

SUMMARY OF THE RULE OR CHANGE: This rule changes adds definitions for: 1) dose-monitoring strategy; 2) duty UV sensors; 3) inactivation; 4) off-specification; 5) reference UV sensors; 6) required Dose; 7) target log inactivation; 8) UV dose; 9) UV facility; 10) UV Intensity; 11) UV reactor; 12) UV reactor validation; 13) UV transmittance; 14) validation factor; and 15) validated operating conditions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 1-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There should be no significant cost or savings from this rule change to the state budget. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may

choose to implement. The amendment itself carries no cost or savings.
♦ LOCAL GOVERNMENTS: There should be no significant cost or savings from this rule change to local government. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement. The amendment itself carries no cost or savings.
♦ SMALL BUSINESSES: There should be no significant cost or savings from this rule change to small businesses. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement. The amendment itself carries no cost or savings.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There should be no significant cost or savings from this rule change to other entities. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement. The amendment itself carries no cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no significant cost or savings from this rule change to public drinking water systems. This rule change assists systems seeking to modify or revise their disinfection practices. Because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement, the amendment itself carries no cost or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change, adding new definitions, should assist drinking water systems who wish to revise or update their disinfection practices to one of the emerging disinfection treatment technologies.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Ken Bousfield , Director

R309. Environmental Quality, Drinking Water.
R309-110. Administration: Definitions.
R309-110-4. Definitions.

As used in R309:

"Action Level" means the concentration of lead or copper in drinking water tap samples (0.015 mg/l for lead and 1.3 mg/l for copper) which determines, in some cases, the corrosion treatment, public education and lead line replacement requirements that a water system is required to complete.

"AF" means acre foot and is the volume of water required to cover an acre to a depth of one foot (one AF is equivalent to 325,851 gallons).

"Air gap" The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, catch basin, plumbing fixture or other device and the flood level rim of the receptacle. This distance shall be two times the diameter of the effective opening for openings greater than one inch in diameter where walls or obstructions are spaced from the nearest inside edge of the pipe opening a distance greater than three times the diameter of the effective openings for a single wall, or a distance greater than four times the diameter of the effective opening for two intersecting walls. This distance shall be three times the diameter of the effective opening where walls or obstructions are closer than the distances indicated above.

"ANSI/NSF" refers to the American National Standards Institute and NSF International. NSF International has prepared at least two health effect standards dealing with treatment chemicals added to drinking water and system components that will come into contact with drinking water, these being Standard 60 and Standard 61. The American National Standards Institute acts as a certifying agency, and determines which laboratories may certify to these standards.

"Approval" unless indicated otherwise, shall be taken to mean a written statement of acceptance from the Executive Secretary.

"Approved" refers to a rating placed on a system by the Division and means that the public water system is operating in substantial compliance with all the Rules of R309.

"Average Yearly Demand" means the amount of water delivered to consumers by a public water system during a typical year, generally expressed in MG or AF.

"AWWA" refers to the American Water Works Association located at 6666 West Quincy Avenue, Denver, Colorado 80235. Reference within these rules is generally to a particular Standard prepared by AWWA and which has completed the ANSI approval process such as ANSI/AWWA Standard C651-92 (AWWA Standard for Disinfecting Water Mains).

"Backflow" means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply from any source. Also see backsiphonage, backpressure and cross-connection.

"Backpressure" means the phenomena that occurs when the customer's pressure is higher than the supply pressure, This could be caused by an unprotected cross connection between a

drinking water supply and a pressurized irrigation system, a boiler, a pressurized industrial process, elevation differences, air or steam pressure, use of booster pumps or any other source of pressure. Also see backflow, backsiphonage and cross connection.

"Backsiphonage" means a form of backflow due to a reduction in system pressure which causes a subatmospheric or negative pressure to exist at a site or point in the water system. Also see backflow and cross-connection.

"Bag Filters" are pressure-driven separation devices that remove particle matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

"Bank Filtration" is a water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

"Best Available Technology" (BAT) means the best technology, treatment techniques, or other means which the Executive Secretary finds, after examination under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon for all these chemicals except vinyl chloride. Central treatment using packed tower aeration is also identified as BAT for synthetic organic chemicals.

"Board" means the Drinking Water Board.

"Body Politic" means the State or its agencies or any political subdivision of the State to include a county, city, town, improvement district, taxing district or any other governmental subdivision or public corporation fo the State.

"Breakpoint Chlorination" means addition of chlorine to water until the chlorine demand has been satisfied. At this point, further addition of chlorine will result in a free residual chlorine that is directly proportional to the amount of chlorine added beyond the breakpoint.

"C" is short for "Residual Disinfectant Concentration."

"Capacity Development" means technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards.

"Cartridge filters" are pressure-driven separation devices that remove particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

"cfs" means cubic feet per second and is one way of expressing flowrate (one cfs is equivalent to 448.8 gpm).

"Class" means the level of certification of Backflow Prevention Technician (Class I, II or III).

"Coagulation" is the process of destabilization of the charge (predominantly negative) on particulates and colloids suspended in water. Destabilization lessens the repelling character of particulates and colloids and allows them to become attached to other particles so that they may be removed in subsequent processes. The particulates in raw waters (which contribute to color and turbidity) are mainly clays, silt, viruses, bacteria, fulvic and humic acids, minerals (including asbestos, silicates, silica, and radioactive particles), and organic particulate.

"Collection area" means the area surrounding a ground-water source which is underlain by collection pipes, tile, tunnels, infiltration boxes, or other ground-water collection devices.

"Combined distribution system" is the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

"Commission" means the Operator Certification Commission.

"Community Water System" (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle began January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period ran from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; and the third is from January 1, 1999 to December 31, 2001.

"Comprehensive Performance Evaluation" (CPE) is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with these rules, the comprehensive performance evaluation must consist of at least the following components: Assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"Confirmed SOC contamination area" means an area surrounding and including a plume of SOC contamination of the soil or water which previous monitoring results have confirmed. The area boundaries may be determined by measuring 3,000 feet horizontally from the outermost edges of the confirmed plume. The area includes deeper aquifers even though only the shallow aquifer is the one contaminated.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion of the filtration area in which discrete bacterial colonies can not be distinguished.

"Consecutive system" is a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system or one or more consecutive systems.

"Contaminant" means any physical, chemical biological, or radiological substance or matter in water.

"Continuing Education Unit" (CEU) means ten contact hours of participation in, and successful completion of, an organized

and approved continuing education experience under responsible sponsorship, capable direction, and qualified instruction. College credit in approved courses may be substituted for CEUs on an equivalency basis.

"Conventional Surface Water Treatment" means a series of processes including coagulation, flocculation, sedimentation, filtration and disinfection resulting in substantial particulate removal and inactivation of pathogens.

"Controls" means any codes, ordinances, rules, and regulations that a public water system can cite as currently in effect to regulate potential contamination sources; any physical conditions which may prevent contaminants from migrating off of a site and into surface or ground water; and any site with negligible quantities of contaminants.

"Corrective Action" refers to a rating placed on a system by the Division and means a provisional rating for a public water system not in compliance with the Rules of R309, but making all the necessary changes outlined by the Executive Secretary to bring them into compliance.

"Corrosion inhibitor" means a substance capable of reducing the corrosiveness of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Criteria" means the conceptual standards that form the basis for DWSP area delineation to include distance, ground-water time of travel, aquifer boundaries, and ground-water divides.

"Criteria threshold" means a value or set of values selected to represent the limits above or below which a given criterion will cease to provide the desired degree of protection.

"Cross-Connection" means any actual or potential connection between a drinking (potable) water system and any other source or system through which it is possible to introduce into the public drinking water system any used water, industrial fluid, gas or substance other than the intended potable water. For example, if you have a pump moving non-potable water and hook into the drinking water system to supply water for the pump seal, a cross-connection or mixing may lead to contamination of the drinking water. Also see backsiphonage, backpressure and backflow.

"Cross Connection Control Program" means the program administered by the public water system in which cross connections are either eliminated or controlled.

"Cross Connection Control Commission" means the duly constituted advisory subcommittee appointed by the Board to advise the Board on Backflow Technician Certification and the Cross Connection Control Program of Utah.

"CT" or "CT_{calc}" is the product of "residual disinfectant concentration" (C) in mg/l determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T." If a public water system applies disinfectant at more than one point prior to the first customer, the summation of each CT value for each disinfectant sequence before or at the first customer determines the total percent inactivation or "Total Inactivation Ratio." In determining the Total Inactivation Ratio, the public water system must determine the residual disinfectant concentration of each disinfection sequence and corresponding contact time before any subsequent disinfection application point(s).

"$CT_{req'd}$" is the CT value required when the log reduction credit given the filter is subtracted from the (3-log) inactivation requirement for Giardia lamblia or the (4-log) inactivation requirement for viruses.

"$CT_{99.9}$" is the CT value required for 99.9 percent (3-log) inactivation of Giardia lamblia cysts. $CT_{99.9}$ for a variety of disinfectants and conditions appear in Tables 1.1-1.6, 2.1, and 3.1 of Section 141.74(b)(3) in the code of Federal Regulations (also available from the Division).

"Designated person" means the person appointed by a public water system to ensure that the requirements of their Drinking Water Source Protection Plan(s) for ground water sources and/or surface water sources are met.

"Desired Design Discharge Rate" means the discharge rate selected for the permanent pump installed in a public drinking water well source. This pumping rate is selected by the water system owner or engineer and can match or be the same rate utilized during the constant rate pump test required by R309-515 and R309-600 to determine delineated protection zones. For consideration of the number of permanent residential connections or ERC's that a well source can support (see Safe Yield) the Division will consider 2/3 of the test pumping rate as the safe yield.

"Detectable residual" means the minimum level of free chlorine in the water that the analysis method is capable of detecting and indicating positive confirmation.

"Direct Employment" means that the operator is directly compensated by the drinking water system to operate that drinking water system.

"Direct Filtration" means a series of processes including coagulation and filtration, but excluding sedimentation, resulting in substantial particulate removal.

"Direct Responsible Charge" means active on-site control and management of routine maintenance and operation duties. A person in direct responsible charge is generally an operator of a water treatment plant or distribution system who independently makes decisions during normal operation which can affect the sanitary quality, safety, and adequacy of water delivered to customers. In cases where only one operator is employed by the system, this operator shall be considered to be in direct responsible charge.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemptions returns.

"Discipline" means type of certification (Distribution or Treatment).

"Disinfectant Contact Time" ("T" in CT calculations) means the time in minutes that it takes water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration ("C") is measured. Where only one "C" is measured, "T" is the time in minutes that it takes water to move from the point of disinfectant application to a point before or at where residual disinfectant concentration ("C") is measured.

Where more than one "C" is measured, "T" is (a) for the first measurement of "C," the time in minutes that it takes water to move from the first or only point of disinfectant application to a point before or at the point where the first "C" is measured and (b) for subsequent measurements of "C," the time in minutes that it takes for water to move from the previous "C" measurement point to the "C" measurement point for which the particular "T" is being calculated. Disinfectant contact time in pipelines must be calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe. Disinfectant contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

"Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents (see also Primary Disinfection and Secondary Disinfection).

"Disinfection profile" is a summary of daily Giardia lamblia inactivation through the treatment plant.

"Distribution System" means the use of any spring or well source, distribution pipelines, appurtenances, and facilities which carry water for potable use to consumers through a public water supply. Systems which chlorinate groundwater are in this discipline.

"Distribution System Manager" means the individual responsible for all operations of a distribution system.

"Division" means the Utah Division of Drinking Water, who acts as staff to the Board and is also part of the Utah Department of Environmental Quality.

"Dose-monitoring Strategy" is the method by which a UV reactor maintains the required dose at or near some specified value by monitoring UV dose delivery. Such strategies must include, at a minimum, flow rate and UV intensity (measured via duty UV sensor(s)) and lamp status. They sometimes include UVT and lamp power. Two common Dose-monitoring Strategies are the UV Intensity Setpoint Approach and the Calculated Dose Approach.

(1) The "UV Intensity Setpoint Approach" relies on one or more "setpoints" for UV intensity that are established during validation testing to determine UV dose. During operations, the UV intensity as measured by the UV sensors must meet or exceed the setpoint(s) to ensure delivery of the required dose. Reactors must also be operated within validated operation conditions for flow rates and lamp status. In the UV Intensity Setpoint Approach, UVT does not need to be monitored separately. Instead, the intensity readings by the sensors account for changes in UVT. The operating strategy can be with either a single setpoint (one UV intensity setpoint is used for all validated flow rates) or a variable setpoint (the UV intensity setpoint is determined using a lookup table or equation for a range of flow rates).

(2) The "Calculated Dose Approach" uses a dose-monitoring equation to estimate the UV dose based on operating conditions (typically flow rate, UV intensity, and UVT). The dose-monitoring equation may be developed by the UV manufacturers using numerical methods; or the systems use an empirical dose-monitoring equation developed through validation testing. During reactor operations, the UV reactor control system inputs the measured parameters into the dose-monitoring equation to produce a calculated dose. The system operator divides the calculated dose by the Validation Factor (see the 2006 Final UV Guidance Manual Chapter 5 for more details on the Validation Factor) and compares the resulting value to the required dose for the target pathogen and log inactivation level.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission of Radiological Units and Measurements (ICRU).

"Drinking Water" means water that is fit for human consumption and meets the quality standards of R309-200. Common usage of terms such as culinary water, potable water or finished water are synonymous with drinking water.

"Drinking Water Project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses which has at least fifteen service connections or serves an average of twenty-five individuals daily for at least sixty days of the year and includes collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system and collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project.

"Drinking Water Regional Planning" means a county wide water plan, administered locally by a coordinator, who facilitates the input of representatives of each public water system in the county with a selected consultant, to determine how each public water system will either collectively or individually comply with source protection, operator certification, monitoring (including consumer confidence reports), capacity development (including technical, financial and managerial aspects), environmental issues, available funding and related studies.

"Dual sample set" is a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under R309-210-9 and determining compliance with the TTHM and HAA5 MCLs under R309-210-10.

"Duty UV Sensors (or Duty Sensors)" are on-line sensors installed in the UV reactor and continuously monitor UV intensity during UV equipment operations.

"DWSP Program" means the program to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

"DWSP Zone" means the surface and subsurface area surrounding a ground-water or surface water source of drinking water supplying a PWS, over which or through which contaminants are reasonably likely to move toward and reach such water source.

"Emergency Storage" means that storage tank volume which provides water during emergency situations, such as pipeline failures, major trunk main failures, equipment failures, electrical power outages, water treatment facility failures, source water supply contamination, or natural disasters.

"Engineer" means a person licensed under the Professional Engineers and Land Surveyors Licensing Act, 58-22 of the Utah Code, as a "professional engineer" as defined therein.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Equalization Storage" means that storage tank volume which stores water during periods of low demand and releases the water under periods of high demand. Equalization storage provides a buffer between the sources and distribution for the varying daily water demands. Typically, water demands are high in the early morning or evening and relatively low in the middle of the night. A rule-of-thumb for equalization storage volume is that it should be equal to one average day's use.

"Equivalent Residential Connection" (ERC) is a term used to evaluate service connections to consumers other than the typical residential domicile. Public water system management is expected to review annual metered drinking water volumes delivered to non-residential connections and estimate the equivalent number of residential connections that these represent based upon the average of annual metered drinking water volumes delivered to true single family residential connections. This information is utilized in evaluation of the system's source and storage capacities (refer to R309-510).

"Executive Secretary" means the Executive Secretary of the Board as appointed and with authority outlined in 19-4-106 of the Utah Code.

"Existing ground-water source of drinking water" means a public supply ground-water source for which plans and specifications were submitted to the Division on or before July 26, 1993.

"Existing surface water source of drinking water" means a public supply surface water source for which plans and specifications were submitted to the Division on or before June 12, 2000.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Filter profile" is a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts verus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Financial Assistance" means a drinking water project loan, credit enhancement agreement, interest buy-down agreement or hardship grant.

"Finished water" is water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

"Fire Suppression Storage" means that storage tank volume allocated to fire suppression activities. It is generally determined by the requirements of the local fire marshal, expressed in gallons, and determined by the product of a minimum flowrate in gpm and required time expressed in minutes.

"First draw sample" means a one-liter sample of tap water, collected in accordance with an approved lead and copper sampling site plan, that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

"Flash Mix" is the physical process of blending or dispersing a chemical additive into an unblended stream. Flash Mixing is used where an additive needs to be dispersed rapidly (within a period of one to ten seconds). Common usage of terms such as "rapid mix" or "initial mix" are synonymous with flash mix.

"Floc" means flocculated particles or agglomerated particles formed during the flocculation process. Flocculation enhances the agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculated particles may be small (less than 0.1 mm diameter) micro flocs or large, visible flocs (0.1 to 3.0 mm diameter).

"Flocculation" means a process to enhance agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculation begins immediately after destabilization in the zone of decaying mixing energy (downstream from the mixer) or as a result of the turbulence of transporting flow. Such incidental flocculation may be an adequate flocculation process in some instances. Normally flocculation involves an intentional and defined process of gentle stirring to enhance contact of destabilized particles and to build floc particles of optimum size, density, and strength to be subsequently removed by settling or filtration.

"Flowing stream" is a course of running water flowing in a definite channel.

"fps" means feet per second and is one way of expressing the velocity of water.

"G" is used to express the energy required for mixing and for flocculation. It is a term which is used to compare velocity gradients or the relative number of contacts per unit volume per second made by suspended particles during the flocculation process. Velocity gradients G may be calculated from the following equation: G = square root of the value(550 times P divided by u times V). Where: P = applied horsepower, u = viscosity, and V = effective volume.

"GAC10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with R309-210-10 MCLs under R309-200-5(3)(i)(A) shall be 120 days.

"GAC20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

"Geologist" means a person licensed under the Professional Geologist Licensing Act, 58-76 of the Utah Code, as a "professional geologist" as defined therein.

"Geometric Mean" the geometric mean of a set of N numbers X_1, X_2, X_3,...., X_N is the Nth root of the product of the numbers.

"gpd" means gallons per day and is one way of expressing average daily water demands experienced by public water systems.

"gpm" means gallons per minute and is one way of expressing flowrate.

"gpm/sf" means gallons per minute per square foot and is one way of expressing flowrate through a surface area.

"Grade" means any one of four possible steps within a certification discipline of either water distribution or water treatment. Grade I indicates knowledge and experience requirements for the smallest type of public water supply. Grade IV

indicates knowledge and experience levels appropriate for the largest, most complex type of public water supply.

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"ground water of high quality" means a well or spring producing water deemed by the Executive Secretary to be of sufficiently high quality that no treatment is required. Such sources shall have been designed and constructed in conformance with these rules, have been tested to establish that all applicable drinking water quality standards (as given in rule R309-200) are reliably and consistently met, have been deemed not vulnerable to natural or man-caused contamination, and the public water system management have established adequate protection zones and management policies in accordance with rule R309-600.

"ground water of low quality" means a well or spring which, as determined by the Executive Secretary, cannot reliably and consistently meet the drinking water quality standards described in R309-200. Such sources shall be deemed to be a low quality ground water source if any of the conditions outlined in subsection R309-505-8(1) exist. Ground water that is classified "UDI" is a subset of this definition and requires "conventional surface water treatment" or an acceptable alternative.

"Ground Water Source" means any well, spring, tunnel, adit, or other underground opening from or through which ground water flows or is pumped from subsurface water-bearing formations.

"Ground Water Under the Direct Influence of Surface Water" or "UDI" or "GWUDI" means any water beneath the surface of the ground with significant occurrence of insects or other macro organisms, algae, or large-diameter pathogens such as Giardia lamblia, or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence will be determined for individual sources in accordance with criteria established by the Executive Secretary. The determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well or spring construction and geology with field evaluation.

"Haloacetic acids"(five) (HAA5) mean the sum of the concentrations in mg/L of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Hardship Grant" means a grant of monies to a political subdivision that meets the drinking water project loan considerations whose project is determined by the Board to not be economically feasible unless grant assistance is provided. A hardship grant may be authorized in the following forms:

(1) a Planning Advance which will be required to be repaid at a later date, to help meet project costs incident to planning to determine the economic, engineering and financial feasibility of a proposed project;

(2) a Design Advance which will be required to be repaid at a later date, to help meet project costs incident to design including, but not limited to, surveys, preparation of plans, working drawings, specifications, investigations and studies; or

(3) a Project Grant which will not be required to be repaid.

"Hardship Grant Assessment" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.

"Hotel, Motel or Resort" shall include tourist courts, motor hotels, resort camps, hostels, lodges, dormitories and similar facilities, and shall mean every building, or structure with all buildings and facilities in connection, kept, used, maintained as, advertised as, or held out to the public to be, a place where living accommodations are furnished to transient guests or to groups normally occupying such facilities on a seasonal or short term basis.

"Hydrogeologic methods" means the techniques used to translate selected criteria and criteria thresholds into mappable delineation boundaries. These methods include, but are not limited to, arbitrary fixed radii, analytical calculations and models, hydrogeologic mapping, and numerical flow models.

"Inactivation" means, in the context of UV disinfection, a process by which a microorganism is rendered unable to reproduce, thereby rendering it unable to infect a host.

"Initial compliance period" means the first full three-year compliance period which begins at least 18 months after promulgation, except for contaminants listed in R309-200-5(3)(a), Table 200-2 numbers 19 to 33; R309-200-5(3)(b), Table 200-3 numbers 19 to 21; and R309-200-5(1)(c), Table 200-1 numbers 1, 5, 8, 11 and 18, initial compliance period means the first full three-year compliance after promulgation for systems with 150 or more service connections (January 1993-December 1995), and first full three-year compliance period after the effective date of the regulation (January 1996-December 1998) for systems having fewer than 150 service connections.

"Intake", for the purposes of surface water drinking water source protection, means the device used to divert surface water and also the conveyance to the point immediately preceding treatment, or, if no treatment is provided, at the entry point to the distribution system.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of reducing the cost of financing incurred by a political subdivision on bonds issued by the subdivision for drinking water project costs.

"Labor Camp" shall mean one or more buildings, structures, or grounds set aside for use as living quarters for groups of migrant laborers or temporary housing facilities intended to accommodate construction, industrial, mining or demolition workers.

"Lake / reservoir" refers to a natural or man made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

"Land management strategies" means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground water monitoring, household hazardous waste collection programs, water

conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

"Land use agreement" means a written agreement, memoranda or contract wherein the owner(s) agrees not to locate or allow the location of uncontrolled potential contamination sources or pollution sources within zone one of new wells in protected aquifers or zone one of surface water sources. The owner(s) must also agree not to locate or allow the location of pollution sources within zone two of new wells in unprotected aquifers and new springs unless the pollution source agrees to install design standards which prevent contaminated discharges to ground water. This restriction must be binding on all heirs, successors, and assigns. Land use agreements must be recorded with the property description in the local county recorder's office. Refer to R309-600-13(2)(d).

Land use agreements for protection areas on publicly owned lands need not be recorded in the local county recorder office. However, a letter must be obtained from the Administrator of the land in question and meet the requirements described above.

"Large water system" for the purposes of R309-210-6 only, means a water system that serves more than 50,000 persons.

"Lead free" means, for the purposes of R309-210-6, when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead; when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead; and when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion refers to fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300 g-6(e).

"Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Locational running annual average (LRAA)" is the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

"Major Bacteriological Routine Monitoring Violation" means that no routine bacteriological sample was taken as required by R309-210-5(1).

"Major Bacteriological Repeat Monitoring Violation" - means that no repeat bacteriological sample was taken as required by R309-210-5(2).

"Major Chemical Monitoring Violation" - means that no initial background chemical sample was taken as required in R309-515-4(5).

"Management area" means the area outside of zone one and within a two-mile radius where the Optional Two-mile Radius Delineation Procedure has been used to identify a protection area.

For wells, land may be excluded from the DWSP management area at locations where it is more than 100 feet lower in elevation than the total drilled depth of the well.

For springs and tunnels, the DWSP management area is all land at elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. The DWSP management area also includes all land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. The elevation datum to be used is the point of water collection. Land may also be excluded from the DWSP management area at locations where it is separated from the ground water source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, "NBS Handbook 69," except the daughter products of thorium-232, uranium-235 and uranium-238.

"Master Plan" (or "System Capacity and Expansion Report") means a organized plan addressing the present and future demands that will be placed on a public drinking water system by expanding into undeveloped areas or accepting additional service contracts. As a minimum a satisfactory master plan must contain the following elements:

(a) A listing of sources including: the source name, the source type (i.e., well, spring, reservoir, stream etc.) for both existing sources and additional sources identified as needed for system expansion, the minimum reliable flow of the source in gallons per minute, the status of the water right and the flow capacity of the water right.

(b) A listing of storage facilities including: the storage tank name, the type of material (i.e., steel, concrete etc.), the diameter, the total volume in gallons, and the elevation of the overflow, the lowest level (elevation) of the equalization volume, the fire suppression volume, and the emergency volume or the outlet.

(c) A listing of pump stations including: the pump station name and the pumping capacity in gallons per minute. Under this requirement one does not need to list well pump stations as they are provided in requirement (a) above.

(d) A listing of the various pipeline sizes within the distribution system with their associated pipe materials and, if readily available, the approximate length of pipe in each size and material category. A schematic of the distribution piping showing node points, elevations, length and size of lines, pressure zones, demands, and coefficients used for the hydraulic analysis required by (h) below will suffice.

(e) A listing by customer type (i.e., single family residence, 40 unit condominium complex, elementary school, junior high school, high school, hospital, post office, industry, commercial etc.) along with an assessment of their associated number of ERC'S.

(f) The number of connections along with their associated ERC value that the public drinking water system is committed to serve, but has not yet physically connected to the infrastructure.

(g) A description of the nature and extent of the area currently served by the water system and a plan of action to control addition of new service connections or expansion of the public drinking water system to serve new development(s). The plan shall include current number of service connections and water usage as well as land use projections and forecasts of future water usage.

(h) A hydraulic analysis of the existing distribution system along with any proposed distribution system expansion identified in (g) above.

(i) A description of potential alternatives to manage system growth, including interconnections with other existing

public drinking water systems, developer responsibilities and requirements, water rights issues, source and storage capacity issues and distribution issues.

"Maximum Contaminant Level" (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"Maximum residual disinfectant level" (MRDL) means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a PWS is in compliance with the MRDL when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a PWS is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as MCLs pursuant to UT Code S 19-4-104. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in R309-200-5(3), operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.

"Maximum residual disinfectant level goal" (MRDLG) means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are non-enforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Medium-size water system" for the purposes of R309-210-6 only, means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"Membrane filtration" is a pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes that common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

"Metropolitan area sources" means all sources within a metropolitan area. A metropolitan area is further defined to contain at least 3,300 year round residents. A small water system which has sources within a metropolitan system's service area, may have those sources classified as a metropolitan area source.

"MG" means million gallons and is one way of expressing a volume of water.

"MGD" means million gallons per day and is one way of expressing average daily water demands experienced by public water systems or the capacity of a water treatment plant.

"mg/L" means milligrams per liter and is one way of expressing the concentration of a chemical in water. At small concentrations, mg/L is synonymous with "ppm" (parts per million).

"Minor Bacteriological Routine Monitoring Violation" means that not all of the routine bacteriological samples were taken as required by R309-210-5(1).

"Minor Bacteriological Repeat Monitoring Violation" means that not all of the repeat bacteriological samples were taken as required by R309-210-5(2).

"Minor Chemical Monitoring Violation" means that the required chemical sample(s) was not taken in accordance with R309-205 and R309-210.

"Modern Recreation Camp" means a campground accessible by any type of vehicular traffic. The camp is used wholly or in part for recreation, training or instruction, social, religious, or physical education activities or whose primary purpose is to provide an outdoor group living experience. The site is equipped with permanent buildings for the purpose of sleeping, a drinking water supply under pressure, food service facilities, and may be operated on a seasonal or short term basis. These types of camps shall include but are not limited to privately owned campgrounds such as youth camps, church camps, boy or girl scout camps, mixed age groups, family group camps, etc.

"Near the first service connection" means one of the service connections within the first 20 percent of all service connections that are nearest to the treatment facilities.

"Negative Interest" means a loan having loan terms with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Board.

"New ground water source of drinking water" means a public supply ground water source of drinking water for which plans and specifications are submitted to the Division after July 26, 1993.

"New surface water source of drinking water" means a public supply surface water source of drinking water for which plans and specifications are submitted to the Division after June 12, 2000.

"New Water System" means a system that will become a community water system or non-transient, non-community water system on or after October 1, 1999.

"Non-Community Water System" (NCWS) means a public water system that is not a community water system. There are two types of NCWS's: transient and non-transient.

"Non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which a coliform-positive sample was taken.

"Nonpoint source" means any diffuse source of contaminants or pollutants not otherwise defined as a point source.

"Non-Transient Non-Community Water System" (NTNCWS) means a public water system that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

"Not Approved" refers to a rating placed on a system by the Division and means the water system does not fully comply with all the Rules of R309 as measured by R309-400.

"NTU" means Nephelometric Turbidity Units and is an acceptable method for measuring the clarity of water utilizing an

electronic nephelometer (see "Standard Methods for Examination of Water and Wastewater").

"Off-specification" means a UV facility is operating outside of the validated operating conditions, for example, at a flow rate higher than the validated range or a UVT below the validated range).

"Operator" means a person who operates, repairs, maintains, and is directly employed by a public drinking water system.

"Operator Certification Commission" means the Commission appointed by the Board as an advisory Commission on public water system operator certification.

"Operating Permit" means written authorization from the Executive Secretary to actually start utilizing a facility constructed as part of a public water system.

"Optimal corrosion control treatment" for the purposes of R309-210-6 only, means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

"Package Plants" refers to water treatment plants manufactured and supplied generally by one company which are reportedly complete and ready to hook to a raw water supply line. Caution, some plants do not completely comply with all requirements of these rules and will generally require additional equipment.

"PCBs" means a group of chemicals that contain polychlorinated biphenyl.

"Peak Day Demand" means the amount of water delivered to consumers by a public water system on the day of highest consumption, generally expressed in gpd or MGD. This peak day will likely occur during a particularly hot spell in the summer. In contrast, some systems associated with the skiing industry may experience their "Peak Day Demand" in the winter.

"Peak Hourly Flow" means the maximum hourly flow rate from a water treatment plant and utilized when the plant is preparing disinfection profiling as called for in R309-215-14(2).

"Peak Instantaneous Demand" means calculated or estimated highest flowrate that can be expected through any water mains of the distribution network of a public water system at any instant in time, generally expressed in gpm or cfs (refer to section R309-510-9).

"Person" means an individual, corporation, company, association, partnership; municipality; or State, Federal, or tribal agency.

"Picocurie" (pCi) means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Plan Approval" means written approval, by the Executive Secretary, of contract plans and specifications for any public drinking water project which have been submitted for review prior to the start of construction (see also R309-500-7).

"Plant intake" refers to the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

"Plug Flow" is a term to describe when water flowing through a tank, basin or reactors moves as a plug of water without ever dispersing or mixing with the rest of the water flowing through the tank.

"Point of Disinfectant Application" is the point where the disinfectant is applied and water downstream of that point is not subject to re-contamination by surface water runoff.

"Point of Diversion"(POD) is the point at which water from a surface source enters a piped conveyance, storage tank, or is otherwise removed from open exposure prior to treatment.

"Point-of-Entry Treatment Device" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-Use Treatment Device" means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Point source" means any discernible, confined, and discrete source of pollutants or contaminants, including but not limited to any site, pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation with more than ten animal units, landfill, or vessel or other floating craft, from which pollutants are or may be discharged.

"Political Subdivision" means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, drainage district, irrigation district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws of Utah.

"Pollution source" means point source discharges of contaminants to ground or surface water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions are part of R309-600 and clarify the meaning of "pollution source:"

(1) "Animal feeding operation" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

(2) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 550-B-96-015).

A copy of this document may be obtained from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also available at http://www.epa.gov/ncepihom/orderpub.html.

"Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground or surface water. A pollution source is also a potential contamination source.

"ppm" means parts per million and is one way of expressing the concentration of a chemical in water. At small concentrations generally used, ppm is synonymous with "mg/l" (milligrams per liter).

"Practical Quantitation Level" (PQL) means the required analysis standard for laboratory certification to perform lead and copper analyses. The PQL for lead is .005 milligrams per liter and the PQL for copper is 0.050 milligrams per liter.

"Presedimentation" is a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

"Primary Disinfection" means the adding of an acceptable primary disinfectant during the treatment process to provide adequate levels of inactivation of bacteria and pathogens. The effectiveness is measured through "CT" values and the "Total Inactivation Ratio." Acceptable primary disinfectants are, chlorine, ozone, and chlorine dioxide (see also "CT" and "$CT_{99.9}$").

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by R309-705-8, and by the Board.

"Project Costs" include the cost of acquiring and constructing any drinking water project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

"Protected aquifer" means a producing aquifer in which the following conditions are met:

(1) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

(2) the PWS provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and

(3) the public supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

"Public Drinking Water Project" means construction, addition to, or modification of any facility of a public water system which may affect the quality or quantity of the drinking water (see also section R309-500-6).

"Public Water System" (PWS) means a system, either publicly or privately owned, providing water through constructed conveyances for human consumption and other domestic uses, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year and includes collection, treatment, storage, or distribution facilities under the control of the operator and used primarily in connection with the system, or collection, pretreatment or storage facilities used primarily in connection with the system but not under his control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community (CWS), non-transient non-community (NTNCWS), and transient non-community (TNCWS). These categories are important with respect to required monitoring and water quality testing found in R309-205 and R309-210 (see also definition of "water system").

"Raw Water" means water that is destined for some treatment process that will make it acceptable as drinking water. Common usage of terms such as lake or stream water, surface water or irrigation water are synonymous with raw water.

"Recreational Home Developments" are subdivision type developments wherein the dwellings are not intended as permanent domiciles.

"Recreational Vehicle Park" means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for individuals utilizing recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the general public or restricted to the organizational or institutional member and their guests only.

"Reference UV Sensors (or Reference Sensors)" are off-line calibrated UV sensors that are used to assess the duty UV sensors' performance and to determine UV sensor uncertainty.

"Regional Operator" means a certified operator who is in direct responsible charge of more than one public drinking water system.

"Regionalized Water System" means any combination of water systems which are physically connected or operated or managed as a single unit.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (mrem) is 1/1000 of a rem.

"Renewal Course" means a course of instruction, approved by the Subcommittee, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Replacement well" means a public supply well drilled for the sole purpose of replacing an existing public supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

(1) the proposed well location shall be within a radius of 150 feet from an existing ground water supply well; and

(2) the PWS provides a copy of the replacement application approved by the State Engineer (refer to Section 73-3-28 of the Utah Code).

"Required Dose" is the UV dose required for a certain level of log inactivation. Required doses are set forth by the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and R309-215-15(19)(d)(i) Table 215-5 the UV Dose Table.

"Required reserve" means funds set aside to meet requirements set forth in a loan covenant/bond indenture.

"Residual Disinfectant Concentration" ("C" in CT calculations) means the concentration of disinfectant, measured in mg/L, in a representative sample of water.

"Restricted Certificate" means that the operator has qualified by passing an examination but is in a restricted certification status due to lack of experience as an operator.

"Roadway Rest Stop" shall mean any building, or buildings, or grounds, parking areas, including the necessary toilet, hand washing, water supply and wastewater facilities intended for the accommodation of people using such facilities while traveling on public roadways. It does not include scenic view or roadside picnic areas or other parking areas if these are properly identified

"Routine Chemical Monitoring Violation" means no routine chemical sample(s) was taken as required in R309-205, R309-210 and R309-215.

"Safe Yield" means the annual quantity of water that can be taken from a source of supply over a period of years without depleting the source beyond its ability to be replenished naturally in "wet years".

"Sanitary Seal" means a cap that prevents contaminants from entering a well through the top of the casing.

"scfm/sf" means standard cubic foot per minute per square foot and is one way of expressing flowrate of air at standard density through a filter or duct area.

"Secondary Disinfection" means the adding of an acceptable secondary disinfectant to assure that the quality of the water is maintained throughout the distribution system. The effectiveness is measured by maintaining detectable disinfectant residuals throughout the distribution system. Acceptable secondary disinfectants are chlorine, chloramine, and chlorine dioxide.

"Secondary Maximum Contaminant Level" means the advisable maximum level of contaminant in water which is delivered to any user of a public water system.

"Secretary to the Subcommittee" means that individual appointed by the Executive Secretary to conduct the business of the Subcommittee.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Semi-Developed Camp" means a campground accessible by any type of vehicular traffic. Facilities are provided for both protection of site and comfort of users. Roads, trails and campsites are defined and basic facilities (water, flush toilets and/or vault toilets, tables, fireplaces or tent pads) are provided. These camps include but are not limited to National Forest campgrounds, Bureau of Reclamation campgrounds, and youth camps.

"Service Connection" means the constructed conveyance by which a dwelling, commercial or industrial establishment, or other water user obtains water from the supplier's distribution system. Multiple dwelling units such as condominiums or apartments, shall be considered to have a single service connection, if fed by a single line, for the purpose of microbiological repeat sampling; but shall be evaluated by the supplier as multiple "equivalent residential connections" for the purpose of source and storage capacities.

"Service Factor" means a rating on a motor to indicate an increased horsepower capacity beyond nominal nameplate capacity for occasional overload conditions.

"Service line sample" means a one-liter sample of water collected in accordance with R309-210-6(3)(b)(iii), that has been standing for at least 6 hours in a service line.

"Significant deficiencies" means defects in design, operation, or maintenance, or a failure or defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the Executive Secretary determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers.

"Single family structure" for the purposes of R309-210-6 only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Small water system" means a public water system that serves 3,300 persons or fewer.

"Specialist" means a person who has successfully passed the written certification exam and meets the required experience, but who is not in direct employment with a Utah public drinking water system.

"Stabilized drawdown" means that there is less than 0.5 foot of change in water level measurements in a pumped well for a minimum period of six hours.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"SOCs" means synthetic organic chemicals.

"Stabilized Drawdown" means the drawdown measurements taken during a constant-rate yield and drawdown test as outlined in subsection R309-515-14(10)(b) are constant (no change).

"Stock Tight" means a type of fence that can prevent the passage of grazing livestock through its boundary. An example of such fencing is provided by design drawing 02838-3 titled "Cattle Exclosure" designed by the U.S. Department of the Interior, Bureau of Land Management, Division of Technical Services (copies available from the Division).

"Subcommittee" means the Cross Connection Control Subcommittee.

"Supplier of water" means any person who owns or operates a public water system.

"Surface Water" means all water which is open to the atmosphere and subject to surface runoff (see also section R309-515-5(1)). This includes conveyances such as ditches, canals and aqueducts, as well as natural features.

"Surface Water Systems" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection (Federal SWTR subpart H) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Large)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population of 10,000 or greater (Federal SWTR subpart P and L) and the requirements of R309-215

"Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Small)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population less than 10,000 (Federal SWTR subpart L, T and P (sanitary survey requirements)) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Susceptibility" means the potential for a PWS (as determined at the point immediately preceding treatment, or if no treatment is provided, at the entry point to the distribution system) to draw water contaminated above a demonstrated background water quality concentration through any overland or subsurface pathway. Such pathways may include cracks or fissures in or open areas of the surface water intake, and/or the wellhead, and/or the pipe/conveyance between the intake and the water distribution system or treatment.

"SUVA" means Specific Ultraviolet Absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/L).

"System with a single service connection" means a system which supplies drinking water to consumers via a single service line.

"T" is short for "Contact Time" and is generally used in conjunction with either the residual disinfectant concentration (C) in determining CT or the velocity gradient (G) in determining mixing energy GT.

"Target Log Inactivation" means the specific log inactivation the PWS wants to achieve for the target pathogen using UV disinfection. The target log inactivation is driven by requirements of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), and the log removal/inactivation requirements in R309-215-15.

"Ten State Standards" refers to the Recommended Standards For Water Works, 1997 by the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers available from Health Education Services, A Division of Health Research Inc., P.O. Box 7126, Albany, New York 12224, (518)439-7286.

"Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground water source of drinking water. It also means the time required for a particle of water to travel from a specific point along a surface water body to an intake.

"Total Inactivation Ratio" is the sum of all the inactivation ratios calculated for a series of disinfection sequences, and is indicated or shown as: "Summation sign $(CT_{calc})/(CT_{req'd})$." A total inactivation ratio equal to or greater than 1.0 is assumed to provide the required inactivation of Giardia lamblia cysts. $CT_{calc}/CT_{99.9}$ equal to 1.0 provides 99.9 percent (3-log) inactivation, whereas CT_{calc}/CT_{90} equal to 1.0 only provides 90 percent (1-log) inactivation.

"Too numerous to count" (TNTC) means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform detection.

"Total Organic Carbon" (TOC) means total organic carbon in mg/L measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total Trihalomethanes" (TTHM) means the MCL for trihalomethanes. This is the sum of four of ten possible isomers of chlorine/bromine/methane compounds, all known as trihalomethanes (THM). TTHM is defined as the arithmetic sum of the concentrations in micro grams per liter of only four of these (chloroform, bromodichloromethane, dibromochloromethane, and bromoform) rounded to two significant figures. This measurement is made by samples which are "quenched," meaning that a chlorine neutralizing agent has been added, preventing further THM formation in the samples.

"Training Coordinating Committee" means the voluntary association of individuals responsible for environmental training in the state of Utah.

"Transient Non-Community Water System" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

"Treatment Plant" means those facilities capable of providing any treatment to any waterserving a public drinking water system. (Examples would include but not be limited to disinfection, conventional surface water treatment, alternative surface water treatment methods, corrosion control methods, aeration, softening, etc.).

"Treatment Plant Manager" means the individual responsible for all operations of a treatment plant.

"Trihalomethanes" (THM) means any one or all members of this class of organic compounds.

"Trihalomethane Formation Potential" (THMFP) - these samples are collected just following disinfection and measure the highest possible TTHM value to be expected in the water distribution system. The formation potential is measured by not neutralizing the disinfecting agent at the time of collection, but storing the sample seven days at 25 degrees C prior to analysis. A chlorine residual must be present in these samples at the end of the seven day period prior to analysis for the samples to be considered valid for this test. Samples without a residual at the end of this period must be resampled if this test is desired.

"Turbidity Unit" refers to NTU or Nephelometric Turbidity Unit.

"Two-stage lime softening" is a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

"UDI" means under direct influence (see also "Ground Water Under the Direct Influence of Surface Water").

"Uncovered finished water storage facility" is a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere.

"Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

"Unregulated Contaminant" means a known or suspected disease causing contaminant for which no maximum contaminant level has been established.

"Unrestricted Certificate" means that a certificate of competency issued by the Executive Secretary when the operator has passed the appropriate level written examination and has met all certification requirements at the discipline and grade stated on the certificate.

"UV Dose" means the UV energy per unit area incident on a surface, typically reported in units of mJ/cm^2 or J/m^2. The UV dose received by a waterborne microorganism in a reactor vessel accounts for the effects on UV intensity of the absorbance of the water, absorbance of the quartz sleeves, reflection and refraction of light from the water surface and reactor walls, and the germicidal effectiveness of the UV wavelengths transmitted. The following terms are related to UV dose:

(1) "Reduction Equivalent Dose (RED)" means the UV dose derived by entering the log inactivation measured during full-scale reactor testing into the UV dose-response curve that was derived through collimated beam testing. RED values are always specific to the challenge microorganism used during experimental testing and the validation test conditions for full-scale reactor testing.

(2) "Required Dose" means the UV dose in units of mJ/cm^2 needed to achieve the target log inactivation for the target pathogen. The required dose is specified in the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR).

(3) "Validated Dose" means the UV dose in units of mJ/cm^2 delivered by the UV reactor as determined through validation testing. The validated dose is compared to the Required Dose to determine log inactivation credit.

(4) "Calculated Dose" - the RED calculated using the dose-monitoring equation that was developed through validation testing.

"UV Facility" means all of the components of the UV disinfection process, including (but not limited to) UV reactors, control systems, piping, valves, and building (if applicable).

"UV Intensity" means the UV power passing through a unit area perpendicular to the direction of propagation. UV intensity is used to describe the magnitude of UV light measured by UV sensors in a reactor or with a radiometer in bench-scale UV experiments.

"UV Reactor" means the vessel or chamber where exposure to UV light takes place, consisting of UV lamps, quartz sleeves, UV sensors, quartz sleeve cleaning systems, and baffles or other hydraulic controls. The UV reactor also includes additional hardware for monitoring UV dose delivery; typically comprised of (but not limited to): UV sensors and UVT monitors.

"UV Reactor Validation" is experimental testing to determine the operating conditions under which a UV reactor delivers the dose required for inactivation credit of Cryptosporidium, Giardia lamblia, and viruses.

"UV Transmittance (UVT)" is a measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of 254 nm and a pathlength of 1-cm. If an alternate pathlength is used, it should be specified or converted to units of cm^{-1}.

"Validation Factor" - an uncertainty term that accounts for the bias and uncertainty associated with UV validation testing.

"Validated Operating Conditions" - the operating conditions under which the UV reactor is confirmed as delivering the dose required for LT2ESWTR inactivation credit. These operating conditions must include flow rate, UV intensity as measured by a UV sensor, and UV lamp status. The term "Validated Operating Conditions" is also commonly referred to as the "validated range" or the "validated limits."

"Virus" means a virus of fecal origin which is infectious to humans.

"Waterborne Disease Outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system, as determined by the appropriate local or State agency.

"Watershed" means the topographic boundary that is the perimeter of the catchment basin that contributes water through a surface source to the intake structure. For the purposes of surface water DWSP, if the topographic boundary intersects the state boundary, the state boundary becomes the boundary of the watershed.

"Water Supplier" means a person who owns or operates a public drinking water system.

"Water System" means all lands, property, rights, rights-of-way, easements and related facilities owned by a single entity, which are deemed necessary or convenient to deliver drinking water from source to the service connection of a consumer(s). This includes all water rights acquired in connection with the system, all means of conserving, controlling and distributing drinking water, including, but not limited to, diversion or collection works, springs, wells, treatment plants, pumps, lift stations, service meters, mains, hydrants, reservoirs, tanks and associated appurtenances within the property or easement boundaries under the control of or controlled by the entity owning the system.

In accordance with R309, certain water systems may be exempted from monitoring requirements, but such exemption does not extend to submittal of plans and specifications for any modifications considered a public drinking water project.

"Wellhead" means the physical structure, facility, or device at the land surface from or through which ground water flows or is pumped from subsurface, water-bearing formations.

"Wholesale system" is a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"Zone of Influence" corresponds to area of the upper portion of the cone of depression as described in "Groundwater and Wells," second edition, by Fletcher G. Driscoll, Ph.D., and published by Johnson Division, St. Paul, Minnesota.

KEY: drinking water, definitions
Date of Enactment or Last Substantive Amendment: [~~September 24, 2009~~|2011
Notice of Continuation: March 22, 2010
Authorizing, and Implemented or Interpreted Law: 19-4-104; 63G-4-202

Environmental Quality, Radiation Control
R313-25-8
Technical Analyses

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34240
FILED: 11/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to further clarify when a site-specific performance assessment is required to be submitted to the Executive Secretary for approval regarding radioactive waste receipt and disposal.

SUMMARY OF THE RULE OR CHANGE: The Utah Radiation Control Board at its 11/10/2010 meeting, voted to amend Section R313-25-8 that requires EnergySolutions or any facility that land disposes of radioactive waste to complete and submit for review and approval a site-specific performance assessment prior to acceptance of radioactive waste that results in greater than 10 percent of the dose limit in Section R313-25-19 during the time period of peak dose or will result in greater than 10 percent of the total site source term over the operational life of the facility or the waste represents an unanalyzed condition not considered in the development of 10 CFR Part 61: Licensing Requirements for Land Disposal of Radioactive Waste.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The State of Utah receives fees from licensees that dispose of radioactive waste under Section 19-3-106. Currently, EnergySolutions, LLC is the only radioactive waste disposal facility that accepts and disposes of radioactive waste. If this rule is promulgated, certain wastes may not be accepted at the facility until it has completed a site-specific performance assessment and it is approved by the Executive Secretary. The financial impacts on waste fees received by the State of Utah are difficult to specify because the impact depends on the following information that is not known at this time: when a site-specific performance assessment will be submitted and when it will be approved; when the rule takes effect it may cause waste receipts to be delayed; or whether there are competitors for the waste such that EnergySolutions could lose receipts altogether.
♦ LOCAL GOVERNMENTS: Tooele County collects impact fees from waste facilities, including EnergySolutions. Tooele County's budget is therefore likely to be affected. Because of the reasons described above, the specific impact cannot be known at this time.
♦ SMALL BUSINESSES: No small business in Utah will be directly impacted. This amendment changes a rule that is specific to companies or licensees that dispose of radioactive waste. As a result of this narrow scope, there should be no direct impact on small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Board is not aware of any direct impact on other entities. This amendment changes a rule that is specific to companies or licensees that dispose of radioactive waste. As a result of this narrow scope, there should be no direct impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A radioactive waste disposal facility may have to incur the cost of preparing a site-specific performance assessment under this rule, and may also bear the cost of the Division of Radiation Control's review of that performance assessment. The cost of a performance assessment is likely to be over $1,000,000 initially, however, the licensee has initiated a performance assessment prior to this rule change and therefore, depending on the waste stream, may only have to modify a previous performance assessment and therefore, costs could be substantially lower.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: If the rule is promulgated, one Utah business - EnergySolutions, LLC - may be unable to accept certain wastes until it has submitted a site-specific performance assessment and the performance assessment has been approved. The impact of this rule is hard to ascertain, because the Board does not know when EnergySolutions will submit a performance assessment and when it will be approved; when EnergySolutions would otherwise have received certain wastes that would require them to prepare and submit a performance assessment, and whether or not future waste shipments will require a site-specific performance assessment prior to receipt. However, if a performance assessment is required, EnergySolutions will bear the cost of carrying out, preparing, and submitting the performance assessment which could be substantial.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-533-4097, or by Internet E-mail at rlundberg@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/04/2011

THIS RULE MAY BECOME EFFECTIVE ON: 01/13/2011

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.
R313-25-8. Technical Analyses.

(1) The licensee or applicant shall conduct a site-specific performance assessment and receive Executive Secretary approval prior to accepting any radioactive waste if:

(a) the waste is likely to result in greater than 10 percent of the dose limits in R313-25-19 during the time period at which peak dose would occur, or

(b) the waste will result in greater than 10 percent of the total site source term over the operational life of the facility, or

(c) the disposal of the waste would result in an unanalyzed condition not considered in the development of 10 CFR 61.55.

(2) A licensee that has a previously-approved site-specific performance assessment that addressed a radioactive waste for which a site-specific performance assessment would otherwise be required under R313-28-8(1) shall notify the Executive Secretary of the applicability of the previously-approved site-specific performance assessment at least 60 days prior to the anticipated acceptance of the radioactive waste.

(3) The licensee shall not accept radioactive waste until the Executive Secretary has approved the information submitted pursuant to R313-25-8(1) or (2).

([~~1~~]4) The [~~specific technical information~~]licensee or applicant shall also include in the specific technical information the following analyses needed to demonstrate that the performance objectives of R313-25 will be met:

(a) Analyses demonstrating that the general population will be protected from releases of radioactivity shall consider the pathways of air, soil, ground water, surface water, plant uptake, [and] exhumation by burrowing animals, and changing lake levels. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses shall clearly demonstrate a reasonable assurance that the exposures to humans from the release of radioactivity will not exceed the limits set forth in R313-25-19.

(b) Analyses of the protection of inadvertent intruders shall demonstrate a reasonable assurance that the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.

(c) Analysis of the protection of individuals during operations shall include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analysis shall provide reasonable assurance that exposures will be controlled to meet the requirements of R313-15.

(d) Analyses of the long-term stability of the disposal site shall be based upon analyses of active natural processes including erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, [~~and~~]surface drainage of the disposal site, and the effects of changing lake levels. The analyses shall provide reasonable assurance that there will not be a need for ongoing active maintenance of the disposal site following closure.

([~~2~~]5)(a) Notwithstanding R313-25-8(1), [~~A~~]any facility that proposes to land dispose of significant quantities of concentrated depleted uranium (more than one metric ton in total accumulation) after June 1, 2010, shall submit for the Executive Secretary's review and approval a performance assessment that demonstrates that the performance standards specified in 10 CFR Part 61 and corresponding provisions of Utah rules will be met for the total quantities of concentrated depleted uranium and other wastes, including wastes already disposed of and the quantities of concentrated depleted uranium the facility now proposes to dispose. Any such performance assessment shall be revised as needed to reflect ongoing guidance and rulemaking from NRC. For purposes of this performance assessment, the compliance period shall be a minimum of 10,000 years. Additional simulations shall be performed for the period where peak dose occurs and the results shall be analyzed qualitatively.

(b) No facility may dispose of significant quantities of concentrated depleted uranium prior to the approval by the Executive Secretary of the performance assessment required in R313-25-8([~~2~~]5)(a).

(c) For purposes of this R313-25-8([~~2~~]5) only, "concentrated depleted uranium" means waste with depleted uranium concentrations greater than 5 percent by weight.

KEY: radiation, radioactive waste disposal, depleted uranium
Date of Enactment or Last Substantive Amendment: [~~October 13, 2010~~]2011
Notice of Continuation: October 5, 2006
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-1
Utah Medicaid Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34228
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to update and

clarify the sections in the text on utilization review and utilization control.

SUMMARY OF THE RULE OR CHANGE: This change updates and clarifies the sections in the text on utilization review and utilization control. It also adds definitions to the text, clarifies overpayment and prior authorization procedures, and makes other clarifications.

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

MATERIALS INCORPORATED BY REFERENCES:

♦ Removes Attachment 4.19A, Section 180, published by Medicaid State Implementation Plan, 2010

♦ Removes InterQual Criteria, published by McKesson Corporation, 2004

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 certain sections of the rule text.

♦ LOCAL GOVERNMENTS: This change does not impact local governments because they do not fund or provide services for the Medicaid program.

♦ SMALL BUSINESSES: The Department does not anticipate any impact to small businesses because this change only clarifies and updates certain sections of the rule text.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate any impact to Medicaid clients and to Medicaid providers because this change only clarifies and updates certain sections of the rule text.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid client or to a Medicaid provider because this change only clarifies and updates certain sections of the rule text.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on businesses that interact with Medicaid is expected as a result of the updating of the text of this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-1. Utah Medicaid Program.
R414-1-2. Definitions.

The following definitions are used throughout the rules of the Division:

(1) "Act" means the federal Social Security Act.

(2) "Applicant" means any person who requests assistance under the medical programs available through the Division.

(3) "Categorically needy" means aged, blind or disabled individuals or families and children:

(a) who are otherwise eligible for Medicaid; and

(i) who meet the financial eligibility requirements for AFDC as in effect in the Utah State Plan on July 16, 1996; or

(ii) who meet the financial eligibility requirements for SSI or an optional State supplement, or are considered under section 1619(b) of the federal Social Security Act to be SSI recipients; or

(iii) who is a pregnant woman whose household income does not exceed 133% of the federal poverty guideline; or

(iv) is under age six and whose household income does not exceed 133% of the federal poverty guideline; or

(v) who is a child under age one born to a woman who was receiving Medicaid on the date of the child's birth and the child remains with the mother; or

(vi) who is least age six but not yet age 18, or is at least age six but not yet age 19 and was born after September 30, 1983, and whose household income does not exceed 100% of the federal poverty guideline; or

(vii) who is aged or disabled and whose household income does not exceed 100% of the federal poverty guideline; or

(viii) who is a child for whom an adoption assistance agreement with the state is in effect.

(b) whose categorical eligibility is protected by statute.

(4) "Code of Federal Regulations" (CFR) means the publication by the Office of the Federal Register, specifically Title 42, used to govern the administration of the Medicaid Program.

(5) "Client" means a person the Division or its duly constituted agent has determined to be eligible for assistance under the Medicaid program.

(6) "CMS" means The Centers for Medicare and Medicaid Services, a Federal agency within the U.S. Department of Health and Human Services. Programs for which CMS is

responsible include Medicare, Medicaid, and the State Children's Health Insurance Program.

(7) "Department" means the Department of Health.

(8) "Director" means the director of the Division.

(9) "Division" means the Division of Health Care Financing within the Department.

(10) "Emergency medical condition" means a medical condition showing acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in:

(a) placing the patient's health in serious jeopardy;

(b) serious impairment to bodily functions;

(c) serious dysfunction of any bodily organ or part; or

(d) death.

(11) "Emergency service" means immediate medical attention and service performed to treat an emergency medical condition. Immediate medical attention is treatment rendered within 24 hours of the onset of symptoms or within 24 hours of diagnosis.

(12) "Emergency Services Only Program" means a health program designed to cover a specific range of emergency services.

(13) "Executive Director" means the executive director of the Department.

(14) "InterQual" means the McKesson [~~InterQual~~] Criteria for Inpatient Reviews, a comprehensive, clinically based, patient focused medical review criteria and system developed by McKesson Corporation.

(15) "Medicaid agency" means the Department of Health.

(16) "Medical assistance program" or "Medicaid program" means the state program for medical assistance for persons who are eligible under the state plan adopted pursuant to Title XIX of the federal Social Security Act; as implemented by Title 26, Chapter 18[~~, UCA~~].

(17) "Medical or hospital assistance" means services furnished or payments made to or on behalf of recipients under medical programs available through the Division.

(18) "Medically necessary service" means that:

(a) it is reasonably calculated to prevent, diagnose, or cure conditions in the recipient that endanger life, cause suffering or pain, cause physical deformity or malfunction, or threaten to cause a handicap; and

(b) there is no other equally effective course of treatment available or suitable for the recipient requesting the service that is more conservative or substantially less costly.

(19) "Medically needy" means aged, blind, or disabled individuals or families and children who are otherwise eligible for Medicaid, who are not categorically needy, and whose income and resources are within limits set under the Medicaid State Plan.

(20) "Medical standards," as applied in this rule, means that an individual may receive reasonable and necessary medical services up until the time a physician makes an official determination of death.

(21) "Prior authorization" means the required approval for provision of a service that the provider must obtain from the Department before providing the service. Details for obtaining prior authorization are found in Section I of the Utah Medicaid Provider Manual.

(22) "Provider" means any person, individual or corporation, institution or organization, qualified to perform services available under the Medicaid program and who has entered into a written contract with the Medicaid program.

(23) "Recipient" means a person who has received medical or hospital assistance under the Medicaid program, or has had a premium paid to a managed care entity.

(24) "Undocumented alien" means an alien who is not recognized by Immigration and Naturalization Services as being lawfully present in the United States.

(25) "Utilization review" means the Department provides for review and evaluation of the utilization of inpatient Medicaid services provided in acute care general hospitals to patients entitled to benefits under the Medicaid plan.

(26) "Utilization Control" means the Department has implemented a statewide program of surveillance and utilization control that safeguards against unnecessary or inappropriate use of Medicaid services, safeguards against excess payments, and assesses the quality of services available under the plan. The program meets the requirements of 42 CFR, Part 456.

R414-1-11. Administrative Hearings.

The [~~Medicaid agency~~]Department has a system of administrative hearings for medical providers and dissatisfied applicants, clients, and recipients that meets all the requirements of 42 CFR, Part 431, Subpart E.

R414-1-12. Utilization Review.

[~~(1) Utilization review provides for review and evaluation of the utilization of Medicaid services provided in acute care general hospitals, and by members of the medical staff to patients entitled to benefits under the Medicaid plan.~~

~~]~~([~~2~~]1) The Department [~~shall~~]conducts hospital utilization review as outlined in the Superior System[~~Utilization~~] Waiver [~~state implementation plan, November 1997 edition, which is incorporated by reference in this rule.~~]in effect at the time service was rendered.

([~~3~~]2) The Department shall determine medical necessity and appropriateness of inpatient admissions during utilization review by use of InterQual Criteria, published by McKesson Corporation[~~, 2004 edition, McKesson Health Solutions LLC, 275 Grove Street, Suite 1-110, Newton, MA 02466-2273, which is incorporated by reference in this rule, or by following other criteria and protocols outlined in ATTACHMENT 4.19-A, Section 180, of the Medicaid State Implementation Plan. Level of Care and Care Planning Criteria in effect at the time the service was rendered. This criteria is incorporated by reference in this rule. Other criteria and protocols outlined in ATTACHMENT 4.19-A, Section 180 of the State Plan, are also used to determine medical necessity and appropriateness of inpatient admissions~~].

([~~4~~]3) The standards in the InterQual Criteria shall not apply to services in which a determination has been made to utilize criteria customized by the Department or that are:

(a) excluded as a Medicaid benefit by rule or contract;

(b) provided in an intensive physical rehabilitation center as described in Rule R414-2B; or

(c) organ transplant services as described in Rule R414-10A.

In these [~~three~~]exceptions, or where InterQual is silent, the [~~Medicaid agency~~]Department shall approve or deny [~~claims~~]services based upon appropriate administrative rules or its

own criteria as incorporated in [~~provider contracts that incorporate~~]the Medicaid [~~P~~]provider [~~M~~]manuals.[

~~(5) The Department may take remedial action as outlined in ATTACHMENT 4.19-A, Section 180, of the Medicaid State Implementation Plan for inappropriate services identified through utilization review.~~

~~(6) In accordance with 42 CFR 431, Subpart E, the Utilization Review Committee shall send written notification of remedial action to the provider.~~]

R414-1-14. Utilization Control.

[~~(1) The Medicaid agency has implemented a statewide program of surveillance and utilization control that safeguards against unnecessary or inappropriate use of Medicaid services available under the plan. The plan also safeguards against excess payments, assesses the quality of services, and provides for control and utilization of inpatient services as outlined in the Superior Utilization Waiver state implementation plan. The program meets the requirements of 42 CFR Part 456.~~

]([~~2~~]1) In order to control utilization, and in accordance with 42 CFR 440[~~.230(d)~~], Subpart B, services, equipment, or supplies not specifically identified by the Department as covered services under the Medicaid program[~~,~~] are not a covered benefit. In addition, the Department will also use prior authorization for utilization control. All necessary and appropriate medical record documentation for prior approvals must be submitted with the request. If the provider has not obtained prior authorization for a service as outlined in the Medicaid provider manual, the Department shall deny coverage of the service.

[~~(3) Prior authorization is a utilization control process to verify that the client is eligible to receive the service and that the service is medically necessary. Prior authorization requirements are identified in Section I sub-section 9 of the Utah Medicaid Provider Manual. Additional prior authorization instructions for specific types of providers is found in Section II of the Medicaid Provider Manual. All necessary medical record documentation for prior approval must be submitted with the request. If the provider has not followed the prior authorization instructions and obtained prior authorization for a service identified in the Medicaid Provider Manual as requiring prior authorization, the Department shall not reimburse for the service.~~

]([~~4~~]2) The [~~Medicaid agency~~]Department may request records that support provider claims for payment under programs funded through the [~~agency~~]Department. [~~Such~~]These requests must be in writing and identify the records to be reviewed. Responses to requests must be returned within 30 days of the date of the request. Responses must include the complete record of all services for which reimbursement is claimed and all supporting services. If there is no response within the 30 day period, the [~~agency~~]Department will close the record and will evaluate the payment based on the records available.

([~~5~~]3)(a) If [~~Medicaid~~]the Department pays for a service which is later determined not to be a benefit of the Utah Medicaid program or [~~is not in compliance~~]does not comply with state or federal policies and regulations, [~~Medicaid will make a written request for a refund of the payment.~~]the provider shall refund the payment upon written request from the Department.

(b) If services cannot be properly verified or when a provider refuses to provide or grant access to records, the provider shall refund to the Department all funds for services rendered. Otherwise, the Department may deduct an equal amount from future reimbursements.

(c) Unless appealed, the refund must be made to Medicaid within 30 days of written notification. An appeal of this determination must be filed within 30 days of written notification as specified in Rule R410-14[~~-6~~].

(d) A provider shall reimburse the Department for all overpayments regardless of the reason for the overpayment.[

~~(6) Reimbursement for services provided through the Medicaid program must be verified by adequate records. If these services cannot be properly verified, or when a provider refuses to provide or grant access to records, either the provider must promptly refund to the state any payments received for the undocumented services, or the state may elect to deduct an equal amount from future reimbursements. If the Department suspects fraud, it may refer cases for which records are not provided to the Medicaid Fraud Control Unit for additional investigation and possible action.~~]

R414-1-15. Medicaid Fraud.

The [~~Medicaid agency~~]Department has established and will maintain methods, criteria, and procedures that meet all requirements of 42 CFR 455.13 through 455.21 for prevention and control of program fraud and abuse.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: [~~November 1, 2010~~]2011
Notice of Continuation: April 16, 2007
Authorizing, and Implemented or Interpreted Law: 23-34-2; 26-1-5; 26-18-3

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-303-11
Prenatal and Newborn Medicaid

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34229
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify that a provider must determine that a woman is pregnant for her to be eligible for coverage during a period of presumptive eligibility.

SUMMARY OF THE RULE OR CHANGE: This change clarifies that a provider must determine that a woman is

pregnant for her to be eligible for coverage during a period of presumptive eligibility.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no impact to the state budget because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services to Medicaid clients and does not change eligibility criteria.
♦ LOCAL GOVERNMENTS: There is no impact to local governments because they do not fund or provide Medicaid services to Medicaid clients.
♦ SMALL BUSINESSES: There is no impact to small businesses because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services to Medicaid clients and does not change eligibility criteria.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to Medicaid clients and to Medicaid providers because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services and does not change eligibility criteria.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid client or to a Medicaid provider because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services and does not change eligibility criteria.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Requiring verification of pregnancy before presumptive eligibility is appropriate to guard against inappropriate use of this program. Minor costs are justified.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-303. Coverage Groups.
R414-303-11. Prenatal and Newborn Medicaid.

(1) The Department incorporates by reference Title XIX of the Social Security Act, Section 1902(a)(10)(A)(i)(IV), (VI), (VII), 1902(a)(47), 1902(e)(4) and (5) and 1902(l), in effect January 1, 2009, and Title XIX of the Social Security Act, Section 1902(k) in effect January 1, 1993, which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "covered provider" means a provider that the Department has determined is qualified to make a determination of presumptive eligibility for a pregnant woman and that meets the criteria defined in Section 1920(b)(2) of the Social Security Act;

(b) "presumptive eligibility" means a period of eligibility for medical services for a pregnant woman based on self-declaration that she meets the eligibility criteria.

(3) The Department provides coverage to [~~pregnant women~~]a pregnant woman during a period of presumptive eligibility if a covered provider has verified that she is pregnant and determines, based on preliminary information, that the woman:

(a) [~~is pregnant;~~

~~(b)~~]meets citizenship or alien status criteria as defined in Section R414-302-1;

([~~e~~]b) has a declared household income that does not exceed 133% of the federal poverty guideline applicable to her declared household size; and

([~~d~~]c) the woman is not covered by CHIP.

(4) No resource test applies to determine presumptive eligibility of a pregnant woman.

(5) A pregnant woman made eligible for a presumptive eligibility period must apply for Medicaid benefits by the last day of the month following the month the presumptive coverage begins.

(6) The presumptive eligibility period shall end on the earlier of:

(a) the day that the Medicaid agency determines whether the woman is eligible for Medicaid based on her application; or

(b) in the case of a woman who does not file a Medicaid application by the last day of the month following the month the woman was determined presumptively eligible, the last day of that following month.

(7) A pregnant woman may receive medical assistance during only one presumptive eligibility period for any single term of pregnancy.

(8) The Department elects to impose a resource standard on Newborn Medicaid coverage for children age six to the month in which they turn age 19. The resource standard is the same as other Family Medicaid Categories.

(9) The Department elects to provide Prenatal Medicaid coverage to pregnant women whose countable income is equal to or below 133% of poverty.

(10) At the initial determination of eligibility for Prenatal Medicaid, the agency determines the applicant's countable resources using SSI resource methodologies. Applicants for Prenatal

Medicaid whose countable resources exceed $5,000 must pay four percent of countable resources to the agency to receive Prenatal Medicaid. The maximum payment amount is $3,367. The payment must be met with cash. The applicant cannot use any medical bills to meet this payment.

(a) In subsequent months, through the 60 day postpartum period, the Department disregards all excess resources.

(b) This resource payment applies only to pregnant women covered under Sections 1902(a)(10)(A)(i)(IV) and 1902(a)(10)(A)(ii)(IX) of the Social Security Act in effect January 1, 2009.

(c) No resource payment will be required when the Department makes a determination based on information received from a medical professional that social, medical, or other reasons place the pregnant woman in a high risk category. To obtain this waiver of the resource payment, the woman must provide this information to the agency before the woman pays the resource payment so the agency can determine if she is in a high risk category.

(11) A child born to a woman who is only presumptively eligible at the time of the infant's birth is not eligible for the one year of continued coverage defined in Section 1902(e)(4) of the Social Security Act. The mother can apply for Medicaid after the birth and if determined eligible back to the date of the infant's birth, the infant is then eligible for the one year of continued coverage under Section 1902(e)(4) of the Social Security Act. If the mother is not eligible, the Department determines if the infant is eligible under other Medicaid programs.

(12) The Department provides Medicaid coverage to an infant until the infant turns one-year old when born to a woman eligible for Utah Medicaid on the date of the delivery of the infant, without regard to whether the infant remains in the birth mother's home or whether the birth mother would continue to be eligible for Medicaid, in compliance with Sec. 113(b)(1), Children's Health Insurance Program Reauthorization Act, Pub. L. No. 111 3. The infant must continue to be a Utah resident to receive coverage.

(13) Children who meet the criteria under the Social Security Act, Section 1902(l)(1)(D) may qualify for the newborn program through the month in which they turn 19. The agency deems the parent's income and resources to the 18-year old to determine eligibility when the 18-year old lives in the parent's home. An 18-year old who does not live with a parent may apply on his own, in which case the agency does not deem income or resources from the parent.

KEY: income, coverage groups, independent foster care adolescent
Date of Enactment or Last Substantive Amendment: [~~April 1, 2010~~]2011
Notice of Continuation: January 25, 2008
Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

Health, Health Systems Improvement, Emergency Medical Services
R426-16
Emergency Medical Services Ambulance Rates and Charges

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34214
FILED: 11/02/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Although this rule has not been amended since 2006, the Department of Health by order has authorized agencies to adjust rates according to the agency's fiscal data as reviewed by the Department of Health. For the past four years, the Department of Health has issued these orders on July 1 with the exception of one issued on 01/01/2009. Due to the Order issued by the Department of Health, the published ambulance rates in the rule are not the current rates which ambulance agencies charge. Rule R426-16 is revised to reflect the 07/01/2010 revised ambulance rates issued by an Order by the Department of Health. As all agencies are billing this rate, there is not an increase in cost to users.

SUMMARY OF THE RULE OR CHANGE: This rule change will end confusion as the published ambulance rates do not match with the current ambulance rates in Rule R426-16. Rates were adjusted annually based on factors set forth in the rule, but the new rates were not published as a rule. Going forward all rate changes will be placed in rule. Ambulance agencies no longer charge for Treat and Release, Emergency Response, and Night surcharges. Rule R426-16 needs to be amended to reflect these changes. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 34213 in this issue, December 1, 2010, of the Bulletin and is effective as of 11/02/2010.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-403

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: State budget will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule.
♦ LOCAL GOVERNMENTS: Local government budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates

will occur as the rate in the rule had been inflated annually based on factors in the rule.
♦ SMALL BUSINESSES: Emergency Medical Service (EMS) budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: EMS budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: EMS agencies are allowed to bill the rates listed in the proposed rule and there are no costs to the agency for compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rate has been annually increased by inflation factors listed in the rule and published in an order. The rule is hereby updated and will be kept current in the future. No direct fiscal impact expected.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Allan Liu by phone at 801-273-6664, by FAX at 801-273-4165, or by Internet E-mail at aliu@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/21/2010 01:30 PM, Highland Health Bldg, 3760 S Highland Dr, Third Floor Auditorium, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: David Sundwall, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.
R426-16. Emergency Medical Services Ambulance Rates and Charges.
R426-16-1. Authority and Purpose.

(1) This rule is established under Title 26, Chapter 8a.

(2) The purpose of this rule is to provide for the establishment of maximum ambulance transportation and rates to be charged by licensed ambulance services in the State of Utah.

R426-16-2. Ambulance Transportation Rates and Charges.

(1) Licensed services operating under R426-15 shall not charge more than the rates described is this rule. In addition, the net income of licensed services, including subsidies of any type, shall not exceed the net income limit set by this rule.

(a) The net income limit shall be the greater of eight percent of gross revenue or 14 percent return on average assets.

(b) Licensed Services may change rates at their discretion after notifying the Department, provided that the rates do not exceed the maximums specified in this rule.

(c) An agency may not charge a transportation fee for patients who are not transported.

(2) The initial regulated rates established in this rule shall be adjusted annually on July 1, based on [~~an annual review of the most recent 12 month percentage change in price levels from the following sources: U.S. Bureau of Labor Statistics Occupational Employment and Wage Data, the National Consumer Pricing Index (CPI), the State of Utah Governor's Office of Planning and Budget economic report; the U.S. Bureau of Labor Statistics seasonally adjusted CPI for Urban Consumers transportation and medical care categories, and the U.S. Bureau of Labor Statistics seasonally adjusted CPI for Urban Wage Earners and Clerical Workers transportation and medical categories. The adjustment shall be made effective and published by order of the Department prior to June 1 of each year and become effective July 1, of each year. All licensed services will collect~~]financial data as delineated by the department to be submitted as detailed under R426-[~~8~~]16-2([~~10~~]9). This data shall then be used as the basis for the annual rate adjustment.

(3) Base Rates for ground transport to care facility -

(a) [~~Basic~~]Ground Ambulance - $[~~400.40~~]535.00 per transport.

(b) Intermediate Ground Ambulance - $[~~475.40~~]707.00 per transport.

(c) Paramedic Ground Ambulance - $[~~600.50~~]1,035.00 per transport.

(d)[~~(i) A basic ambulance licensee may charge a base rate of $720.65 per transport and an intermediate ambulance licensee may charge a base rate of $795.70 per transport if:~~] Ground Ambulance with Paramedic on-board - $1,035.00 per transport if:

[~~(A)~~](i) a dispatch agency dispatches a paramedic licensee to treat the individual;

[~~(B)~~](ii) the paramedic licensee has initiated advanced life support[~~:~~];

[~~(C)~~](iii) on-line medical control directs that a paramedic remain with the patient during transport; and

[~~(D)~~](iv) [~~the ambulance provider pays $210.95 to the paramedic licensee.~~

~~(ii) A~~]an ambulance service that interfaces with a paramedic rescue service [~~must have~~]and has an interlocal or equivalent agreement in place, dealing with reimbursing the paramedic agency for services provided up to [~~the~~]a maximum of $[~~210.95~~]234.71 per transport.

(4) Mileage Rate[~~s~~]-

(a) $31.[~~40~~]65 per mile or fraction thereof.

(b) In all cases mileage shall be computed from the point of pickup to the point of delivery.

(c) A fuel fluctuation surcharge of $0.25 per mile may be added when diesel fuel prices [~~are more than $.31~~]exceed $5.10 per gallon [~~above the price of record, as established by the Department, on the immediately prior July 1 of each year~~]or gasoline exceeds $4.25 as invoiced.[~~The Department will notify all agencies when this surcharge is available.~~]

(5) Surcharge[~~s~~]-

[~~(a) A surcharge of $39.75 may be assessed if the response requires the use of emergency lights and siren.~~

~~(b) A surcharge of $39.75 may be assessed for ambulance service between the hours of 8:00 p.m. and 8:00 a.m.~~

~~(c)~~](a) If the ambulance is required to travel for ten miles or more on unpaved roads, a surcharge of $1.50 per mile may be assessed.

(6) Special Provisions -

(a) If more than one patient is transported from the same point of origin to the same point of delivery in the same ambulance, the charges to be assessed to each individual will be determined as follows:

(i) Each patient will be assessed the transportation rate.

(ii) The [~~emergency surcharge, night surcharge and~~] mileage rate will be computed as specified, the sum to be divided equally between the total number of patients.

(b) A round trip may be billed as two one-way trips.

(c) An ambulance shall provide 15 minutes of time at no charge at both point of pickup and point of delivery, and may charge $22.05 per quarter hour or fraction thereof thereafter. On round trips, 30 minutes at no charge will be allowed from the time the ambulance reaches the point of delivery until starting the return trip. At the expiration of the 30 minutes, the ambulance service may charge $22.05 per quarter hour or fraction thereof thereafter.

(7) [~~Treat and Release Rate -~~

~~(a) An ambulance licensee may charge a treat and release fee of $200.00 if:~~

~~(i) a dispatch agency dispatches the ambulance to provide emergency care to an individual;~~

~~(ii) the ambulance personnel assesses or treats the individual;~~

~~(iii) the individual does not refuse service; and~~

~~(iv) the ambulance does not transport the individual.~~

~~(b) An ambulance licensee may charge for supplies and assess surcharges as provided R426-16-2(5) and R426-16-2(8).~~

~~(8) -~~]Supplies and Medications -

(a) An ambulance licensee may charge for supplies and providing supplies, medications, and administering medications used on any response if:

(i) [~~S~~]supplies shall be priced fairly and competitively with similar products in the local area[~~-~~];

(ii) the individual does not refuse services; and

(iii) the ambulance personnel assess or treats the individual.

[~~(9)~~](8) Uncontrollable Cost Escalation -

(a) In the event of a temporary escalation of costs, an ambulance service may petition the [~~EMS Committee~~]Department for permission to make a temporary service-specific surcharge. The petition shall specify the amount of the proposed surcharge, the reason for the surcharge, and provide sufficient financial data to clearly demonstrate the need for the proposed surcharge. Since this is intended to only provide temporary relief, the petition shall also include a recommended time limit.

(b) [~~The petition shall be submitted to the Department, which shall within 30 days, notify the ambulance service of the date and time of the next EMS Committee meeting and the disposition of the petition. Prior to the EMS Committee meeting, the Department shall evaluate the petition for reasonableness and prepare a written response for consideration by the EMS Committee. The EMS Committee may reject, modify or adopt the proposed surcharge as a proposed rule and direct the Department to submit a notice of rule change to the Division of Administrative Rules in accordance with the Rulemaking Act. The public comment period shall include a public hearing~~]The Department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.

[~~(10)~~](9) Operating report -

(a) The licensed service shall file with the Department within [~~five months~~]60 days of the end of each licensed service's fiscal year, an operating report in accordance with the instructions, guidelines and review criteria as specified by the Department[~~in the EMS Committee's "Department of Health Uniform Licensed Service Fiscal Reporting Guide"~~]. The Department shall provide a summary of operating reports received during the previous state fiscal year to the EMS Committee in the October quarterly meeting[~~, beginning 2001~~].

[~~(11)~~](10) Fiscal audits -

(a) Upon receipt of licensed service fiscal reports, the Department shall review them for compliance to standards established[~~in the "Department of Health Uniform Licensed Service Fiscal Reporting Guide." The Department, or its representative, may audit licensed services to verify the information given in the report~~].

(b) Where the Department determines that the audited service is not in compliance with this rule, the Department shall proceed in accordance with Section 26-8a-504.

R426-16-3. Penalty for Violation of Rule.

[~~Any person who violates any provision of this rule may be assessed a penalty as provided in Section 26-23-6.~~]As required by Subsection 63G-3-201(5): Any person that violates any provisions of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

KEY: emergency medical services
Date of Enactment or Last Substantive Amendment: [~~March 15, 2010~~]2011
Notice of Continuation: July 28, 2009
Authorizing, and Implemented or Interpreted Law: 26-8a

Insurance, Administration
R590-152
Health Discount Programs and Value Added Benefit Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34236
FILED: 11/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Requires health discount marketers to be licensed regardless of the number of health discount operators they contract with. Current law allows an exemption for licensing if a health discount marketer is only contracted with one operator.

SUMMARY OF THE RULE OR CHANGE: Section R590-152-5 does away with the licensing exemption given to health discount marketers who have a contract with only one health discount operator. Subsection R590-152-7(4) extends the requirement to update information on websites to marketers, as well as operators, and requires them to update their sites no later than 30 days from the date of the revision. Subsection R590-152-10(4) adds websites to the rule's advertisement restrictions. The restrictions of this section are to be extended to marketers contracted with one operator.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-1-103 and Section 31A-2-201

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The department does not have information as to the number of marketers contracted with each of the 31 licensed operators. Currently, there are approximately 26 licensed marketers. This will not require hiring additional employees.
♦ LOCAL GOVERNMENTS: The changes to 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 department is not aware of the number of employees operators have. This is due to the fact that health discount plan operators and marketers do not have to designate employees. All marketers who are currently exempt from licensing under the rule will be required to be licensed and pay an annual fee of $452.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: All marketers who are currently exempt from licensing under the rule will be required to be licensed and pay an annual fee of $452. The cost of the license could be passed on to the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All marketers who are currently exempt from licensing under the rule will be required to be licensed and pay an annual fee of $452. The cost of the license could be passed on to the consumer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Health discount plan marketers not currently licensed will need to be licensed and pay a $452 annual fee.

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-152. Health Discount Programs and Value Added Benefit Rule.
R590-152-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-8a-102 and the following:

(1) "Administration of the health discount program" means the processes to solicit members, enroll members, maintain the membership, resolve disputes with members, disenroll members, and collect or refund fees and other authorized charges.

(2) "Authority to do business in this state" means having other applicable licenses as required by statute and operating within the scope of such licenses.

(3) "Health discount program marketer" means a person or entity, including a private label entity, that [~~places its name on and~~]markets or distributes a health discount program but [~~does not~~]may also operate the marketed or distributed health discount program.

(4) "Private label entity" means an entity that purchases a health discount program from a health discount program operator and issues or markets the obtained health discount program under the private label entity's name or logo.

(5) "Prominently" means not less than 14-point type or no smaller than the largest type on the page if larger than 12 point type.

R590-152-5. Licensing (Application, Initial, Renewal).

(1) The following must be licensed prior to offering a health discount program:

(a) a health discount program operator; or

(b) a health discount program marketer,[~~that markets health discount programs from more than one health discount program operator.~~

~~(2) The following do not require a license as a health discount program operator or health discount program marketer:~~

~~(a) a licensee licensed under Chapters 7 or 8 if only offering a value added benefit;~~

~~(b) a health discount program marketer or private label entity issuing or selling one of more health discount programs obtained from a single health discount program operator.~~] A licensee licensed under Chapters 7 or 8 does not require a license as a health discount program operator or health discount program marketer when offering valued added benefits as part of their insurance product package.

(2)[~~(3)~~] The "Application for Health Discount Program Operator or Health Discount Program Marketer" must be completed and submitted with the appropriate fee.

(3)[~~(4)~~] The commissioner may deny an application from a health discount program operator or a health discount program marketer if the applicant would not be in compliance with Chapter 31A-8a because the applicant, in this or any other jurisdiction, for a matter dealing with a health discount program is:

(a) under investigation; or

(b) has been found in violation of a statute or regulation.

(4)[~~(5)~~] A licensed health discount program operator must notify the commissioner each time a health discount program marketer or private label entity is added or deleted during the annual licensure period.

(5)[~~(6)~~] Annual licensure period.

(a) A license issued under this section is for one annual period which expires each December 31st.

(b) A licensee desiring to continue to do business in this state must renew its license prior to December 31st each year by submitting an Application for Health Discount Program Operator or Health Discount Program Marketer and paying the required fee.

R590-152-7. Required Practices.

(1) A health discount program operator must have an active toll-free telephone number for members to call.

(2) Face to face, paper, telephone, and electronic communications with clients or potential clients must state that the health discount program is a discount plan and not insurance.

(3) When a health discount program operator or a health discount program marketer, markets or sells a health discount program together with any other product that can be purchased separately, including insured benefits, an itemized list of the fees or premiums for each individual product must be provided in writing to the client at solicitation.

(4) Information available to a health discount program member via a health discount program operator's or marketer's web page must be updated no later than 30 days from a change.[~~current at least monthly.~~]

R590-152-10. Advertising and Marketing.

(1) The format and content of any advertisement shall be sufficiently complete and clear as to avoid deceiving or misleading the reader, viewer, or listener.

(2) An advertisement of any insured product or benefit must comply with applicable provisions of Subsections 31A-23a-102 (12) and (13) and Rule R590-130, Rules Governing Advertisements of Insurance.

(3) A health discount program operator must approve in writing all advertisements, marketing materials, brochures, web sites and discount cards used by a health discount program marketer marketing a health discount program operator's health discount program.

(4) All advertisements, marketing materials, brochures, web sites and discount cards used by a health discount program operator and the health discount program operator's health discount program marketer [~~and by a health discount program marketer marketing more than one health discount plan operator's health discount program~~]must be available to the commissioner upon request.

(5) The health discount program operator must have an executed written agreement with a health discount program marketer prior to the health discount plan marketer marketing, promoting, selling, or distributing a health discount program.

KEY: insurance, medical discount program
Date of Enactment or Last Substantive Amendment: [~~October 9, 2007~~]2011
Notice of Continuation: November 13, 2007
Authorizing, and Implemented or Interpreted Law: 31A-1-103; 31A-2-201

Public Safety, Fire Marshal
R710-9
Rules Pursuant to the Utah Fire Prevention Law

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34242
FILED: 11/15/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 11/09/2010 in a regularly scheduled Board meeting and agreed by unanimous vote to enact rule amendments that would restrict fire sprinkler antifreeze systems to 20 head limits in dwellings and residences, add a definition, and return the 2009 International Fire Code back to the administrative

rule as an incorporated reference. The Board, after research from staff and input from a number of sprinkler companies, concluded that the allowance of 20 antifreeze sprinkler heads would lessen the possibility of the antifreeze igniting and causing serious injuries. The Board concluded that since the allowance of 20 loop segments had been used from the 1940s to 1991 with no problems, there would be the ability to continue some use of antifreeze loops in dwellings but not remain unlimited in size as is now allowed.

SUMMARY OF THE RULE OR CHANGE: The summary of the rule amendments are as follow: 1) in Subsection R710-9-1(1.4), the Board proposes to adopt as an incorporated reference the 2009 International Fire Code as adopted and amended by the Utah State Legislature; 2) in Subsection R710-9-2(2.4), the Board proposes to adopt the definition of Dwelling Unit to assist in defining what a dwelling consists of; 3) in Subsections R710-9-10(10.1) through (10.3), the Board proposes to allow up to 20 antifreeze fire sprinkler heads in the dwelling unit portion of systems built under NFPA 13, NFPA 13 R, and NFPA 13D, and allow the authority having jurisdiction (AHJ) the ability to increase the number of heads, and allow the AHJ the ability to increase the percentages of antifreeze in the system for temperature needs; and 4) in Subsection R710-9-10(10.4), the Board proposes to require that existing antifreeze sprinkler systems that are drained be refilled with certain percentages of antifreeze, except that the AHJ can increase the percentages for temperature concerns. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 34238 in this issue, December 1, 2010, of the Bulletin and was effective as of 11/15/2010.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204 and Subsection 53-7-106(5)

MATERIALS INCORPORATED BY REFERENCES:
♦ Adds International Fire Code, published by International Code Council, 03/01/2009

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There would be no aggregate anticipated cost or savings to the state budget because these amendments do not affect the activities of the state.
♦ LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because these amendments do not affect the activities of local government.
♦ SMALL BUSINESSES: There would be an aggregate anticipated cost to small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in dwellings and residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is greatly reduced or a dry or preaction system would be installed. A total aggregate amount of increase for an average home would be approximately $1,000.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There would be an aggregate anticipated cost to persons other than small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is restricted to 20 heads or a dry or preaction system would be installed in the areas of the residence where it would freeze. A total aggregate amount of increase for an average home would be approximately $1,000 on a fire sprinkler system that usually would have approximately 20 heads.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would be an approximate $50 increase per fire sprinkler head to redesign the automatic fire sprinkler system that would limit the usage of antifreeze to 20 heads and prevent freezing of the lines which would increase the cost to install an automatic fire sprinkler system about 25% more than it currently costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be an approximate increase of 25% in the installation of automatic fire sprinkler systems in the State of Utah. The continued use of large unlimited antifreeze systems in automatic fire sprinkler systems has now proven to be a life threatening hazard to the occupants of the dwelling. Under specific conditions, when the automatic fire sprinkler system opens, the fire can ignite the antifreeze and cause a spraying type fire for a very short period of time. Even with the 25% increase in installation costs, and now limiting the antifreeze heads to 20, this amendment needs to be enacted to prevent the burning injuries or death caused in this very rare situation.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
FIRE MARSHAL
ROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Ron Morris , Utah State Fire Marshal

R710. Public Safety, Fire Marshal.
R710-9. Rules Pursuant to the Utah Fire Prevention Law.
R710-9-1. Title, Authority, and Adoption of Codes.

1.1 These rules shall be known as the "Rules Pursuant to the Utah Fire Prevention Law", and may be cited as such, and will be hereafter referred to as "these rules".

1.2 These rules are promulgated in accordance with Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, as amended.

1.3 These rules are adopted by the Utah Fire Prevention Board to provide minimum rules for safeguarding life and property from the hazards of fire and explosion, for board meeting conduct, procedures to amend incorporated references, establishing board subcommittees, enforcement of the rules of the State Fire Marshal, and deputizing Special Deputy State Fire Marshals.

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

1.4.1 International Fire Code (IFC), 2009 edition, excluding appendices, as published by the International Code Council, Inc. (ICC), and as enacted and amended by the Utah State Legislature in Sections 102 and 201 of the State Fire Code Adoption Act, except as amended by provisions listed in R710-9-10, et seq.

1.5 Copies of the above code are on file in the Division of Administrative Rules and the Office of the State Fire Marshal.

R710-9-2. Definitions.

2.1 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.

2.2 "Board" means Utah Fire Prevention Board.

2.3 "Committee" means the Firefighter Support Restricted Account Advisory Committee.

2.4 "Dwelling Unit" means one or more rooms arranged for the use of one or more individuals living together, as in a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities. For purposes of this standard, dwelling unit includes hotel rooms, dormitory rooms, apartments, condominiums, sleeping rooms in nursing homes, and similar living units.

2.[~~4~~]5 "Division" means State Fire Marshal.

2.[~~5~~]6 "IFC" means International Fire Code.

2.[~~6~~]7 "LFA" means Local Fire Authority.

2.[~~7~~]8 "Restricted Account" means Firefighter Support Restricted Account.

2.[~~8~~]9 "SFM" means State Fire Marshal or authorized deputy.

2.[~~9~~]10 "Sub-Committee" means Fire Prevention Board Budget Sub-Committee or Amendment Sub-Committee.

2.[~~10~~]11 "UCA" means Utah Code Annotated, 1953.

R710-9-10. Amendments and Additions.

The following amendments and additions are hereby adopted by the Board for application statewide:

10.1 IFC, Chapter 9, Section 903.3.1.1 is amended by adding the following subsection: 903.3.1.1.2 Antifreeze Limitations. The use of antifreeze in automatic sprinkler systems in new construction in the dwelling unit portion of an occupancy, installed in accordance with NFPA 13, is allowed up to 20 heads. The number of sprinkler heads can be expanded as allowed by the AHJ. The mixture of the antifreeze shall be limited to a maximum concentration of 40% propylene glycol or 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

10.2 IFC, Chapter 9, Section 903.3.1.2 is amended by adding the following subsection: 903.3.1.2.2 Antifreeze Limitations. The use of antifreeze in automatic sprinkler systems in new construction in the dwelling unit portion of an occupancy, installed in accordance with NFPA 13R, is allowed up to 20 heads. The number of sprinkler heads can be expanded as allowed by the AHJ. The mixture of the antifreeze shall be limited to a maximum concentration of 40% propylene glycol or 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

10.3 IFC, Chapter 9, Section 903.3.1.3 is amended by adding the following subsection: 903.3.1.3.1 Antifreeze Limitations. The use of antifreeze in automatic sprinkler systems in new construction installed in accordance with NFPA 13D, is allowed up to 20 heads. The number of sprinkler heads can be expanded as allowed by the AHJ. The mixture of the antifreeze shall be limited to a maximum concentration of 40% propylene glycol or 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

10.4 IFC, Chapter 9, Section 903.5 is amended to add the following subsection: 903.5.1 Antifreeze Replacement. Whenever the automatic sprinkler system protecting residences and dwelling units of mixed occupancies that use antifreeze is drained, the replacement antifreeze shall be properly mixed and tested, but shall not exceed a maximum concentration of 40% propylene glycol or a maximum concentration of 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

R710-9-[~~10~~]11. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-9-[~~11~~]12. Validity.

The Utah Fire Prevention Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared invalid, it is the intent of the Utah Fire Prevention Board that it would have passed all other portions of this action, independent of the elimination of any portion as may be declared invalid.

R710-9-[~~12~~]13. Adjudicative Proceedings.

[~~12~~]13.1 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.

[~~12~~]13.2 If a city, county, or fire protection district refuses to establish a method of appeal regarding a portion of the IFC, the appealing party may petition the Board to act as the board of appeals.

[~~12~~]13.3 A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the Board within 20 days after receiving final decision.

[~~12~~]13.4 All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and

these rules, shall commence in accordance with UCA, Section 63G-4-201.

[~~12~~]13.5 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

[~~12~~]13.6 The Board shall direct the SFM 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.

[~~12~~]13.7 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.

[~~12~~]13.8 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

KEY: fire prevention, law
Date of Enactment or Last Substantive Amendment: [~~September 7, 2010~~]2011
Notice of Continuation: June 8, 2007
Authorizing, and Implemented or Interpreted Law: 53-7-204

Public Safety, Criminal Investigations and Technical Services, Criminal Identification
R722-300-3
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34222
FILED: 11/08/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to remove Subsection R722-300-3(l) from the effective rule and add a reference to Section 41-6a-526 to Subsection R722-300-3(m).

SUMMARY OF THE RULE OR CHANGE: The reason for this amendment is that the term "unlawful sexual conduct" is not used in the statute and the inclusion of this definition in the rule seems to be an oversight. The second amendment would add a reference to Section 41-6a-526 to Subsection R722-300-3(2)(m), thereby including the offense of "open container" as an offense involving the use of alcohol.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53-5-701 through 53-5-711

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No aggregate anticipated cost or savings to the state budget. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. The removal of Subsection R722-300-3(l) will not change the process our office follows to issue a permit.
♦ LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. Local governments are not involved in the evaluation of permit applications or the issuance of permits.
♦ SMALL BUSINESSES: No aggregate anticipated cost or savings to small business. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. Small businesses are not involved in the evaluation of permit applications or the issuance of permits.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. Persons other than small businesses, businesses, or local government entities are not involved in the evaluation of permit applications or the issuance of permits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs. The deletion and the addition to this rule will not create any anticipated compliance costs. Because the removal of Subsection R722-300-3(l) will not change the process our office follows to issue a permit there will be no compliance costs for the state budget. Because of local government, small businesses, and persons other than small businesses, businesses, or local government entities above are not involved in the evaluation of permit applications or the issuance of permits, there will be no compliance costs associated with this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact to business if this rule is changed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.
R722-300. Concealed Firearm Permit and Instructor Rule.
R722-300-3. Definitions.

(1) Terms used in this rule are defined in Sections 53-5-702, 53-5-711, 76-10-501.

(2) In addition:

(a) "applicant" means an individual seeking to obtain or renew a permit, a temporary permit, an instructor certification, or a LEOJ permit from the bureau;

(b) "certified firearms instructor" means an individual certified by the bureau pursuant to Section 53-5-704(8) who can certify that an applicant meets the general firearm familiarity requirement under Section 53-5-704(7);

(c) " certified firearms instructor official seal" means a red, self-inking stamp containing the information required in Subsection 53-5-704(10)(a)(iii)(C) which meets the design requirements described on the bureau's website;

(d) "crime of violence" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States which has, as an element, the use, threatened use, or attempted use of physical force or a dangerous weapon;

(e) "felony" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States for which the penalty is a term of imprisonment in excess of one year;

(f) "FBI" means the Federal Bureau of Investigation;

(g) "instructor certification" means a concealed firearm instructor certification issued by the bureau pursuant to Section 53-5-704(8);

(h) "LEOJ permit" means a permit to carry a concealed firearm issued to a judge or law enforcement official by the bureau pursuant to 53-5-711;

(i) "NRA" means the National Rifle Association;

(j) "offense involving domestic violence" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States involving any of the conduct described in:

(i) Section 77-36-1; or

(ii) 18 U.S.C Section 921(a)(33);

(k) "offense involving moral turpitude" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States involving conduct which:

(i) is done knowingly contrary to justice, honesty, or good morals;

(ii) has an element of falsification or fraud; or

(iii) contains an element of harm or injury directed to another person or another's property;

[~~(l) "offense involving unlawful sexual conduct" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States involving any of the conduct described in:~~

~~(i) Title 76 Chapter 5, Part 4~~

~~(ii) Title 76 Chapter 7, Part 1;~~

~~(iii) Title 76 Chapter 9, Sections702, 702.5, and 702.7;~~

~~(iv) Title 76 Chapter 10, Part 12; or~~

~~(v) Title 76 Chapter 10, Part 13;~~

~~(m)~~](l) "offense involving the use of alcohol" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States involving any of the conduct described in:

(i) Section 32A-12-209;

(ii) Section 32A-12-220;

(iii) Section 41-6a-501(2) related to the use of alcohol; [~~or~~]

(iv) Section 41-6a-526; or

[~~(iv)~~](v) Section 76-10-528 related to carrying a dangerous weapon while under the influence of alcohol;

[~~(n)~~](m) "offense involving the unlawful use of narcotics or controlled substances" means:

(i) any offense listed in Section 41-6a-501(2) involving the use of a controlled substance;

(ii) any offense involving the use or possession of any controlled substance found in Title 58, Chapters 37, 37a, or 37b; or

(iii) the crime of carrying a dangerous weapon while under the influence of a controlled substance pursuant to Section 76-10-528;

[~~(o)~~](n) "past pattern of behavior involving unlawful violence" means verifiable incidents, regardless of whether there has been an arrest or conviction, that would lead a reasonable person to believe that an individual has a violent nature and would be a danger to themselves or others, including an attempt or threat to commit suicide.

[~~(p)~~](o) "permit" means a permit to carry a concealed firearm issued by the bureau pursuant to Section 53-5-704;

[~~(q)~~](p) "POST" means the Utah Department of Public Safety, Division of Peace Officer Standards and Training;

[~~(r)~~](q) "revocation" means the permanent deprivation of a permit, instructor certification, or certificate of qualification. Revocation of a permit, instructor certification, or certificate of qualification does not preclude an individual from applying for a new permit, instructor certification, or certificate of qualification if the reason for revocation no longer exists;

[~~(s)~~](r) "suspension" means the temporary deprivation, for a specified period of time, of a permit, instructor certification, or certificate of qualification; and

[~~(t)~~](s) "temporary permit" means a temporary permit to carry a concealed firearm issued by the bureau pursuant to Section 53-5-705.

KEY: concealed firearm permit, concealed firearm permit instructor
Date of Enactment or Last Substantive Amendment: [~~October 22, 2010~~]2011
Authorizing, and Implemented or Interpreted Law: 53-5-701 through 53-5-711

Transportation; Operations, Traffic and Safety
R920-50
Ropeway Operation Safety Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34241
FILED: 11/15/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to implement recent changes to the Passenger Ropeway Safety Act that exclude private residence passenger ropeways from the provisions of the Act and consequently this rule, and to make other grammatical and stylistic changes.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment would exclude private residence passenger ropeways from the requirements of the rule and make other grammatical and stylistic changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-11-201 through 72-11-216

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget because regulation of ropeways is funded from registration fees. Excluding a small category of ropeways from registration and regulation is revenue neutral.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government because the changes only involve private residence passenger ropeways.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses because the changes only involve private residence passenger ropeways.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Owners of private residence passenger ropeways will save the registration fee and not have to incur the expense of bringing their ropeway into compliance with this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for persons affected because the changes will exclude private passenger ropeways from state regulation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses because the changes only affect private residence passenger ropeways.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Linda Barrow by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at lindabarrow@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: John Njord, Executive Director

R920. Transportation, Operations, Traffic and Safety.
R920-50. Ropeway Operation Safety[~~Rules~~].
R920-50-1. Purpose.

This rule establishes regulations, requirements, and provides standards for the design, construction, and operation of a passenger ropeway, except private residence passenger ropeways as defined in Section 72-11-102(11), and establishes the procedures necessary to implement the powers and duties of the Utah Passenger Ropeway Safety Committee (Committee). Previously the Committee was known as the Utah Passenger Tramway Safety Committee. The Committee has also been referred to as the Tramway Board.

R920-50-2. Authority.

This[~~ese~~] rule[~~s~~] is authorized by[~~are issued pursuant to Utah Code Annotated,~~] Section 72-11-210 to implement Title 72, Chapter 11, [~~the~~]Passenger Ropeway Safety Act[~~, Utah Code Ann., Sections 72-11-201 et seq~~].

R920-50-3. Definitions.

In addition to terms defined at Section 72-11-102, the following terms are defined:

(1) "Aerial lift specialist" as used in American National Standards Institute (ANSI) B77.1 sections 3.3.4 and 4.3.4, means a Ropeway Inspector.

(2) "Aerial tramway specialist" as used in ANSI B77.1 section 2.3.4 means a Ropeway Inspector.

(3) "Air Space" means the area bounded by vertical planes commencing at a point thirty-five (35) feet from the intersection of the vertical planes of the ropes or cables and ground surface.

(4) "Annual general inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to verify preservation of original design integrity and to determine that components and systems of the passenger ropeway are in proper working order and in accordance with this[~~Committee~~] rule[~~s~~].

(5) "Audible warning devices" means an audible warning device that signals an impending start of the aerial lift.

(6) "Conveyor specialist" as used in ANSI B77.1 section 7.3.4 means a Ropeway Inspector.

(7) "Dynamic Testing Logs" means a record of the data collected during the dynamic test.

(8) "Experienced personnel" means an individual who has acquired knowledge and skills through study, training, or experience in ropeway maintenance, operation, or testing.

(9) "Existing ropeway" means any passenger ropeway that shall have been operated for passengers in excess of one calendar year.

(10) "Incident inspection" means an inspection of a passenger ropeway incident made by an approved Ropeway Inspector or a qualified engineer at the request of the Committee.

(11) "Land surveyor" means an individual licensed under [~~Utah Code Annotated~~]Section 58-22-102 as a professional land surveyor.

(12) "Modification" means any change as defined in ANSI B77.1 Section 1.2.4.4, ANSI B77.2 Section 1.2.4.4, and the replacement of a ropeway component by one that alters the certified design or construction provided by the passenger ropeway manufacturer or designer.

(13) "New ropeway" means any passenger ropeway that is registered for the first time for passenger operation during its first calendar year of operation.

(14) "Operational inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with [~~Committee~~]this rule[~~s~~].

(15) "Operating personnel" means persons employed by the operator for the purpose of supervising the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or structures of a ropeway and when specifically on duty for such purpose on that ropeway.

(16) "Passenger" means any person riding a ropeway, other than "operating personnel."

(17) "Passenger Ropeway Incident" means:

(a) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger ropeway;

(b) Any deropement regardless of whether or not the passenger ropeway is evacuated;

(c) Any evacuation of the passenger ropeway other than by prime mover or auxiliary power unit, regardless of cause;

(d) Any fire involving a passenger ropeway component or adjacent structure;

(e) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in a loss of control of the passenger ropeway as defined in ANSI B77.1 Section X.2.3.1 or ANSI B77.2 Section 2.2.1.7.2;

(f) Any wire rope damage which exceeds the requirement in ANSI B77.1 Section A.4.1.3 or ANSI B77.2 Section 3.4.1.1; and

(g) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component or its primary connection that has the apparent potential for causing bodily injury to any person, including but not limited to, the following[~~:~~];

(i) Terminal Structure;

(ii) Bullwheel;

(iii) Brake System;

(iv) Tower Structure;

(v) Sheave, Axle, or Sheave Assembly;

(vi) Carrier; and

(vii) Grip.

(18) "Portable Ropeway" means a ropeway expressly designed to be portable, operated without a permanent foundation, and that has a design range of maximum grade[~~,~~].

(19) "Pre-operational inspection" means an inspection made by a Ropeway Inspector prior to the operation of any new or modified passenger ropeway requiring an Acceptance Inspection and Test.

(20) "Qualified engineer" means any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

(21) "Qualified personnel" as used in ANSI B77.1 sections 2.1.1.11, 3.1.1.11, 4.1.1.11, 5.1.1.11, 6.1.1.11, and 7.1.1.11 means a qualified engineer.

(22) "Relocated ropeway" means any passenger ropeway moved to a new location.

(23) "Responsible charge" means effective control and direction of the installation or modification of a passenger ropeway.

(24) "Ropeway Inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the ropeway owner, and approved by the Committee to inspect passenger ropeways.

(25) "Structure" means any edifice, including residential and public buildings, or any other structure or equipment that could reasonably be expected to interfere with the safe operation of a ropeway. Ropeway components required for the operation of the ropeway are not structures.

(26) "Surface lift specialist" as used in ANSI B77.1 section 5.3.4, means a Ropeway Inspector.

(27) "Tow specialist" as used in ANSI B77.1 section 6.3.4 means a Ropeway Inspector.

R920-50-4. General Requirements for [~~all~~]Passenger Ropeways.

(1) [~~All p~~]Passenger [~~R~~]ropeways operating in the State of Utah shall be registered annually with the [~~e~~]Committee, and no passenger [~~R~~]ropeway shall be operated for passengers without a valid certificate of registration.

(2) [~~All r~~]Ropeways require a qualified engineer to certify the design, manufacturing, and construction of the ropeway. A Qualified Engineer or Land Surveyor is required to complete the "as-built" profile and certification.

(3) Existing ropeways, when removed and reinstalled, shall be classified as new installations.

(4) [~~All r~~]Ropeway operators shall be covered by a liability insurance of a minimum of $300,000. The Utah Passenger Ropeway Safety Committee shall be notified of a lapse or termination of insurance coverage pursuant to the terms of the policy.

R920-50-5. Application to Register a Passenger Ropeway[s].

(1) Each year prior to operating a passenger ropeway the ropeway operator shall apply to the Committee, for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the Committee of such action and shall apply for a Certificate of Registration.

(2) Term - Passenger [~~R~~]ropeways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue.

(3) Application for Certificate of Registration for existing ropeways shall include the following[~~:~~]:

(a) Annual General Inspection Report[~~-~~];

(b) Annual registration fee[~~-~~];

(c) Approved request for exception, if applicable[~~-~~];

(d) Certification of Compliance[~~-~~]; and

(e) Certificate of [~~i~~]Insurance.

(4) Application for Certificate of Registration for new ropeways shall include the following:

(a) Annual registration fee[~~-~~];

(b) Approved request for exception, if applicable[~~-~~];

(c) Certification of Compliance[~~-~~];

(d) Certificate of [~~i~~]Insurance[~~-~~];

(e) Certifications required in R920-50-6[~~-~~];

(f) Documents required in R920-50-7[~~-~~]; and

(g) Preoperational Inspection Report.

(5) Submittal of application for registration of ropeways - All applications for registration of new or existing ropeways shall be submitted in such form as the Committee shall designate and in accordance with requirements of these rules. Applications shall be made in writing and addressed to:

Utah Department of Transportation
Passenger Ropeway Safety Committee
Traffic and Safety Division
4501 South 2700 West
Salt Lake City, Utah 84119

R920-50-6. Certifications Required for Ropeways.

(1) The Certifications listed below must include the following information:

(a) Name, address and telephone number of operator of the ropeway, name of ropeway supervisor, operator's designation of the ropeway[~~-~~];

(b) Designated certifying statement[~~-~~];

(c) A certification of design, manufacture and construction must also include the [~~N~~]name, address, seal, and Utah license of the qualified engineer making the certification[~~-~~]; and

(d) A certification of "as-built" profile must also include the [~~N~~]name, address, seal, and Utah license of the qualified engineer or land surveyor making the certification.

(2) A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for the Ropeway.

(a) The certification shall be signed and dated by the ropeway owner or area operator.

(b) The certification shall include the following statement: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

(3) A Certification of Ropeway Design for New or Modified Passenger Ropeways, must be submitted.

(a) The Qualified Engineer in responsible charge of the design shall certify to the Committee that the design, plans and specifications conform to the Utah Passenger Ropeway Safety Act, the Governing Standard and the Utah Ropeway Operation[**s**] Safety Rule[**s**].

(b) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(c) The certification must state the following:

"I hereby certify that the design for this ropeway or ropeway modification is in complete compliance with the Utah Passenger Ropeway Safety Act, Governing Standard and the Utah Ropeway Operation[**s**] Safety Rule[**s**]."

(d) This statement shall be placed on the top of the drawing packet and signed and sealed by the qualified engineer. Each additional sheet of this drawing packet shall be sealed by the qualified engineer.

(e) The drawings and specifications shall include the [~~Q~~]quality [~~A~~]assurance methods used for the evaluation of the re-used components and shall be submitted for review a minimum of 30 days prior to installation. Any component on the Utah Passenger Ropeway Safety Committee Lift Data Form must be addressed.

(4) A Certification of Manufacture for a passenger ropeway must be submitted by a Qualified Engineer of the manufacturing concern or concerns directly responsible for the supply of equipment for this ropeway.

(a) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the newly manufactured parts used in this ropeway, or ropeway modification, conform with the Utah Passenger Ropeway Safety Act, Governing Standard, the Utah Ropeway Operation[**s**] Safety Rule[**s**] and the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

(5) A Certification of Construction for Passenger Ropeways must be submitted by a Qualified Engineer directly responsible for the construction for the ropeway.

(a) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the construction and installation has been completed in accordance with the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

(6) A Certification of "as-built" profile for the Passenger Ropeway must be submitted by a Qualified Engineer or Land Surveyor licensed in the State of Utah.

(a) The "as-built" profile must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the attached "as-built" profile of the herein-identified ropeway is as represented on the attached profile drawing and that the completed ropeway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

R920-50-7. Documents Required for Ropeways.

(1) A Utah Passenger Ropeway Safety Committee Lift Data Form must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Test.

(2) A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer must be provided to the Committee for review at least fourteen (14) days before acceptance testing begins. The qualified engineer determines the acceptance test requirements.

(3) The owner or area operator shall notify the Committee in writing before the acceptance test that the continuous operation requirements of ANSI B77.1 section X.1.1.11 or ANSI B77.2 section 2.1.1.11.2 have been completed.

(4) A final acceptance test report must be submitted to the Committee prior to opening the lift to the public. The qualified engineer shall approve any changes to the acceptance test procedure.

(5) "As-built" drawings for each passenger ropeway shall be submitted no later than 60 days after the project is completed and the Acceptance Test is finished. Any variation from the design drawings shall be noted in the as-built drawings and approved by the Qualified Design Engineer.

(6) The area operator shall send a "letter of intent" to the Committee at least 45 days prior to beginning the construction of a new lift. The letter of intent must include the name of the qualified engineer, the design standard, the anticipated dates to begin and complete construction, and the available lift manufacturing data.

R920-50-8. Certificate of Registration.

(1) If the application for [e]Certificate of [r]Registration and supporting documentation attest that the ropeway complies with the Governing Standard and this[ese] rule[s], the Committee, if satisfied with the facts stated in the application, shall issue a [e]Certificate of [r]Registration to the operator.

(2) Identification number - For each ropeway, upon receipt of the first application for a [e]Certificate of [r]Registration, the [e]Committee shall assign an identification number to the ropeway, which shall remain as a permanent identification number for the life of the ropeway. All correspondence with the [e]Committee pertaining to any ropeway shall refer to the identification number assigned to that ropeway.

R920-50-9. Governing Standards.

(1) The governing standards in Utah include "ANSI B-77.1, 2006" and "ANSI B77.2, 2004" as modified by rule of the Committee. Use of these standards is authorized by [Utah Code Annotated]Section 72-11-201.

(2) The Utah Passenger Ropeway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

(3) Existing installations need not comply with the new or revised requirements of the Governing Standard and this[ese] rule[s] except as set forth in R920-50-11 "Applicable [p]Provisions."[-]

R920-50-10. Revised and Additional Provisions.

The revised and additional provisions of this section shall only apply when referenced in R920-50-11 "Applicable [p]Provisions."[-]

(1) "New installations and relocated installations." ANSI B77.1 Section 1.2.4.3 is modified by the following requirement: New ropeways and relocated ropeways shall comply with the new or revised requirements of the Governing Standard and with these rules at the time of the acceptance test.

(2) "Auxiliary drives." Installations shall meet the requirements for auxiliary drives, as set forth in ANSI B77.1-1992, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1.

(3) "Electronic speed-regulated drives." Installations shall meet the requirements for electronic speed-regulated drives as set forth in ANSI B77.1-1992, 2.2.1.8.2, 3.2.1.8.2, 4.2.1.8.2, 5.2.1.8.2, 6.2.1.8.2.

(4) "Rope position monitoring." Installations shall meet the requirements for rope position monitoring, as set forth in ANSI B77.1-1992, 3.1.3.3.2, paragraph 6.

(5) "Friction type brakes." Installations shall meet the requirements for friction type brakes, as set forth in ANSI B77.1-1992, 2.1.2.5, 3.1.2.5, 4.1.2.5, 5.1.2.5, 6.1.2.5.

(6) "Fire [D]detection." All machine rooms that are in an enclosed structure located adjacent to the rope of the tramway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.

(7) "Grips, clips, and carrier testing." Testing shall be completed according to section ANSI B77.1 sections 2.3.4.3, 3.3.4.3, 4.3.4.3, and ANSI B77.2 section 2.3.4.4 except as modified [in]by this [subsection 1]rule.

(a) Testing personnel shall be qualified in accordance with American Society for Nondestructive Testing (ASNT) Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

(b) Testing agency inspector shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer[;].

(c) Sampling size and method of obtaining the sample shall comply with the Governing Standard or the manufacturer's requirement, which ever is more stringent[;].

(d) Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer[;].

(e) Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer[~~:~~].

(f) Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

(8) "Wire rope inspection." Inspections shall be performed according to ANSI B77.1 Annex A.4.1 and ANSI B77.2 3.4.1 and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

(9) "Operation and maintenance." All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, and ANSI B77.2 2.3.

(10) "Audible warning devices." Requirements for audible warning devices.

(a) Installations shall meet the requirements for audible warning devices as specified by ANSI B77.1, 2.2.10, 3.2.10.

(b) ANSI B77.1 Section 4.2.10 is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the aerial lift. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the aerial lift begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level.

(11) "Conveyor Standards."

(a) Loading and unloading area requirements of ANSI B77.1 section 7.1.1.9 shall also accommodate the use of adaptive devices.

(b) Power units referred to in ANSI B77.1 section 7.1.2.1 may not have reverse capability.

(c) "Power supply cords" referred to in ANSI B77.1 section 7.2.1.5.6 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

(d) The belt transition entry stop device referred to in ANSI B77.1 section 7.2.3.3 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.

(12) "Dynamic Testing Logs." Maintenance logs shall include documentation of the dynamic testing.

(13) "Air Space Requirements." ANSI B77.1-2006, 2.1.1.3, 3.1.1.3, 4.1.1.3, 5.1.1.3, and 6.1.1.3 and ANSI B77.2 section 2.1.1.2 shall also include the following: No structure (temporary or permanent) shall be permitted to encroach into the air space of the ropeway.

(14) "Portable Ropeways." Portable ropeways shall not be considered new ropeways when moved to different locations but remaining under the jurisdiction of the same operator.

(15) "Tows Requirements."

(a) The requirements of ANSI B77.1 section 6.2.3.2.b) shall also require the stop gate to extend across the incoming and outgoing rope.

(b) Handle Tows shall have stop gates above and below the rope.

R920-50-11. Applicable Provisions.

Installations shall comply with the "Revised and [~~a~~]Additional [~~p~~]Provisions" of R920-50-10 in the [~~following areas~~]categories listed below, on or before the [~~effective~~]date[~~, when~~] specified. These provisions establish the minimum requirement.

(1) The following apply to all ropeways[~~-~~]:

(a) New installations and relocated installations R920-50-10(1)[~~-~~];

(b) Fire detection R920-50-10(6); effective November 1, 1995[~~-~~];

(c) Wire rope inspection R920-50-10(8)[~~-~~]; and

(d) Operation and maintenance R920-50-10(9).

(2) The following provisions apply to an Aerial Tramway[~~-~~]:

(a) Auxiliary drives R920-50-10(2); effective November 1, 1994[~~-~~];

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994[~~-~~];

(c) Friction type brakes R920-50-10(5); effective November 1, 1995[~~-~~];

(d) Grips, clips, and carrier testing R920-50-10(7)[~~-~~];

(e) Audible warning devices R920-50-10(10); effective November 1, 2001[~~-~~];

(f) Dynamic testing logs R920-50-10(12)[~~-~~]; and

(g) Air space requirements R920-50-10(13); effective November 1, 2006.

(3) The following provisions apply to a Detachable Grip Aerial Lift[~~-~~]:

(a) Auxiliary drives R920-50-10(2); effective November 1, 1994[~~-~~];

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994[~~-~~];

(c) Rope position monitoring R920-50-10(4); effective November 1, 1994[~~-~~];

(d) Friction type brakes R920-50-10(5); effective November 1, 1995[~~-~~];

(e) Grips, clips, and carrier testing R920-50-10(7)[~~-~~];

(f) Audible warning devices R920-50-10(10)[~~-~~];

(g) Dynamic testing logs R920-50-10(12)[~~-~~]; and

(h) Air space requirements R920-50-10(13); effective November 1, 2006.

(4) The following provisions apply to a Fixed Grip Aerial Lift[~~-~~]:

(a) Auxiliary Drives R920-50-10(2); effective November 1, 1994[~~-~~];

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994[~~-~~];

(c) Friction type brakes R920-50-10(5); effective November 1, 1995[~~-~~];

(d) Grips, clips, and carrier testing R920-50-10(7)[~~.~~];

(e) Audible warning devices R920-50-10(10)[~~.~~];

(f) Dynamic testing logs R920-50-10(12)[~~.~~]; and

(g) Air space requirements R920-50-10(13); effective November 1, 2006.

(5) The following provisions apply to a Surface Lift[~~.~~];

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994[~~.~~];

(b) Friction type brakes R920-50-10(5); effective November 1, 1995[~~.~~]; and

(c) Air space requirements R920-50-10(13); effective November 1, 2006.

(6) The following provisions apply to a Rope Tow[~~.~~];

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994[~~.~~];

(b) Friction type brakes R920-50-10(5); effective November 1, 1995[~~.~~];

(c) Air space requirements R920-50-10(13); effective November 1, 2006[~~.~~];

(d) Tow requirements R920-50-10(15)[~~.~~]; and

(e) Portable Ropeways R920-50-10(14).

(7) The following provisions apply to a Conveyor[~~.~~];

(a) Conveyor standards R920-50-10(11)[~~.~~]; and

(b) Portable Ropeways R920-50-10(14).

R920-50-12. Exceptions to Standards.

(1) In the event that the ropeway does not conform with the governing standards and the Ropeway Operation Safety Rule[~~s~~], the Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted.

(a) Annual Exception - This type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the [e]Committee that a change is necessary.

(b) Limited Exception - This type of exception is granted only for a fixed time period to be determined by the Committee.

(2) The nature of the exception shall be stated in the Request for Exception from Standards.

(3) The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the operator in writing of its action on the Request.

(4) The Request for Exception from Standards shall include the following information:

(a) Reasons for requesting an exception[~~.~~];

(b) [~~Identify the ways that~~]Identification of the manner in which the ropeway does not conform to the governing standards or this[~~ese~~] rule[~~s.~~]; and

(c) Procedures, with estimated time and cost, which would be required to bring the ropeway into conformance.

(5) Except as required in R920-50-12(7), the Committee shall issue a [e]Certification of [r]Registration with an exception if the operator satisfies the requirements stated in R920-50-12(4) and also supplies the following for new or existing ropeways:

(a) New Ropeways.[~~B~~]

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in the Governing Standard and this rule[~~e Ropeway Operation Safety Rules~~].

(ii) Any known items that require a Request for Exception from Standards for Passenger Ropeways must be submitted to the Committee before work begins.

(b) Existing Ropeways.[~~B~~]

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that it's devices or methods provide features that are comparable in performance and safety to the requirements of the Governing Standard and this rule[~~e Ropeway operation Safety Rules~~].

(ii) A statement by the operator certifying that the ropeway feature for which the exception is requested has been operated safely and without any passenger ropeway incident, as defined in R920-50-3(15) item (a) or (g), for at least 2 years prior to the date of the Request for Exception from Standards.

(6) In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in the Governing Standard or this rule[~~e Ropeway Operation Safety Rules~~] if the Committee determines that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety.

(7) Where doubt exists as to the safety of a ropeway, the [e]Committee may require an inspection to ascertain that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those of the governing standards and this rule[~~e Ropeway operation Safety Rules~~].

(8) The issuance of a certificate of registration with an annual exception shall not bind the [e]Committee to issue such a certificate for the ropeway involved in subsequent years, nor to issue such a certificate for another ropeway of same or similar design.

R920-50-13. Operation of Ropeways.

(1) Every passenger ropeway incident shall be reported to the Committee regardless of the time of year in which it occurs and regardless of whether or not the ropeway was open to the public at the time of the incident. The operator shall meet the requirements stated in R920-50-14.

(2) When a ropeway is modified the ropeway operator shall notify the Committee, or its appointed representative. The operator shall meet the requirements stated in R920-50-15.

R920-50-14. Incidents.

(1) Reporting of Incidents.

(a) Every passenger ropeway incident, as defined in R920-50-3(18) shall be verbally reported to the Committee, or the Committee's appointed representative, as soon as reasonably possible, but no later than twenty-four (24) hours after the time of the incident. A written report shall be delivered to the Committee within five (5) days of the incident.

(b) The reports required by this section are to be maintained for administrative enforcement, licensing and certification purposes only. The reports are "protected" records under the Government Records Management Act, [~~Utah Code Annotated, ~~]Section 63G-2-304 and are also governed by [~~the provisions of Utah Code Annotated, ~~]Section 63G-2-207.

(2) Suspension of Operations.[~~(c)~~] When a passenger ropeway incident, as defined in R920-50-3(1[~~8~~]7) (a) or (g), occurs, the owner or area operator of the ropeway shall suspend operation of the ropeway and shall notify the Committee through the Committee's appointed representative. The owner or area operator of the ropeway, with the Committee or the Committee's appointed representative, shall perform a joint incident inspection of the ropeway. The inspection shall precede any authorization to resume public operation of the passenger ropeway.

R920-50-15. Modification of a Ropeway.

(1) The Committee, or its appointed representative shall determine the certifications that will be required.

(2) Depending on the nature and extent of the modification the Committee, or its appointed representative may require an Acceptance Inspection and Test.

(3) The following certifications may be required: design; manufacture; construction, and As-Built profile.

(4) The certifications must be submitted by a qualified engineer and attached to the cover of the modification documents. The modification documents shall include the drawings, descriptions, or specifications pertaining to the affected systems and their connections with existing systems.

(5) A revised lift data form shall be submitted.

(6) The ropeway shall not resume operating until authorized by the Committee, or its appointed representative.

R920-50-16. Inspections and Testing.

(1) Inspections shall verify that the intent of the design and operational requirements imposed by the Governing Standard and this[~~ese~~] rule[~~s~~] are met. [~~————~~]The Committee may order other inspections in accordance with [~~Utah Code Annotated~~]Section 72-11-211.[~~————~~] Ropeway inspectors may inspect ropeways at any time during the operation of the ropeway (spot check). All reports, logs, etc. shall be made available to them upon request.

([~~1~~]2) Acceptance Inspection and Test.

(a) The Committee, or its appointed representative, will schedule acceptance inspection and test as the procedures are received.

([~~2~~]3) Annual General Inspection.

All existing ropeway shall have an annual general inspection.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) The area operator shall notify the Committee, or its appointed representative of the annual general inspection. The area operator should give 7 days notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

([~~3~~]4) Incident [~~i~~]Inspection.

Incident inspections shall occur as required in R920-50-14.

([~~4~~]5) Operational Inspection.

An Operational inspections may be made periodically during each season of use.

(a) A ropeway inspector shall make the inspection.

(b) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(c) The report shall include the name and address of the inspector and the date of the inspection.

(d) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

([~~5~~]6) Pre-operational [~~i~~]Inspection.

A pre-operational inspection is required for new and modified lifts.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) If the inspection does not take place at the acceptance inspection and testing the area operator shall notify the Committee, or its appointed representative of the inspection. The area operator should give 7 days notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

R920-50-17. Ropeway Inspector and Qualified Engineer.

(1) General.

(a) Any person performing inspection services must be a "ropeway inspector" as required by this[~~ese~~] rule[~~s~~], and any person performing design services must be a "qualified engineer", as required by this[~~ese~~] rule[~~s~~].

(b) The [~~e~~]Committee shall maintain up-to-date lists of qualified engineers and ropeway inspectors, which lists shall be open to inspection by the public.

(c) Any person desiring to be approved by the [~~e~~]Committee as a ropeway inspector or qualified engineer shall submit a written request to the [~~e~~]Committee enumerating his or her professional experience and attesting as far as possible to meeting the requirements stated in R920-50-17(2).

(2) Requirements.

(a) Applicant shall satisfy the [~~Ropeway e~~]Committee that by his or her education, training and experience gained by participation in [~~R~~]ropeway inspections or designs as a principal or an assistant to a recognized [~~R~~]ropeway inspector or [~~R~~]ropeway designer, he or she is qualified to be, respectively, an approved inspector or [~~Ropeway~~]designer or both.

(b) Applicant shall satisfy the [~~e~~]Committee that he has a working familiarity and understanding of drawings and design data such as are furnished to design, construct, test, and inspect passenger ropeways, and that he or she has an understanding and working knowledge of the governing standard and this[~~ese~~] rule[~~s~~].

(c) The [~~e~~]Committee may approve qualifications based on experience gained by an applicant through work under direct supervision of a qualified ropeway inspector or qualified ropeway designer.

(d) The [e]Committee may approve employees of the state or individuals retained by the state as qualified ropeway inspectors. Such engineers may be given certain assignments where time is of the essence or a private engineer is not available or willing to undertake the inspection or investigation. It shall be the policy of the [e]Committee to use the services and talents of qualified private engineers wherever possible.

(3) Revocation or suspension of approval as ropeway inspector or qualified engineer.

The committee may revoke or suspend the approval of any qualified engineer or ropeway inspector who is found by the committee to have:

(a) [~~P~~]practiced any fraud, misrepresentation, or deceit in applying for approval; [~~or,~~]

(b) [~~C~~]caused damage to another by gross negligence in the practice of passenger ropeway designing, construction, or inspection; or

(c) [~~B~~]been engaged in acts of unlawful or unprofessional conduct.

R920-50-18. Violations.

[~~Revocation of certificate of registration - Utah Code Annotated Section 72-11-213.~~

~~The terms in this rule are outlined in Utah Code Annotated~~]The Committee may address violations of this rule pursuant to Sections 72-11-212 and 72-11-213.

R920-50-19. Administrative Procedures.

Appeals from orders issued pursuant to any provision of [~~R920-50~~]this rule shall be governed by R907-1.

KEY: transportation safety, tramways, ropeways, tramway permits
Date of Enactment or Last Substantive Amendment: [~~June 11, 2009~~]2011
Notice of Continuation: August 13, 2007
Authorizing, and Implemented or Interpreted Law: 72-11-201 through 72-11-216[~~; 63G-4-102 et seq.~~]

Workforce Services, Employment Development
R986-200-246
Transitional Cash Assistance

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34239
FILED: 11/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to reflect other previous changes and to count unearned income.

SUMMARY OF THE RULE OR CHANGE: The Department had originally intended to only count earned income but computer changes make that too difficult at this time so unearned income will also be counted making more clients eligible for the program. Another change is being made to reflect a change to the sanctions previously filed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-3-302(5)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This applies to federally-funded programs so there are no costs or savings to the state budget.
♦ LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to the local government.
♦ SMALL BUSINESSES: There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.
R986-200. Family Employment Program.
R986-200-246. Transitional Cash Assistance.

(1) Transitional Cash Assistance, (TCA) is offered to help FEP and FEPTP customers stabilize employment and reduce recidivism.

(2) To be eligible for TCA a client must;

(a) have been eligible for and have received FEP or FEPTP during the month immediately preceding the month during which TCA is requested or granted. The FEP or FEPTP assistance must have been terminated due to earned or earned and unearned income and not for nonparticipation under R986-200-212. If the immediately preceding month was during a diversion period, or the client has a[~~reduction or~~] termination pending due to non participation as provided in R986-200-212, the client is not eligible for TCA,

(b) be employed and

(i) have income[~~earning a wage~~] greater than the FEP or FEP TP income guideline[~~and~~]

(ii) the FEP or FEP TP assistance was terminated because of that income, and

(iii) the earned income exceeds the unearned income at the time the FEP or FEP TP was terminated, and

(c) continue to cooperate with the Office of Recovery Services, Child Support Enforcement.

(3) TCA is only available if the customer verifies income at[~~employment averaging~~] the minimum required in subparagraph (2)(b) of this section.

(4) The TCA benefit is available for a maximum of three months in a 12 month period. The three months do not need to be consecutive.

(a) The assistance payment for the first two months of TCA is based on household size. All household income, earned and unearned, is disregarded.

(b) Payment for the third month is one half of the payment available in (4)(a) of this section.

(5) To receive the second and third month of the TCA benefit, the client must remain employed[~~and be earning wages greater than the FEP or FEP TP income guidelines~~] or have had an open FEP case that closed during the prior month due to income described in (2)(b) of this section[~~earned at that same amount~~].

(6) If initial verification is provided and a client is paid one month of TCA but the client is unable to provide documentation to support that initial verification, no further payments will be made under TCA but the one month payment will not result in an overpayment.

(7) TCA does not count toward the 36 month time limit found in R986-200-217.

KEY: family employment program
Date of Enactment or Last Substantive Amendment: [~~November 1, 2010~~]2011
Notice of Continuation: September 8, 2010
Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

End of the Notices of Proposed Rules Section

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 Systems Improvement, Emergency Medical Services
R426-16
Emergency Medical Services Ambulance Rates and Charges

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 34213
FILED: 11/02/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Although this rule has not been amended since 2006, the Department of Health by order has authorized agencies to adjust rates according to the agency's fiscal data as reviewed by the Department of Health. For the past four years, the Department of Health has issued these orders on July 1 with the exception of one issued on 01/01/2009. Due to the Order issued by the Department of Health, the published ambulance rates in the rule are not the current rates which ambulance agencies charge. Rule R426-16 is revised to reflect the 07/01/2010 revised ambulance rates issued by an Order by the Department of Health. As all agencies are billing this rate, there is not an increase in cost to users.

SUMMARY OF THE RULE OR CHANGE: This rule change will end confusion as the published ambulance rates do not match with the current ambulance rates in Rule R426-16. Rates were adjusted annually based on factors set forth in the rule, but the new rates were not published as a rule. Going forward all rate changes will be placed in rule. Ambulance agencies no longer charge for Treat and Release, Emergency Response, and Night surcharges. Rule R426-16 needs to be amended to reflect these changes. (DAR NOTE: A corresponding proposed amendment is under DAR No. 34214 in this issue, December 1, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-403

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements; and place the agency in violation of federal or state law.
JUSTIFICATION: Rule R426-16 needs to be amended to match current Ambulance Rates as listed by the 07/01/2010 Order as issued by the Department of Health, Bureau of Emergency Medical Services (EMS).

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: State budget will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule.
♦ LOCAL GOVERNMENTS: Local government budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.

♦ SMALL BUSINESSES: EMS budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: EMS budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: EMS agencies are allowed to bill the rates listed in the proposed rule and there are no costs to the agency for compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rate has been annually increased by inflation factors listed in the rule and published in an order. The rule is hereby updated and will be kept current in the future. No direct fiscal impact expected.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Allan Liu by phone at 801-273-6664, by FAX at 801-273-4165, or by Internet E-mail at aliu@utah.gov

EFFECTIVE: 11/02/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.
R426-16. Emergency Medical Services Ambulance Rates and Charges.
R426-16-1. Authority and Purpose.

(1) This rule is established under Title 26, Chapter 8a.

(2) The purpose of this rule is to provide for the establishment of maximum ambulance transportation and rates to be charged by licensed ambulance services in the State of Utah.

R426-16-2. Ambulance Transportation Rates and Charges.

(1) Licensed services operating under R426-15 shall not charge more than the rates described is this rule. In addition, the net income of licensed services, including subsidies of any type, shall not exceed the net income limit set by this rule.

(a) The net income limit shall be the greater of eight percent of gross revenue or 14 percent return on average assets.

(b) Licensed Services may change rates at their discretion after notifying the Department, provided that the rates do not exceed the maximums specified in this rule.

(c) An agency may not charge a transportation fee for patients who are not transported.

(2) The initial regulated rates established in this rule shall be adjusted annually on July 1, based on [~~an annual review of the most recent 12 month percentage change in price levels from the following sources: U.S. Bureau of Labor Statistics Occupational Employment and Wage Data, the National Consumer Pricing Index (CPI), the State of Utah Governor's Office of Planning and Budget economic report; the U.S. Bureau of Labor Statistics seasonally adjusted CPI for Urban Consumers transportation and medical care categories, and the U.S. Bureau of Labor Statistics seasonally adjusted CPI for Urban Wage Earners and Clerical Workers transportation and medical categories. The adjustment shall be made effective and published by order of the Department prior to June 1 of each year and become effective July 1, of each year. All licensed services will collect~~]financial data as delineated by the department to be submitted as detailed under R426-[~~8~~]16-2([~~10~~]9). This data shall then be used as the basis for the annual rate adjustment.

(3) Base Rates for ground transport to care facility -

(a) [~~Basic~~]Ground Ambulance - $[~~400.40~~]535.00 per transport.

(b) Intermediate Ground Ambulance - $[~~475.40~~]707.00 per transport.

(c) Paramedic Ground Ambulance - $[~~600.50~~]1,035.00 per transport.

(d)[~~(i) A basic ambulance licensee may charge a base rate of $720.65 per transport and an intermediate ambulance licensee may charge a base rate of $795.70 per transport if:~~] Ground Ambulance with Paramedic on-board - $1,035.00 per transport if:

[~~(A)~~](i) a dispatch agency dispatches a paramedic licensee to treat the individual;

[~~(B)~~](ii) the paramedic licensee has initiated advanced life support[~~:~~];

[~~(C)~~](iii) on-line medical control directs that a paramedic remain with the patient during transport; and

[~~(D)~~](iv) [~~the ambulance provider pays $210.95 to the paramedic licensee.~~

~~(ii) A~~]an ambulance service that interfaces with a paramedic rescue service [~~must have~~]and has an interlocal or equivalent agreement in place, dealing with reimbursing the paramedic agency for services provided up to [~~the~~]a maximum of $[~~210.95~~]234.71 per transport.

(4) Mileage Rate[~~s~~]-

(a) $31.[~~40~~]65 per mile or fraction thereof.

(b) In all cases mileage shall be computed from the point of pickup to the point of delivery.

(c) A fuel fluctuation surcharge of $0.25 per mile may be added when diesel fuel prices [~~are more than $.31~~]exceed $5.10 per gallon [~~above the price of record, as established by the Department, on the immediately prior July 1 of each year~~]or gasoline exceeds $4.25 as invoiced.[~~The Department will notify all agencies when this surcharge is available.~~]

(5) Surcharge[~~s~~]-

[~~(a) A surcharge of $39.75 may be assessed if the response requires the use of emergency lights and siren.~~

~~(b) A surcharge of $39.75 may be assessed for ambulance service between the hours of 8:00 p.m. and 8:00 a.m.~~

~~(c)~~](a) If the ambulance is required to travel for ten miles or more on unpaved roads, a surcharge of $1.50 per mile may be assessed.

(6) Special Provisions -

(a) If more than one patient is transported from the same point of origin to the same point of delivery in the same ambulance, the charges to be assessed to each individual will be determined as follows:

(i) Each patient will be assessed the transportation rate.

(ii) The [~~emergency surcharge, night surcharge and~~] mileage rate will be computed as specified, the sum to be divided equally between the total number of patients.

(b) A round trip may be billed as two one-way trips.

(c) An ambulance shall provide 15 minutes of time at no charge at both point of pickup and point of delivery, and may charge $22.05 per quarter hour or fraction thereof thereafter. On round trips, 30 minutes at no charge will be allowed from the time the ambulance reaches the point of delivery until starting the return trip. At the expiration of the 30 minutes, the ambulance service may charge $22.05 per quarter hour or fraction thereof thereafter.

(7) [~~Treat and Release Rate -~~

~~(a) An ambulance licensee may charge a treat and release fee of $200.00 if:~~

~~(i) a dispatch agency dispatches the ambulance to provide emergency care to an individual;~~

~~(ii) the ambulance personnel assesses or treats the individual;~~

~~(iii) the individual does not refuse service; and~~

~~(iv) the ambulance does not transport the individual.~~

~~(b) An ambulance licensee may charge for supplies and assess surcharges as provided R426-16-2(5) and R426-16-2(8).~~

~~(8)~~]Supplies and Medications -

(a) An ambulance licensee may charge for supplies and providing supplies, medications, and administering medications used on any response if:

(i) [~~S~~]supplies shall be priced fairly and competitively with similar products in the local area[~~-~~];

(ii) the individual does not refuse services; and

(iii) the ambulance personnel assess or treats the individual.

[~~(9)~~](8) Uncontrollable Cost Escalation -

(a) In the event of a temporary escalation of costs, an ambulance service may petition the [~~EMS Committee~~]Department for permission to make a temporary service-specific surcharge. The petition shall specify the amount of the proposed surcharge, the reason for the surcharge, and provide sufficient financial data to clearly demonstrate the need for the proposed surcharge. Since this is intended to only provide temporary relief, the petition shall also include a recommended time limit.

(b) [~~The petition shall be submitted to the Department, which shall within 30 days, notify the ambulance service of the date and time of the next EMS Committee meeting and the disposition of the petition. Prior to the EMS Committee meeting, the Department shall evaluate the petition for reasonableness and prepare a written response for consideration by the EMS Committee. The EMS Committee may reject, modify or adopt the proposed surcharge as a proposed rule and direct the Department to submit a notice of rule change to the Division of Administrative Rules in accordance with the Rulemaking Act. The public comment period shall include a public hearing~~]The Department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.

[~~(10)~~](9) Operating report -

(a) The licensed service shall file with the Department within [~~five months~~]60 days of the end of each licensed service's fiscal year, an operating report in accordance with the instructions, guidelines and review criteria as specified by the Department[~~in the EMS Committee's "Department of Health Uniform Licensed Service Fiscal Reporting Guide"~~]. The Department shall provide a summary of operating reports received during the previous state fiscal year to the EMS Committee in the October quarterly meeting[~~, beginning 2001~~].

[~~(11)~~](10) Fiscal audits -

(a) Upon receipt of licensed service fiscal reports, the Department shall review them for compliance to standards established[~~in the "Department of Health Uniform Licensed Service Fiscal Reporting Guide." The Department, or its representative, may audit licensed services to verify the information given in the report~~].

(b) Where the Department determines that the audited service is not in compliance with this rule, the Department shall proceed in accordance with Section 26-8a-504.

R426-16-3. Penalty for Violation of Rule.

[~~Any person who violates any provision of this rule may be assessed a penalty as provided in Section 26-23-6.~~]As required by Subsection 63G-3-201(5): Any person that violates any provisions of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

KEY: emergency medical services
Date of Enactment or Last Substantive Amendment: November 2, 2010
Notice of Continuation: July 28, 2009
Authorizing, and Implemented or Interpreted Law: 26-8a

Public Safety, Fire Marshal
R710-9
Rules Pursuant to the Utah Fire Prevention Law

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 34238
FILED: 11/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on

11/09/2010 in a regularly scheduled Board meeting and agreed by unanimous vote to modify a 120-Day (Emergency) Rule filing (DAR No. 34128) that went into effect on 10/01/2010. The Board directed that the new 120-Day Emergency Rule have an allowance of 20 antifreeze sprinkler heads in dwelling or residence portion of occupancies rather than the current total prohibition of all antifreeze systems in new dwellings and residences. The Board, after research from staff and input from a number of sprinkler companies concluded that the allowance of 20 antifreeze sprinkler heads would lessen the possibility of the antifreeze igniting and causing serious injuries. The Board concluded that since the allowance of 20 loop segments had been used from the 1940s to 1991 with no problems, there would be the ability to continue some use of antifreeze loops in dwellings but not remain unlimited in size as is now allowed. An amendment to the current rule will also be filed.

SUMMARY OF THE RULE OR CHANGE: The summary of the rule amendments are as follow: 1) in Subsection R710-9-1(1.4), the Board proposes to adopt as an incorporated reference the 2009 International Fire Code as adopted and amended by the Utah State Legislature; 2) in Subsection R710-9-2(2.4), the Board proposes to adopt the definition of Dwelling Unit to assist in defining what a dwelling consists of; 3) in Subsections R710-9-10(10.1) through (10.3), the Board proposes to allow up to 20 antifreeze fire sprinkler heads in the dwelling unit portion of systems built under NFPA 13, NFPA 13 R, and NFPA 13D, and allow the authority having jurisdiction (AHJ) the ability to increase the number of heads, and allow the AHJ the ability to increase the percentages of antifreeze in the system for temperature needs; and 4) in Subsection R710-9-10(10.4), the Board proposes to require that existing antifreeze sprinkler systems that are drained be refilled with certain percentages of antifreeze, except that the AHJ can increase the percentages for temperature concerns. (DAR NOTES: This 120-day (emergency) rule supersedes the 120-day emergency rule under DAR No. 34128 published in the October 15, 2010, Bulletin that was effective 10/01/2010. A corresponding proposed amendment is under DAR No. 34242 in this issue, December 1, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204 and Subsection 53-7-106(5)

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.
JUSTIFICATION: There have been two cases of ignition of the antifreeze used in the fire sprinkler system when a fire occurred and the sprinkler head fused. Both fires caused injury and death to the occupants. The latest fire occurred in Herriman, Utah, badly burning a mother and small son. The occurrence is small and rare but under certain specific conditions, you can have spraying fire when the fire sprinkler fuses with antifreeze. The fire ignites the alcohol in the antifreeze and creates methane which burns the occupants. The length of the fire is quite short before the continued spray extinguishes the fire, but damage to human skin and other key elements such as lungs is disastrous.

MATERIALS INCORPORATED BY REFERENCES:
♦ Adds International Fire Code, published by International Code Council, 03/01/2009

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There would be no aggregate anticipated cost or savings to the state budget because these amendments do not affect the activities of the state.
♦ LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because these amendments do not affect the activities of local government.
♦ SMALL BUSINESSES: There would be an aggregate anticipated cost to small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in dwellings and residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is greatly reduced or a dry or preaction system would be installed. A total aggregate amount of increase for an average home would be approximately $1,000.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There would be an aggregate anticipated cost to persons other than small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is restricted to 20 heads or a dry or preaction system would be installed in the areas of the residence where it would freeze. A total aggregate amount of increase for an average home would be approximately $1,000 on a fire sprinkler system that usually would have approximately 20 heads.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would be an approximate $50 increase per fire sprinkler head to redesign the automatic fire sprinkler system that would limit the usage of antifreeze to 20 heads and prevent freezing of the lines which would increase the cost to install an automatic fire sprinkler system about 25% more than it currently costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be an approximate increase of 25% in the installation of automatic fire sprinkler systems in the State of Utah. The continued use of large unlimited antifreeze systems in automatic fire sprinkler systems has now proven to be a life threatening hazard to the occupants of the dwelling. Under specific conditions, when the automatic fire sprinkler system opens, the fire can ignite the antifreeze and cause a spraying type fire for a very short period of time. Even with the 25% increase in installation costs, and now limiting the antifreeze heads to 20, this amendment needs to be enacted to prevent the burning injuries or death caused in this very rare situation.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
FIRE MARSHAL
ROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

EFFECTIVE: 11/15/2010

AUTHORIZED BY: Ron Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.
R710-9. Rules Pursuant to the Utah Fire Prevention Law.
R710-9-1. Title, Authority, and Adoption of Codes.

1.1 These rules shall be known as the "Rules Pursuant to the Utah Fire Prevention Law", and may be cited as such, and will be hereafter referred to as "these rules".

1.2 These rules are promulgated in accordance with Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, as amended.

1.3 These rules are adopted by the Utah Fire Prevention Board to provide minimum rules for safeguarding life and property from the hazards of fire and explosion, for board meeting conduct, procedures to amend incorporated references, establishing board subcommittees, enforcement of the rules of the State Fire Marshal, and deputizing Special Deputy State Fire Marshals.

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

1.4.1 International Fire Code (IFC), 2009 edition, excluding appendices, as published by the International Code Council, Inc. (ICC), and as enacted and amended by the Utah State Legislature in Sections 102 and 201 of the State Fire Code Adoption Act, except as amended by provisions listed in R710-9-10, et seq.

1.5 Copies of the above code are on file in the Division of Administrative Rules and the Office of the State Fire Marshal.

R710-9-2. Definitions.

2.1 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.

2.2 "Board" means Utah Fire Prevention Board.

2.3 "Committee" means the Firefighter Support Restricted Account Advisory Committee.

2.4 "Dwelling Unit" means one or more rooms arranged for the use of one or more individuals living together, as in a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities. For purposes of this standard, dwelling unit includes hotel rooms, dormitory rooms, apartments, condominiums, sleeping rooms in nursing homes, and similar living units.

2.[~~4~~]5 "Division" means State Fire Marshal.

2.[~~5~~]6 "IFC" means International Fire Code.

2.[~~6~~]7 "LFA" means Local Fire Authority.

2.[~~7~~]8 "Restricted Account" means Firefighter Support Restricted Account.

2.[~~8~~]9 "SFM" means State Fire Marshal or authorized deputy.

2.[~~9~~]10 "Sub-Committee" means Fire Prevention Board Budget Sub-Committee or Amendment Sub-Committee.

2.[~~10~~]11 "UCA" means Utah Code Annotated, 1953.

R710-9-10. Amendments and Additions.

The following amendments and additions are hereby adopted by the Board for application statewide:

10.1 IFC, Chapter 9, Section 903.3.1.1 is amended by adding the following subsection: 903.3.1.1.2 Antifreeze Limitations. The use of antifreeze in automatic sprinkler systems in new construction in the dwelling unit portion of an occupancy, installed in accordance with NFPA 13, is allowed up to 20 heads. The number of sprinkler heads can be expanded as allowed by the AHJ. The mixture of the antifreeze shall be limited to a maximum concentration of 40% propylene glycol or 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

10.2 IFC, Chapter 9, Section 903.3.1.2 is amended by adding the following subsection: 903.3.1.2.2 Antifreeze Limitations. The use of antifreeze in automatic sprinkler systems in new construction in the dwelling unit portion of an occupancy, installed in accordance with NFPA 13R, is allowed up to 20 heads. The number of sprinkler heads can be expanded as allowed by the AHJ. The mixture of the antifreeze shall be limited to a maximum concentration of 40% propylene glycol or 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

10.3 IFC, Chapter 9, Section 903.3.1.3 is amended by adding the following subsection: 903.3.1.3.1 Antifreeze Limitations. The use of antifreeze in automatic sprinkler systems in new construction installed in accordance with NFPA 13D, is allowed up to 20 heads. The number of sprinkler heads can be expanded as allowed by the AHJ. The mixture of the antifreeze shall be limited to a maximum concentration of 40% propylene glycol or 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

10.4 IFC, Chapter 9, Section 903.5 is amended to add the following subsection: 903.5.1 Antifreeze Replacement. Whenever the automatic sprinkler system protecting residences and dwelling units of mixed occupancies that use antifreeze is drained, the replacement antifreeze shall be properly mixed and tested, but shall not exceed a maximum concentration of 40% propylene glycol or a maximum concentration of 50% glycerin. The AHJ can allow the concentration of antifreeze to be increased due to temperature concerns.

R710-9-[~~10~~]11. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-9-[~~11~~]12. Validity.

The Utah Fire Prevention Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared invalid, it is the

intent of the Utah Fire Prevention Board that it would have passed all other portions of this action, independent of the elimination of any portion as may be declared invalid.

R710-9-[~~12~~]13. Adjudicative Proceedings.

[~~12~~]13.1 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.

[~~12~~]13.2 If a city, county, or fire protection district refuses to establish a method of appeal regarding a portion of the IFC, the appealing party may petition the Board to act as the board of appeals.

[~~12~~]13.3 A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the Board within 20 days after receiving final decision.

[~~12~~]13.4 All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and these rules, shall commence in accordance with UCA, Section 63G-4-201.

[~~12~~]13.5 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

[~~12~~]13.6 The Board shall direct the SFM 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.

[~~12~~]13.7 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.

[~~12~~]13.8 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

KEY: fire prevention, law
Date of Enactment or Last Substantive Amendment: November 15, 2010
Notice of Continuation: June 8, 2007
Authorizing, and Implemented or Interpreted Law: 53-7-204

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.

Alcoholic Beverage Control, Administration
R81-4B
Airport Lounges

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34216
FILED: 11/03/2010

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 32A-1-107 authorizes the Alcohol Beverage Control (ABC) Commission to adopt and issue rules; set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses; and prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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 were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments licensed as airport lounges. It prohibits transfers of airport lounge licenses without approval; sets procedures for applying for airport lounge licenses; requires licensees to maintain bonds; sets procedures for placing liquor orders with the DABC; allows licensees to open liquor storage areas during non-sales hours to take inventory, restock, repair and clean; allows customers to run a tab; explains what can be kept in liquor storage areas; sets parameters for use of liquor flavorings; regulates use of price lists to ensure accuracy; and requires employees to have an ID badge to help law enforcement officers identify employees. All of the regulations set forth in this rule remain important and applicable to the operations of airport lounges. Therefore, this rule should be continued.

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

AUTHORIZED BY: Dennis Kellen, Director

EFFECTIVE: 11/03/2010

Alcoholic Beverage Control, Administration
R81-10A
On-Premise Beer Retailer Licenses

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34217
FILED: 11/03/2010

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 32A-1-107 authorizes the Alcohol Beverage Control (ABC) Commission to adopt and issue rules; set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses; and prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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 were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments licensed to sell beer for on-premise consumption. It prohibits the transfer of the license to another without approval; requires licensees to obtain a separate on-premise beer license and restaurant or limited restaurant liquor license to operate the same premises differently at different times of the day; sets procedures for applying for a license; requires maintenance of a bond and insurance; allows storage areas to be opened during non-sales hours to take inventory, restock, repair and clean; requires employees to wear an ID badge to help law enforcement officers identify them; and sets parameters for the service of draft beer. All of the regulations set forth in this rule remain important and applicable to the operations of an on-premise beer retailer. Therefore, this rule should be continued.

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

AUTHORIZED BY: Dennis Kellen, Director

EFFECTIVE: 11/03/2010

Education, Administration
R277-100
Rulemaking Policy

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34232
FILED: 11/10/2010

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 63G-3-101 et seq. requires agencies to make rules under certain circumstances and specifies procedures for state agencies when making rules, and Subsection 53A-1-401(3) authorizes the Utah State Board of Education to make rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State law continues to require that the State Board of Education make rules and Rule R277-100 provides procedures for the rulemaking process. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 11/10/2010

Education, Administration
R277-477
Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34233
FILED: 11/10/2010

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 53A-16-101.5(3)(c) allows the Utah State Board of Education to adopt rules regarding the time and manner in which the student count shall be made for allocation of school trust land funds, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: State law continues to allow the Utah State Board of Education to make rules regarding the time and manner in which the student count shall be made which is a necessary process for the allocation of school trust land funds. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 11/10/2010

Education, Administration
R277-616
Education for Homeless and Emancipated Students and State Funding for Homeless and Disadvantaged Minority Students

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34234
FILED: 11/10/2010

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 53A-17a-121(2) directs the Utah State Board of Education to develop rules for school districts and charter schools to spend monies for homeless and disadvantaged minority students, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: State law continues to require that the Utah State Board of Education have a rule for school districts and charter schools regarding spending monies for homeless and disadvantaged minority students which provides necessary procedures and criteria. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S

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

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

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

EFFECTIVE: 11/10/2010

Education, Administration
R277-711
Education Programs for Gifted and Talented Students

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34235
FILED: 11/10/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-17a-120 directs the Utah State Board of Education to adopt rules for the expenditure of funds appropriated for accelerated learning programs, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: State law continues to require that the Utah State Board of Education have rules for the expenditure of funds for accelerated learning programs. This rule provides necessary standards for gifted and talented programs. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 11/10/2010

Labor Commission, Industrial Accidents
R612-10
HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34219
FILED: 11/04/2010

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 78B-8-404 of the Utah Code allows the Labor Commission to promulgate this rule to establish the means by which Emergency Medical Services Providers can report a significant exposure to the blood or body fluids of another person and be tested for HIV, Hepatitis B and 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 during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Emergency Medical Services providers frequently deal with the conditions addressed in the rule, including exposure to and the contracting of diseases. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
INDUSTRIAL ACCIDENTS
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:
♦ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/04/2010

Money Management Council, Administration
R628-13
Collateralization of Public Funds

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34220
FILED: 11/07/2010

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 51-7-18 allows the Council to make rules requiring collateral on public funds deposits from qualified depositories only in the event that the public funds on deposit are more that the maximum uninsured public funds allotment. This section states that the amounts over the uninsured allotment shall be collateralized as provided in Subsections 51-7-18.1(5) and (6).

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 supporting or opposing the rule 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 needs to be continued to allow the Council to receive collateral so that public funds are covered and protected from possible loss in the event that a qualified depository's uninsured public funds held allotment is dropped or there are financial issues with a qualified depository.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

AUTHORIZED BY: William Wallace, Chair

EFFECTIVE: 11/07/2010

Money Management Council, Administration
R628-16
Certification as a Dealer

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34218
FILED: 11/03/2010

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: Under Section 51-7-18, it is stated that the council may make rules governing the conditions and procedures for maintaining and revoking the status of Certified Dealer.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be in place to allow any public treasurer in the state that may want to purchase allowable securities to have access to Certified Dealers that have met minimum requirements to work with a public treasurer and have signed that they have read the Act and agree to abide by it. Without the rule to set up these minimum requirements, public treasurers would not be able to purchase securities. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

AUTHORIZED BY: William Wallace, Chair

EFFECTIVE: 11/03/2010

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

Capitol Preservation Board (State)
Administration
No. 34074 (REP): R131-5. Board Review, Compensation and Incentive Award Process
Published: 10/01/2010
Effective: 11/08/2010

Commerce
Occupational and Professional Licensing
No. 34073 (AMD): R156-1-305. Inactive Licensure
Published: 10/01/2010
Effective: 11/08/2010

No. 34072 (AMD): R156-3a. Architect Licensing Act Rule
Published: 10/01/2010
Effective: 11/08/2010

No. 34071 (NEW): R156-55e. Elevator Mechanics Licensing Rule
Published: 10/01/2010
Effective: 11/08/2010

Real Estate
No. 33923 (NEW): R162-2e. Appraisal Management Company Administrative Rules
Published: 09/01/2010
Effective: 11/10/2010

No. 34056 (NEW): R162-57a. Timeshare and Camp Resort Rules
Published: 10/01/2010
Effective: 11/08/2010

No. 33922 (REP): R162-150. Appraisal Management Companies
Published: 09/01/2010
Effective: 11/10/2010

Education
Administration
No. 34087 (AMD): R277-503. Licensing Routes
Published: 10/01/2010
Effective: 11/08/2010

No. 34088 (NEW): R277-611. Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools
Published: 10/01/2010
Effective: 11/08/2010

No. 34089 (AMD): R277-700. The Elementary and Secondary School Core Curriculum
Published: 10/01/2010
Effective: 11/08/2010

Health
Health Care Financing, Coverage and Reimbursement Policy
No. 34084 (AMD): R414-1-5. Incorporations by Reference
Published: 10/01/2010
Effective: 11/15/2010

No. 34085 (AMD): R414-54-3. Services
Published: 10/01/2010
Effective: 11/15/2010

No. 34086 (AMD): R414-59-4. Client Eligibility Requirements
Published: 10/01/2010
Effective: 11/15/2010

Insurance
Administration
No. 33821 (AMD): R590-244. Individual and Agency Licensing Requirements
Published: 08/01/2010
Effective: 11/09/2010

No. 33821 (CPR): R590-244. Individual and Agency Licensing Requirements
Published: 10/01/2010
Effective: 11/09/2010

No. 34075 (REP): R590-253. Utah Mini-COBRA Notification Rule
Published: 10/01/2010
Effective: 11/09/2010

Workforce Services
Employment Development
No. 34095 (AMD): R986-200-247. Utah Back to Work Pilot Program (BWP)
Published: 10/01/2010
Effective: 11/15/2010

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 through November 15, 2010. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

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

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

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Administrative Rules					
R15-1	Administrative Rule Hearings	34104	5YR	09/21/2010	2010-20/65
R15-2	Public Petitioning for Rulemaking	34105	5YR	09/21/2010	2010-20/65
R15-2	Public Petitioning for Rulemaking	34110	NSC	10/27/2010	Not Printed
R15-3	Definitional Clarification of Administrative Rule	34106	5YR	09/21/2010	2010-20/66
R15-4	Administrative Rulemaking Procedures	33437	NSC	03/29/2010	Not Printed
R15-4	Administrative Rulemaking Procedures	34107	5YR	09/21/2010	2010-20/67
R15-5	Administrative Rules Adjudicative Proceedings	34109	5YR	09/22/2010	2010-20/67
Archives					
R17-7-3	Archives/ Research Room/Access to Records	33320	AMD	05/17/2010	2010-3/12
Debt Collection					
R21-3	Debt Collection Through Administrative Offset	33564	NSC	07/01/2010	Not Printed
R21-3	Debt Collection Through Administrative Offset	33778	NSC	07/26/2010	Not Printed
Facilities Construction and Management					
R23-1	Procurement of Construction	33621	AMD	07/08/2010	2010-11/6
R23-2-15	Negotiation and Appointment	33766	NSC	07/01/2010	Not Printed
R23-7	State Construction Contracts and Drug and Alcohol Testing	33622	NEW	07/08/2010	2010-11/16
R23-22	General Procedures for Acquisition and Selling of Real Property	33623	AMD	07/08/2010	2010-11/19
R23-22-7	Requirements for the Disposition of Real Property by DFCM	33683	NSC	07/08/2010	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	33634	AMD	07/08/2010	2010-11/23
R23-26	Dispute Resolution	33360	5YR	02/01/2010	2010-4/79
Finance					
R25-7	Travel-Related Reimbursements for State Employees	33618	AMD	08/01/2010	2010-11/26
R25-7-10	Reimbursement for Transportation	33302	AMD	04/21/2010	2010-3/12
Fleet Operations, Surplus Property					
R28-2	Surplus Firearms	33706	AMD	08/19/2010	2010-13/4
Purchasing and General Services					
R33-3	Source Selection and Contract Formulation	33650	AMD	07/08/2010	2010-11/28
R33-5	Construction and Architect-Engineer Selection	33635	AMD	07/08/2010	2010-11/35
R33-10	State Construction Contracts and Drugs and Alcohol Testing	33656	NEW	07/08/2010	2010-11/44
Records Committee					
R35-1-4	Committee Minutes	33335	AMD	05/17/2010	2010-4/16
R35-1-4	Committee Minutes	33436	NSC	05/17/2010	Not Printed
R35-1a	State Records Committee/Definitions	33399	5YR	02/22/2010	2010-6/35

Risk Management					
R37-1	Risk Management General Rules	33390	AMD	06/01/2010	2010-5/2
R37-2	Risk Management State Workers' Compensation Insurance Administration	33392	NSC	03/10/2010	Not Printed
R37-3	Risk Management Adjudicative Proceedings	34028	NSC	10/21/2010	Not Printed
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	33393	AMD	06/01/2010	2010-6/6
AGRICULTURE AND FOOD					
Administration					
R51-1	Public Petitions for Declaratory Rulings	34029	5YR	08/31/2010	2010-18/109
Animal Industry					
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers and Livestock Market Weighpersons	33326	5YR	01/14/2010	2010-3/87
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	33895	AMD	10/12/2010	2010-17/12
R58-10	Meat and Poultry Inspection	33329	5YR	01/14/2010	2010-3/87
R58-11	Slaughter of Livestock	33997	5YR	08/25/2010	2010-18/109
R58-12	Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments	33996	5YR	08/25/2010	2010-18/110
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R58-16	Swine Garbage Feeding	33994	5YR	08/24/2010	2010-18/112
R58-17	Aquaculture and Aquatic Animal Health	33327	5YR	01/14/2010	2010-3/88
R58-20-5	Facilities	33217	AMD	01/27/2010	2009-24/4
R58-21	Trichomoniasis	33340	5YR	01/27/2010	2010-4/79
R58-21	Trichomoniasis	33896	AMD	10/12/2010	2010-17/16
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R63-1	Fee Schedule	34012	5YR	08/26/2010	2010-18/112
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R65-1	Utah Apple Marketing Order	33993	5YR	08/24/2010	2010-18/113
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R68-2	Utah Commercial Feed Act Governing Feed	33813	5YR	07/07/2010	2010-15/69
R68-6	Utah Nursery Act	33905	5YR	08/10/2010	2010-17/113
R68-7	Utah Pesticide Control Act	33080	AMD	01/04/2010	2009-22/5
R68-10	Quarantine Pertaining to European Corn Borer	33835	5YR	07/15/2010	2010-15/69
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R68-20	Utah Organic Standards	33315	5YR	01/12/2010	2010-3/89
R68-21	Standard of Identity for Honey	33885	NEW	10/12/2010	2010-17/18
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R70-101	Bedding, Upholstered Furniture and Quilted Clothing	33542	5YR	04/07/2010	2010-9/41
R70-610	Uniform Retail Wheat Standards of Identity	33894	5YR	08/05/2010	2010-17/113
R70-620	Enrichment of Flour and Cereal Products	33892	5YR	08/05/2010	2010-17/114
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Administration

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R81-4C-1	Licensing	33731	AMD	09/01/2010	2010-13/9
R81-4C-1	Licensing	34059	NSC	10/18/2010	Not Printed
R81-4D-1	Licensing	33155	AMD	01/26/2010	2009-24/10
R81-4D-14	Reporting Requirement	33156	AMD	01/26/2010	2009-24/11
R81-4E	Resort Licenses	33157	NEW	01/26/2010	2009-24/12
R81-4E-4	Insurance	33339	NSC	02/11/2010	Not Printed
R81-7-1	Application Guidelines	33469	AMD	05/26/2010	2010-8/6
R81-10A	On-Premise Beer Retailer Licenses	34217	5YR	11/03/2010	Not Printed
R81-10A-1	Licensing	33732	AMD	09/01/2010	2010-13/10
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Administration

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R131-1	Procurement of Architectural and Engineering Services	33544	5YR	04/07/2010	2010-9/41
R131-1	Procurement of Architectural and Engineering Services	33543	NSC	04/26/2010	Not Printed
R131-2	Capitol Hill Complex Facility Use	33364	EXT	02/08/2010	2010-5/73
R131-2	Capitol Hill Complex Facility Use	33545	5YR	04/07/2010	2010-9/42
R131-2-11	Fees and Charges During Legislative Session	33151	AMD	01/07/2010	2009-23/6
R131-4	Capitol Preservation Board General Procurement Rule	33841	NSC	08/25/2010	Not Printed
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R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	33405	EXT	02/24/2010	2010-6/43
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	33549	5YR	04/07/2010	2010-9/43
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	33548	NSC	04/26/2010	Not Printed
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R131-9	State Capitol Preservation Board Art Program and Policy	33551	5YR	04/07/2010	2010-9/44
R131-9	State Capitol Preservation Board Art Program and Policy	33550	NSC	04/26/2010	Not Printed
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	33844	EMR	07/19/2010	2010-16/69
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	33843	AMD	09/22/2010	2010-16/4
R131-14	Parking on Capitol Hill	33298	NEW	02/22/2010	2010-2/4
R131-15	State Construction Contracts and Drug and Alcohol Testing	33846	EMR	07/19/2010	2010-16/72
R131-15	State Construction Contracts and Drug and Alcohol Testing	33845	NEW	09/22/2010	2010-16/7
R131-15	State Construction Contracts and Drug and Alcohol Testing	34055	NSC	10/18/2010	Not Printed

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R137-1	Grievance Procedure Rules	33592	AMD	07/01/2010	2010-10/4
R137-1	Grievance Procedure Rules	33796	NSC	07/26/2010	Not Printed
R137-2	Government Records Access and Management Act	33593	AMD	07/01/2010	2010-10/16

COMMERCE

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R151-1	Department of Commerce General Provisions	33336	5YR	01/25/2010	2010-4/80
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R151-46b	Department of Commerce Administrative Procedures Act Rules	33616	AMD	07/12/2010	2010-11/46
R151-46b-5	General Provisions	33149	AMD	01/07/2010	2009-23/11
R151-46b-5	General Provisions	33667	AMD	07/22/2010	2010-12/4
R151-46b-11	Orders	33781	NSC	07/26/2010	Not Printed
Consumer Protection					
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	33583	5YR	04/28/2010	2010-10/165
R152-1-1	Purposes, Policies and Rules of Construction	33168	AMD	01/21/2010	2009-24/16
R152-11-1	Purposes, Rules of Construction	33169	AMD	01/21/2010	2009-24/17
R152-11-1	Purposes, Rules of Construction	33238	AMD	02/08/2010	2010-1/6
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R152-23	Utah Health Spa Services	33771	AMD	08/09/2010	2010-13/13
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R152-34-7	Rules Relating to the Operation of Proprietary Schools under Section 13-34-107	33773	AMD	08/09/2010	2010-13/18
R152-39	Child Protection Registry Rules	33598	5YR	04/29/2010	2010-10/165
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R156-1	General Rule of the Division of Occupational and Professional Licensing	33227	AMD	03/25/2010	2009-24/18
R156-1	General Rule of the Division of Occupational and Professional Licensing	33641	AMD	07/08/2010	2010-11/49
R156-1-305	Inactive Licensure	34073	AMD	11/08/2010	2010-19/12
R156-3a	Architect Licensing Act Rule	34072	AMD	11/08/2010	2010-19/13
R156-15	Health Facility Administrator Act Rules	33560	AMD	06/07/2010	2010-9/4
R156-17b	Pharmacy Practice Act Rule	33402	5YR	02/23/2010	2010-6/35
R156-17b	Pharmacy Practice Act Rule	33630	AMD	08/02/2010	2010-11/61
R156-17b-310	Exemption from Licensure - Physicians Dispensing Cosmetic Drug or Injectable Weight Loss Drug	33972	AMD	10/22/2010	2010-18/11
R156-20a	Environmental Health Scientist Act Rule	33812	5YR	07/06/2010	2010-15/70
R156-24b	Physical Therapy Practice Act Rule	33584	AMD	06/21/2010	2010-10/17
R156-31b	Nurse Practice Act Rule	33631	AMD	07/08/2010	2010-11/78
R156-31b-701a	Delegation of Nursing Tasks in a School Setting	33266	AMD	03/29/2010	2010-1/9
R156-31c	Nurse Licensure Compact Rule	33705	AMD	08/16/2010	2010-13/26
R156-37	Utah Controlled Substances Act Rules	33665	NSC	06/14/2010	Not Printed
R156-37-301	License Classifications - Restrictions	33264	AMD	02/08/2010	2010-1/11
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rule	33307	5YR	01/07/2010	2010-3/90
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rule	33811	AMD	09/09/2010	2010-15/4
R156-38b	State Construction Registry Rules	33366	5YR	02/08/2010	2010-5/69
R156-38b	State Construction Registry Rules	33736	AMD	08/16/2010	2010-13/27
R156-41	Speech-Language Pathology and Audiology Licensing Act Rule	33865	AMD	09/21/2010	2010-16/9
R156-41	Speech-Language Pathology and Audiology Licensing Act Rule	34103	NSC	10/27/2010	Not Printed
R156-46b	Division Utah Administrative Procedures Act Rule	33639	AMD	07/08/2010	2010-11/91
R156-47b	Massage Therapy Practice Act Rule	33293	AMD	02/22/2010	2010-2/6

R156-47b-102	Definitions	33400	NSC	03/10/2010	Not Printed
R156-55a	Utah Construction Trades Licensing Act Rule	33737	AMD	08/16/2010	2010-13/30
R156-55a-306	Contractor Financial Responsibility - Division Audit	33950	NSC	09/21/2010	Not Printed
R156-55d	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rule	33409	5YR	02/25/2010	2010-6/36
R156-55e	Elevator Mechanics Licensing Rule	34071	NEW	11/08/2010	2010-19/16
R156-56	Utah Uniform Building Standard Act Rules	33566	AMD	07/01/2010	2010-10/21
R156-60a	Social Worker Licensing Act Rule	33615	AMD	07/08/2010	2010-11/94
R156-60b	Marriage and Family Therapist Licensing Act Rule	33735	AMD	08/16/2010	2010-13/39
R156-60c	Professional Counselor Licensing Act Rule	33306	5YR	01/07/2010	2010-3/90
R156-60d	Substance Abuse Counselor Act Rule	33783	AMD	08/24/2010	2010-14/4
R156-61	Psychologist Licensing Act Rule	33734	AMD	08/16/2010	2010-13/42
R156-64	Deception Detection Examiners Licensing Act Rule	33780	AMD	08/24/2010	2010-14/6
R156-70a	Physician Assistant Practice Act Rule	33710	AMD	09/13/2010	2010-13/45
R156-70a-501	Working Relationship and Delegation of Duties	34099	NSC	10/27/2010	Not Printed
R156-71-202	Naturopathic Physician Formulary	33552	AMD	08/16/2010	2010-9/7
R156-73-603	Standards for Practice of Animal Chiropractic	33712	NSC	07/01/2010	Not Printed
R156-77-102	Definitions	33263	AMD	02/08/2010	2010-1/12
R156-78	Vocational Rehabilitation Counselors Licensing Act Rule	33585	AMD	06/21/2010	2010-10/54
R156-78B-4	General Provisions	33175	AMD	01/21/2010	2009-24/28
R156-79	Hunting Guides and Outfitters Licensing Act Rule	33265	AMD	02/08/2010	2010-1/14
R156-80 (Changed to R156-80a)	Medical Language Interpreter Act Rule	33679	AMD	07/22/2010	2010-12/5
R156-83	Online Prescribing, Dispensing, and Facilitation Licensing Act Rule	33638	NEW	07/08/2010	2010-11/99
R156-83-101	Title	33814	NSC	07/28/2010	Not Printed
Real Estate					
R162-2-2	Licensing Procedure	33526	AMD	05/25/2010	2010-8/8
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	33372	NEW	04/12/2010	2010-5/7
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	33666	AMD	07/22/2010	2010-12/6
R162-2c-203	Utah-Specific Education Certification	33506	NSC	04/14/2010	Not Printed
R162-2c-203	Utah-Specific Education Certification	33793	AMD	08/23/2010	2010-14/9
R162-2c-204	License Renewal	33470	NSC	04/14/2010	Not Printed
R162-2c-204	License Renewal	33901	AMD	10/09/2010	2010-17/20
R162-2c-301	Unprofessional Conduct	33471	NSC	04/14/2010	Not Printed
R162-2c-301	Unprofessional Conduct	33726	NSC	07/28/2010	Not Printed
R162-2c-401	Administrative Proceedings	33507	NSC	04/14/2010	Not Printed
R162-2c-402	Disciplinary Action	33792	AMD	08/23/2010	2010-14/13
R162-2e	Appraisal Management Company Administrative Rules	33923	NEW	11/10/2010	2010-17/22
R162-3	License Status Change	33565	AMD	06/21/2010	2010-10/56
R162-4-1	Records and Copies of Documents	33563	AMD	06/16/2010	2010-9/9
R162-10	Administrative Procedures	34117	5YR	09/27/2010	2010-20/68
R162-57a	Timeshare and Camp Resort Rules	34056	NEW	11/08/2010	2010-19/19
R162-101	Authority and Definitions	33158	AMD	01/27/2010	2009-24/29
R162-101-2	Definitions	33906	AMD	10/09/2010	2010-17/25
R162-102	Application Procedures	33180	AMD	01/27/2010	2009-24/30
R162-102	Application Procedures	33908	AMD	10/09/2010	2010-17/26
R162-104	Experience Requirement	33224	AMD	01/27/2010	2009-24/33
R162-105	Scope of Authority	33225	AMD	01/27/2010	2009-24/39
R162-106-1	Uniform Standards	33226	AMD	02/03/2010	2009-24/42
R162-106-5	Failure to Respond to Notice	33907	AMD	10/09/2010	2010-17/29
R162-106-7	Sales and Listing History	33398	AMD	04/28/2010	2010-6/7
R162-110	Trainee Registration	33148	NEW	01/07/2010	2009-23/13
R162-110	Trainee Registration	33909	AMD	10/09/2010	2010-17/30
R162-110-1	Trainee Registration	33303	NSC	01/28/2010	Not Printed
R162-150	Appraisal Management Companies	33922	REP	11/10/2010	2010-17/33
R162-201	Residential Mortgage Definitions	33373	REP	04/12/2010	2010-5/20
R162-202	Initial Application	33374	REP	04/12/2010	2010-5/21

R162-203	Changes to Residential Mortgage Licensure Statement	33375	REP	04/12/2010	2010-5/24
R162-204	Residential Mortgage Record Keeping Requirements	33376	REP	04/12/2010	2010-5/26
R162-205	Residential Mortgage Unprofessional Conduct	33377	REP	04/12/2010	2010-5/27
R162-207	License Renewal	33378	REP	04/12/2010	2010-5/29
R162-208	Continuing Education	33379	REP	04/12/2010	2010-5/31
2-209	Administrative Proceedings	33380	REP	04/12/2010	2010-5/35
R162-210	Certification of Prelicensing Education Providers	33381	REP	04/12/2010	2010-5/37
R162-211	Adjusted License Terms	33382	REP	04/12/2010	2010-5/41
Securities					
R164-2	Investment Adviser - Unlawful Acts	33389	5YR	02/16/2010	2010-5/69
R164-4-9	Exemptions From Licensing Requirements for Certain Investment Advisers	33006	AMD	01/06/2010	2009-20/12
R164-4-9	Exemptions from Licensing Requirements for Certain Investment Advisers	33316	AMD	03/11/2010	2010-3/14
R164-6-1g	Dishonest or Unethical Business Practices	33580	AMD	06/22/2010	2010-10/59
R164-9	Registration by Coordination	33010	AMD	02/02/2010	2009-20/14
R164-10-2	Registration Statements	33011	AMD	02/02/2010	2009-20/16
R164-11-1	General Registration Provisions	33012	AMD	02/02/2010	2009-20/18
R164-12-1f	Commissions on Sales of Securities	33013	AMD	02/02/2010	2009-20/19
R164-13	Definitions	33014	REP	02/02/2010	2009-20/22
R164-14	Exemptions	33657	AMD	08/03/2010	2010-12/17
R164-18-6	Procedures for Administrative Actions	33016	AMD	02/02/2010	2009-20/23
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R207-3	Capital Funds Request Prioritization	32949	NEW	01/27/2010	2009-19/72
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R212-11	Historic Preservation Tax Credit	33448	5YR	03/10/2010	2010-7/51
Housing and Community Development					
R199-10	Procedures in Case of Inability to Formulate Contract for Alleviation of Impact	34134	NSC	10/28/2010	Not Printed
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R202-101	Qualified Emergency Food Agencies Fund (QEFAF)	33252	NEW	02/22/2010	2010-1/16
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R223-2	Public Library Online Access for Eligibility to Receive Public Funds	34170	5YR	10/25/2010	2010-22/119
R223-3	Capital Funds Request Prioritization	32936	NEW	01/27/2010	2009-19/75
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R277-100	Rulemaking Policy	34232	5YR	11/10/2010	Not Printed
R277-107	Educational Services Outside of Educator's Regular Employment	33800	5YR	07/01/2010	2010-14/55
R277-109	One-time Signing Bonuses	33651	REP	07/15/2010	2010-11/101
R277-111	Sharing of Curriculum Materials by Public School Educators	33147	NEW	01/08/2010	2009-23/15

R277-113	One-time Performance-based Compensation Program	33652	REP	07/15/2010	2010-11/103
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	33440	NEW	05/12/2010	2010-7/2
R277-402-1	Definitions	33738	AMD	08/09/2010	2010-13/47
R277-403	Student Reading Proficiency and Notice to Parents	33945	NEW	10/11/2010	2010-17/34
R277-403-1	Definitions	34142	NSC	10/28/2010	Not Printed
R277-410-1	Definitions	34036	NSC	10/21/2010	Not Printed
R277-411-1	Definitions	34037	NSC	10/21/2010	Not Printed
R277-412-1	Definitions	34038	NSC	10/21/2010	Not Printed
R277-413-1	Definitions	34039	NSC	10/21/2010	Not Printed
R277-419-3	Minimum School Days, LEA Records, and Audits	33441	AMD	05/12/2010	2010-7/3
R277-433-3	School District and Charter School Policies on Disposal of Textbooks	33739	AMD	08/09/2010	2010-13/48
R277-438-1	Definitions	34040	NSC	10/21/2010	Not Printed
R277-444	Distribution of Funds to Arts and Science Organizations	34113	5YR	09/24/2010	2010-20/69
R277-459	Classroom Supplies Appropriation	33801	5YR	07/01/2010	2010-14/55
R277-459	Classroom Supplies Appropriation	33740	AMD	08/09/2010	2010-13/49
R277-463	Class Size Reporting	33741	R&R	08/09/2010	2010-13/51
R277-464	Highly Impacted Schools	33802	5YR	07/01/2010	2010-14/56
R277-469	Instructional Materials Commission Operating Procedures	33742	AMD	08/09/2010	2010-13/53
R277-469-7	Criteria for Recommendation of Instructional Materials Following Mid-Party Evaluations of Core Curriculum	33903	NSC	09/21/2010	Not Printed
R277-470	Charter Schools	33442	AMD	05/12/2010	2010-7/5
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	33743	NEW	08/09/2010	2010-13/58
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	33902	NSC	09/21/2010	Not Printed
R277-473	Testing Procedures	33588	5YR	04/29/2010	2010-10/166
R277-473	Testing Procedures	33744	AMD	08/09/2010	2010-13/61
R277-474	School Instruction and Human Sexuality	33803	5YR	07/01/2010	2010-14/56
R277-475	Patriotic Education	33804	5YR	07/01/2010	2010-14/57
R277-476	Incentives for Elementary Reading Program	33805	5YR	07/01/2010	2010-14/57
R277-477	Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program	34233	5YR	11/10/2010	Not Printed
R277-480	Charter Schools School Building Subaccount	33745	NEW	08/09/2010	2010-13/64
R277-484	Data Standards	33443	AMD	05/12/2010	2010-7/8
R277-484-1	Definitions	34045	NSC	10/21/2010	Not Printed
R277-501	Educator Licensing Renewal and Timelines	33397	5YR	02/18/2010	2010-6/37
R277-501	Educator Licensing Renewal and Timelines	33561	AMD	06/08/2010	2010-9/11
R277-501-1	Definitions	34041	NSC	10/21/2010	Not Printed
R277-503	Licensing Routes	34087	AMD	11/08/2010	2010-19/26
R277-505-4	Administrative License Area of Concentration Requirements	33746	AMD	08/09/2010	2010-13/66
R277-516-1	Definitions	34046	NSC	10/21/2010	Not Printed
R277-517	Athletic Coaching Certification	33653	REP	07/15/2010	2010-11/105
R277-518	Career and Technical Education Licenses	33946	AMD	10/11/2010	2010-17/36
R277-518-4	Level 1 CTE (APP) License	34143	NSC	10/28/2010	Not Printed
R277-520	Appropriate Licensing and Assignment of Teachers	33806	5YR	07/01/2010	2010-14/58
R277-600-10	Special Transportation Levy	33747	AMD	08/09/2010	2010-13/68
R277-601-3	Standards	33947	AMD	10/11/2010	2010-17/39
R277-602	Special Needs Scholarships - Funding and Procedures	34114	5YR	09/24/2010	2010-20/70
R277-603	Basic Skills Education Program	33654	REP	07/15/2010	2010-11/107
R277-604-1	Definitions	33748	AMD	08/09/2010	2010-13/69
R277-604-1	Definitions	34042	NSC	10/21/2010	Not Printed

R277-609	Standards for School District, School and Charter School Discipline Plans	33749	AMD	08/09/2010	2010-13/70
R277-611	Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools	34088	NEW	11/08/2010	2010-19/31
R277-612-3	Foreign Exchange Student Cap	33750	AMD	08/09/2010	2010-13/72
R277-613-1	Definitions	33253	NSC	01/04/2010	Not Printed
R277-616	Education for Homeless and Emancipated Students and State Funding for Homeless and Disadvantaged Minority Students	34234	5YR	11/10/2010	Not Printed
R277-616-1	Definitions	33751	AMD	08/09/2010	2010-13/74
R277-700	The Elementary and Secondary School Core Curriculum	34089	AMD	11/08/2010	2010-19/32
R277-703	Centennial Scholarship for Early Graduation	34043	NSC	10/21/2010	Not Printed
R277-705	Secondary School Completion and Diplomas	33752	AMD	08/09/2010	2010-13/75
R277-705	Secondary School Completion and Diplomas	34044	NSC	10/21/2010	Not Printed
R277-711	Education Programs for Gifted and Talented Students	34235	5YR	11/10/2010	Not Printed
R277-711-4	Fiscal Standards	33234	NSC	01/04/2010	Not Printed
R277-800	Utah Schools for the Deaf and the Blind	33254	NSC	01/04/2010	Not Printed
R277-800-6	LEA and Board Interagency Agreement	34025	NSC	10/21/2010	Not Printed

ENVIRONMENTAL QUALITY

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R305-5	Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation	33102	NEW	02/16/2010	2009-22/30
R305-5	Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation	33102	CPR	02/16/2010	2010-2/48
R305-5	Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation	33589	AMD	06/23/2010	2010-10/63

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R307-101-3	Version of Code of Federal Regulations Incorporated by Reference	33251	AMD	03/04/2010	2010-1/19
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R307-165	Emission Testing	33888	5YR	08/04/2010	2010-17/116
R307-201	Emission Standards: General Emission Standards	33429	5YR	03/04/2010	2010-7/52
R307-202	Emission Standards: General Burning	33430	5YR	03/04/2010	2010-7/52
R307-203	Emission Standards: Sulfur Content of Fuels	33431	5YR	03/04/2010	2010-7/53
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R307-214	National Emission Standards for Hazardous Air Pollutants	33427	AMD	06/03/2010	2010-7/11
R307-302	Davis, Salt Lake, Utah, Weber Counties: Residential Fireplaces and Stoves.	33698	5YR	06/02/2010	2010-13/143
R307-305	Nonattainment and Maintenance Areas for PM10: Emission Standards	33703	5YR	06/02/2010	2010-13/143
R307-306	PM10 Nonattainment and Maintenance Areas: Abrasive Blasting	33699	5YR	06/02/2010	2010-13/144
R307-307	Davis, Salt Lake, and Utah Counties: Road Salting and Sanding	33700	5YR	06/02/2010	2010-13/145
R307-309	Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust	33701	5YR	06/02/2010	2010-13/145
R307-310	Salt Lake County: Trading of Emission Budgets for Transportation Conformity	33702	5YR	06/02/2010	2010-13/146
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	33308	R&R	04/08/2010	2010-3/17
R307-841	Residential Property and Child-Occupied Facility Renovation	33309	NEW	04/08/2010	2010-3/24
R307-842	Lead-Based Paint Activities	33310	NEW	04/08/2010	2010-3/32

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R309-100-7	Sanitary Survey, Evaluation, and Corrective Action of Existing Facilities	33455	NSC	03/29/2010	Not Printed
R309-105	Administration: General Responsibilities of Public Water Systems	33473	5YR	03/22/2010	2010-8/41
R309-105-12	Cross Connection Control	34093	NSC	10/18/2010	Not Printed
R309-110	Administration: Definitions	33474	5YR	03/22/2010	2010-8/42
R309-115	Administrative Procedures	33475	5YR	03/22/2010	2010-8/42
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R309-200-2	Authority	33457	NSC	03/29/2010	Not Printed
R309-205	Monitoring and Water Quality: Source Monitoring Requirements	33477	5YR	03/22/2010	2010-8/43
R309-205-9	Microbiological Contaminants	33456	NSC	03/29/2010	Not Printed
R309-210	Monitoring and Water Quality: Distribution System Monitoring Requirements	33478	5YR	03/22/2010	2010-8/44
R309-210-6	Lead and Copper Monitoring	33459	NSC	03/29/2010	Not Printed
R309-215	Monitoring and Water Quality: Treatment Plant Monitoring Requirements	33479	5YR	03/22/2010	2010-8/45
R309-215-16	Groundwater Rule	33847	AMD	09/21/2010	2010-16/11
R309-220	Monitoring and Water Quality: Public Notification Requirements	33480	5YR	03/22/2010	2010-8/45
R309-220-5	Tier 1 Public Notice -- Form, Manner and Frequency of Notice	33458	NSC	03/29/2010	Not Printed
R309-225	Monitoring and Water Quality: Consumer Confidence Reports	33481	5YR	03/22/2010	2010-8/46
R309-300	Certification Rules for Water Supply Operators	33484	5YR	03/22/2010	2010-8/46
R309-300-5	General Policies	33831	NSC	07/28/2010	Not Printed
R309-305	Certification Rules for Backflow Technicians	33485	5YR	03/22/2010	2010-8/47
R309-305	Certification Rules for Backflow Technicians	33829	NSC	07/28/2010	Not Printed
R309-352	Capacity Development Program	33501	5YR	03/23/2010	2010-8/47
R309-352 (Changed to R309-800)	Capacity Development Program	33787	NSC	07/26/2010	Not Printed
R309-400	Water System Rating Criteria	33482	5YR	03/22/2010	2010-8/48
R309-400	Water System Rating Criteria	34092	NSC	10/18/2010	Not Printed
R309-405	Compliance and Enforcement: Administrative Penalty	33483	5YR	03/22/2010	2010-8/49
R309-405	Compliance and Enforcement: Administrative Penalty	34094	NSC	10/18/2010	Not Printed
R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	33486	5YR	03/22/2010	2010-8/49
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R309-511	Hydraulic Modeling Requirements	32978	NEW	03/11/2010	2009-19/88
R309-511	Hydraulic Modeling Requirements	32978	CPR	03/11/2010	2010-3/62
R309-515	Facility Design and Operation: Source Development	33489	5YR	03/22/2010	2010-8/51
R309-515	Facility Design and Operation: Source Development	33832	NSC	07/28/2010	Not Printed
R309-515-6	Ground Water - Wells	33462	AMD	05/13/2010	2010-7/18
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R309-530	Facility Design and Operation: Alternate Surface Water Treatment Methods	33492	5YR	03/22/2010	2010-8/52
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R309-540	Facility Design and Operation: Pump Stations	33830	NSC	07/28/2010	Not Printed
R309-545	Facility Design and Operation: Drinking Water Storage Tanks	33495	5YR	03/22/2010	2010-8/54
R309-550	Facility Design and Operation: Transmission and Distribution Pipelines	33496	5YR	03/22/2010	2010-8/55

R309-600	Source Protection: Drinking Water Source Protection for Ground Water Sources	33464	5YR	03/17/2010	2010-8/55
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	33465	5YR	03/17/2010	2010-8/56
R309-700	Financial Assistance: State Drinking Water State Revolving Fund (SRF) Loan Program	33500	5YR	03/23/2010	2010-8/56
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R311-500	Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program	33782	5YR	06/23/2010	2010-14/58
R311-501	Illegal Drug Operations Site Reporting and Decontamination Act, Contesting an Initial Order or Notice	33779	REP	09/28/2010	2010-14/14
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R313-12	General Provisions	33916	AMD	10/13/2010	2010-17/40
R313-15	Standards for Protection Against Radiation	33918	AMD	10/13/2010	2010-17/47
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R313-25-2	Definitions	33915	AMD	10/13/2010	2010-17/90
R313-25-8	Technical Analyses	33267	AMD	06/02/2010	2010-1/21
R313-25-8	Technical Analyses	33267	CPR	06/02/2010	2010-9/38
R313-25-25	Near Surface Land Disposal Facility Operation and Disposal Site Closure	33914	AMD	10/13/2010	2010-17/92
R313-32	Medical Use of Radioactive Material	33913	AMD	10/13/2010	2010-17/93
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Solid and Hazardous Waste					
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R315-2	General Requirements - Identification and Listing of Hazardous Waste	32967	AMD	01/15/2010	2009-19/94
R315-2	General Requirements - Identification and Listing of Hazardous Waste	32967	CPR	01/15/2010	2009-23/32
R315-5	Hazardous Waste Generator Requirements	32968	AMD	01/15/2010	2009-19/96
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R315-13-1	Land Disposal Restrictions	32970	AMD	01/15/2010	2009-19/103
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R315-16	Standards for Universal Waste Management	33681	5YR	05/27/2010	2010-12/69
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R315-102	Penalty Policy	33682	5YR	05/27/2010	2010-12/70
R315-302-1	Location Standards for Disposal Facilities	33391	NSC	03/10/2010	Not Printed
R315-316	Infectious Waste Requirements	33145	AMD	01/15/2010	2009-23/17
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R317-1-1	Definitions	33232	CPR	04/01/2010	2010-4/66
R317-2	Standards of Quality for Waters of the State	33233	AMD	04/01/2010	2009-24/45
R317-2	Standards of Quality for Waters of the State	33233	CPR	04/01/2010	2010-4/68
R317-4	Onsite Wastewater Systems	33370	5YR	02/10/2010	2010-5/71

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R325-3-17	Smoke-Free Policy	33707	AMD	08/09/2010	2010-13/80
R325-4-22	Smoke-Free Policy	33709	AMD	08/09/2010	2010-13/81
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R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	33073	NEW	01/04/2010	2009-22/41
R356-1-7	Calculation of Payments to Counties for Reimbursement for Housing State Probationary Inmates and State Parole Inmates	33237	NSC	01/04/2010	Not Printed
R356-101	Judicial Nominating Commissions	33586	NEW	07/01/2010	2010-10/66
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R357-1	Rural Fast Track Program	34101	NSC	10/27/2010	Not Printed
R357-2	Rural Broadband Service Fund	34102	NSC	10/27/2010	Not Printed
Economic Development, Pete Suazo Utah Athletic Commission					
R359-1	Pete Suazo Utah Athletic Commission Act Rule	33711	AMD	10/01/2010	2010-13/83
R359-1-508	Hepatitis B Surface Antigen (HBsAg) and Hepatitis C Virus (HCV) Antibody Testing	33460	AMD	07/01/2010	2010-7/20

HEALTH

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R380-210	Health Care Facility Patient Safety Program	33425	AMD	07/26/2010	2010-7/21
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R398-1	Newborn Screening	33559	AMD	06/15/2010	2010-9/27
R398-2-7	Penalty for Violation of Rule	33134	AMD	03/15/2010	2009-22/53
Community and Family Health Services, Chronic Disease					
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R396-100-9	Penalties	33181	AMD	03/15/2010	2009-24/66
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R392-100-2	Incorporation by Reference	33210	AMD	03/15/2010	2009-24/61
R392-101-9	Penalties	33211	AMD	03/15/2010	2009-24/63
R392-302	Design, Construction and Operation of Public Pools	33873	AMD	10/18/2010	2010-16/17
R392-303	Public Geothermal Pools and Bathing Places	33076	AMD	05/17/2010	2009-22/46
R392-303	Public Geothermal Pools and Bathing Places	33076	CPR	05/17/2010	2010-6/28
R392-400-17	Penalty	33212	AMD	03/15/2010	2009-24/64
R392-600	Illegal Drug Operations Decontamination Standards	33410	5YR	02/25/2010	2010-6/37
R392-700-11	Enforcement and Penalties	33213	AMD	03/15/2010	2009-24/65
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R386-705-101	Penalties	33183	AMD	03/15/2010	2009-24/58
R386-800	Immunization Coordination	33562	5YR	04/15/2010	2010-9/45
R386-800-8	Penalties for Violation	33185	AMD	03/15/2010	2009-24/59
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R444-14-8	Penalties	33218	AMD	03/15/2010	2009-24/86

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Health Care Financing, Coverage and Reimbursement Policy					
R414-1	Utah Medicaid Program	33214	AMD	01/27/2010	2009-24/67
R414-1-5	Incorporations by Reference	33342	AMD	04/01/2010	2010-4/17
R414-1-5	Incorporations by Reference	33775	AMD	08/31/2010	2010-13/86
R414-1-5	Incorporations by Reference	34084	AMD	11/15/2010	2010-19/37
R414-1-7	Aliens	34035	AMD	11/01/2010	2010-18/21
R414-1-28	Cost Sharing	33414	AMD	05/01/2010	2010-6/8
R414-3A	Outpatient Hospital Services	33413	EMR	03/01/2010	2010-6/31
R414-3A	Outpatient Hospital Services	33515	AMD	06/14/2010	2010-8/13
R414-3A-9	Reimbursement for Services	33600	AMD	06/21/2010	2010-10/70
R414-5	Reduction in Hospital Payments	33215	REP	02/16/2010	2009-24/69
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R414-10-6	Copayment Policy	33415	AMD	05/01/2010	2010-6/9
R414-11-8	Copayment Policy	33416	AMD	05/01/2010	2010-6/10
R414-14A	Hospice Care	33216	AMD	01/28/2010	2009-24/70
R414-14A	Hospice Care	33579	AMD	06/21/2010	2010-10/71
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R414-19A	Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility	33680	5YR	05/27/2010	2010-12/71
R414-33	Targeted Case Management Services	33514	REP	05/24/2010	2010-8/17
R414-33C	Targeted Case Management for the Homeless	33403	5YR	02/23/2010	2010-6/38
R414-33C	Targeted Case Management for the Homeless	33571	REP	07/01/2010	2010-10/77
R414-33D	Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness	33723	5YR	06/07/2010	2010-13/146
R414-33D	Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness	33590	AMD	08/31/2010	2010-10/80
R414-33D	Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness	33590	CPR	08/31/2010	2010-13/136
R414-40	Private Duty Nursing Service	34154	5YR	10/14/2010	2010-21/51
R414-50	Dental, Oral and Maxillofacial Surgeons	34047	AMD	11/01/2010	2010-18/26
R414-54-3	Services	33343	AMD	04/01/2010	2010-4/26
R414-54-3	Services	33776	AMD	08/31/2010	2010-13/87
R414-54-3	Services	34085	AMD	11/15/2010	2010-19/39
R414-55-3	Copayment Policy	33417	AMD	05/01/2010	2010-6/11
R414-59	Audiology-Hearing Services	34148	5YR	10/13/2010	2010-21/52
R414-59-4	Client Eligibility Requirements	33344	AMD	04/01/2010	2010-4/27
R414-59-4	Client Eligibility Requirements	33777	AMD	08/31/2010	2010-13/88
R414-59-4	Client Eligibility Requirements	34086	AMD	11/15/2010	2010-19/40
R414-60-6	Co-payment Policy	33418	AMD	05/01/2010	2010-6/12
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R414-61	Home and Community-Based Services Waivers	34033	AMD	11/01/2010	2010-18/27
R414-61	Home and Community-Based Services Waivers	34034	AMD	11/01/2010	2010-18/28
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R414-302-4	Residents of Institutions	33345	AMD	04/01/2010	2010-4/28
R414-303-3	A, B and D Medicaid and A, B and D Institutional Medicaid Coverage Groups	33346	AMD	04/01/2010	2010-4/30
R414-304-9	A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions	33573	AMD	07/01/2010	2010-10/84
R414-305	Resources	33574	AMD	07/01/2010	2010-10/86
R414-306	Program Benefits	33259	AMD	02/22/2010	2010-1/23
R414-306-4	Effective Date of Eligibility	34048	AMD	11/01/2010	2010-18/30

R414-308-4	Verification of Eligibility and Information Exchange	34049	AMD	11/01/2010	2010-18/31
R414-309	Medicare Drug Benefit Low-Income Subsidy Determination	33466	5YR	03/18/2010	2010-8/57
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	32925	AMD	02/16/2010	2009-18/36
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	32925	CPR	02/16/2010	2009-24/94
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	33689	AMD	07/29/2010	2010-12/24
R414-320-7	Creditable Health Coverage	33529	EMR	04/01/2010	2010-8/37
R414-401	Nursing Care Facility Assessment	33594	AMD	07/01/2010	2010-10/89
R414-501	Preadmission Authorization, Retroactive Authorization, and Continued Stay Review	33304	NSC	01/28/2010	Not Printed
R414-503	Preadmission Screening and Annual Resident Review	33722	NSC	07/01/2010	Not Printed
R414-504	Nursing Facility Payments	33596	AMD	07/01/2010	2010-10/90
R414-506	Hospital Provider Assessments	33807	EMR	07/01/2010	2010-14/39
R414-506	Hospital Provider Assessments	33871	NEW	10/13/2010	2010-16/42
Health Systems Improvement, Emergency Medical Services					
R426-2-7	Statutory Penalties	33240	AMD	03/15/2010	2010-1/26
R426-5-11	Statutory Penalties	33244	AMD	03/15/2010	2010-1/27
R426-6	Emergency Medical Services Competitive Grants Program Rules	33576	AMD	08/03/2010	2010-10/94
R426-7-5	Penalty for Violation of Rule	33245	AMD	03/15/2010	2010-1/28
R426-8	Emergency Medical Services Per Capita Grants Program Rules	33577	AMD	08/03/2010	2010-10/95
R426-12-1400	Penalties	33246	AMD	03/15/2010	2010-1/29
R426-14-301	Application, Department Review, and Issuance	33125	AMD	01/11/2010	2009-22/60
R426-14-600	Penalties	33247	AMD	03/15/2010	2010-1/29
R426-15-700	Penalties	33248	AMD	03/15/2010	2010-1/30
R426-16	Emergency Medical Services Ambulance Rates and Charges	34213	EMR	11/02/2010	Not Printed
R426-16-3	Penalty for Violation of Rule	33249	AMD	03/15/2010	2010-1/31
Health Systems Improvement, Licensing					
R432-2-6	Application	33221	AMD	01/27/2010	2009-24/77
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R432-4-26	Penalties	33186	AMD	02/04/2010	2009-24/79
R432-5-17	Penalties	33187	AMD	02/04/2010	2009-24/80
R432-6-211 (Changed to R432-6-26)	Penalties	33189	AMD	02/04/2010	2009-24/81
R432-7-7	Penalties	33190	AMD	02/04/2010	2009-24/83
R432-8-8	Penalties	33191	AMD	02/04/2010	2009-24/84
R432-9-7	Special Hospital-Rehabilitation Construction Penalties	33184	AMD	02/04/2010	2009-24/85
R432-10-8	Penalties	33119	AMD	01/05/2010	2009-22/74
R432-11-7	Penalties	33120	AMD	01/05/2010	2009-22/75
R432-12-25	Penalties	33121	AMD	01/05/2010	2009-22/76
R432-13-8	Penalties	33122	AMD	01/05/2010	2009-22/77
R432-14-6	Penalties	33123	AMD	01/05/2010	2009-22/78
R432-16-16	Penalties	33118	AMD	01/05/2010	2009-22/79
R432-30	Adjudicative Procedure	33273	NSC	01/04/2010	Not Printed
R432-31	Transferable Physician Order for Life-Sustaining Treatment	33282	R&R	02/25/2010	2010-2/9
R432-31	Life with Dignity Order	33463	NSC	04/14/2010	Not Printed
R432-35-8	Penalties	33136	AMD	01/05/2010	2009-22/80
R432-270	Assisted Living Facilities	33283	NSC	01/13/2010	Not Printed
R432-550	Birthing Centers (Five or Less Birth Rooms)	33788	AMD	09/15/2010	2010-14/17
R432-700-30	Home Health - Personal Care Service Agency	33135	AMD	01/05/2010	2009-22/81
R432-950-16	State Certification	33426	AMD	06/02/2010	2010-7/23
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R434-50	Assistance for People with Bleeding Disorders	34186	EXD	11/01/2010	2010-22/127
R434-100	Physician Visa Waiver	34129	5YR	09/30/2010	2010-20/70
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R460-3	Programs of UHC	34019	AMD	10/22/2010	2010-18/52
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R477-9-3	Conflict of Interest	33762	NSC	07/01/2010	Not Printed
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R495-883	Children in Care Support Services	33662	NEW	08/09/2010	2010-12/34
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R512-31	Foster Parent Due Process	33763	AMD	08/11/2010	2010-13/97
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R590-128	Unfair Discrimination Based on the Failure to Maintain Automobile Insurance	33716	NSC	07/01/2010	Not Printed
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R651-634	Nonresident OHV User Permits and Fees	33980	NSC	10/20/2010	Not Printed
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R651-635	Commercial Use of Division Managed Park Areas	33981	NSC	10/20/2010	Not Printed
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R651-637	2011 Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt	34024	NEW	10/26/2010	2010-18/75
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R655-3	Reports of Water Rights Conveyance	33347	5YR	01/27/2010	2010-4/81
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R655-14	Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights	33863	5YR	07/27/2010	2010-16/78
R655-14-4	Definitions	33862	NSC	08/25/2010	Not Printed
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R655-16	Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights	33066	NEW	04/07/2010	2009-21/62
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R657-5	Taking Big Game	34183	5YR	11/01/2010	2010-22/120
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R657-6	Taking Upland Game	33784	5YR	06/28/2010	2010-14/65
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R657-10	Taking Cougar	34017	AMD	10/25/2010	2010-18/78
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R657-17	Lifetime Hunting and Fishing License	33755	AMD	08/09/2010	2010-13/115
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ABBREVIATIONS

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

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Health, Epidemiology and Laboratory Services, Epidemiology	33562	R386-800	5YR	04/15/2010	2010-9/45
immunization data reporting					
Health, Epidemiology and Laboratory Services, Epidemiology	33185	R386-800-8	AMD	03/15/2010	2009-24/59
immunizations					
Health, Community and Family Health Services, Immunization	33181	R396-100-9	AMD	03/15/2010	2009-24/66
impacted area programs					
Community and Culture, Housing and Community Development	34134	R199-10	NSC	10/28/2010	Not Printed
import restrictions					
Natural Resources, Wildlife Resources	33449	R657-53	AMD	05/10/2010	2010-7/26
income					
Health, Health Care Financing, Coverage and Reimbursement Policy	33346	R414-303-3	AMD	04/01/2010	2010-4/30
	33573	R414-304-9	AMD	07/01/2010	2010-10/84
income tax					
Tax Commission, Auditing	33696	R865-9I-2	AMD	08/12/2010	2010-12/59
	33384	R865-9I-7	AMD	04/08/2010	2010-5/51
	33349	R865-9I-13	AMD	04/08/2010	2010-4/49
	33645	R865-9I-13	AMD	07/08/2010	2010-11/121
	33837	R865-9I-13	AMD	09/23/2010	2010-15/62
	33113	R865-9I-17	AMD	01/21/2010	2009-22/86
	33646	R865-9I-21	AMD	07/08/2010	2010-11/123
	33694	R865-9I-42	AMD	08/12/2010	2010-12/61
	33348	R865-9I-44	AMD	04/08/2010	2010-4/50
	33351	R865-9I-56	AMD	04/08/2010	2010-4/53
	33640	R865-9I-56	AMD	07/08/2010	2010-11/124

	34220	R628-13	5YR	11/07/2010	Not Printed
	33620	R628-15	5YR	05/05/2010	2010-11/129
	34218	R628-16	5YR	11/03/2010	Not Printed
public library					
Community and Culture, Library	34170	R223-2	5YR	10/25/2010	2010-22/119
public meetings					
Natural Resources, Forestry, Fire and State Lands	33276	R652-90-600	AMD	02/24/2010	2010-1/44
public notification					
Environmental Quality, Drinking Water	33480	R309-220	5YR	03/22/2010	2010-8/45
	33458	R309-220-5	NSC	03/29/2010	Not Printed
public petitions					
School and Institutional Trust Lands, Administration	33952	R850-8	NSC	10/20/2010	Not Printed
public records					
Career Service Review Board, Administration	33593	R137-2	AMD	07/01/2010	2010-10/16
School and Institutional Trust Lands, Administration	33951	R850-6	NSC	10/20/2010	Not Printed
public schools					
Education, Administration	34036	R277-410-1	NSC	10/21/2010	Not Printed
	33741	R277-463	R&R	08/09/2010	2010-13/51
public treasurers					
Money Management Council, Administration	34141	R628-4	5YR	10/06/2010	2010-21/53
public utilities					
Public Service Commission, Administration	32881	R746-312	NEW	04/30/2010	2009-17/40
	32881	R746-312	CPR	04/30/2010	2010-1/64
	33472	R746-331	REP	06/30/2010	2010-8/35
	33886	R746-351	NSC	09/21/2010	Not Printed
	34001	R746-360-8	AMD	10/25/2010	2010-18/97
pumps					
Environmental Quality, Drinking Water	33494	R309-540	5YR	03/22/2010	2010-8/53
	33830	R309-540	NSC	07/28/2010	Not Printed
pupil-teacher ratio reporting					
Education, Administration	33741	R277-463	R&R	08/09/2010	2010-13/51
QEFAF					
Community and Culture, Housing and Community Development, Community Services	33252	R202-101	NEW	02/22/2010	2010-1/16
Qualified Emergency Food Agency Fund					
Community and Culture, Housing and Community Development, Community Services	33252	R202-101	NEW	02/22/2010	2010-1/16
quality control					
Agriculture and Food, Regulatory Services	33074	R70-101	AMD	01/11/2010	2009-22/11
	33542	R70-101	5YR	04/07/2010	2010-9/41
quality improvement					
Health, Administration	33425	R380-210	AMD	07/26/2010	2010-7/21
Health, Epidemiology and Laboratory Services, Epidemiology	33183	R386-705-101	AMD	03/15/2010	2009-24/58
quality standards					
Environmental Quality, Drinking Water	33476	R309-200	5YR	03/22/2010	2010-8/43
	33457	R309-200-2	NSC	03/29/2010	Not Printed
quarantine					
Health, Epidemiology and Laboratory Services, Epidemiology	33182	R386-702-11	AMD	03/15/2010	2009-24/57

Public Service Commission, Administration	34159	R746-341	5YR	10/18/2010	2010-22/123
	34158	R746-407	5YR	10/18/2010	2010-22/123
Rural Broadband Service Fund					
Governor, Economic Development	34102	R357-2	NSC	10/27/2010	Not Printed
rural economic development					
Governor, Economic Development	34101	R357-1	NSC	10/27/2010	Not Printed
	34102	R357-2	NSC	10/27/2010	Not Printed
Rural Fast Track Program					
Governor, Economic Development	34101	R357-1	NSC	10/27/2010	Not Printed
safety					
Environmental Quality, Radiation Control	33918	R313-15	AMD	10/13/2010	2010-17/47
Labor Commission, Boiler and Elevator Safety	33362	R616-2-3	AMD	04/07/2010	2010-5/48
	34027	R616-2-8	AMD	10/22/2010	2010-18/69
	34023	R616-2-15	AMD	10/22/2010	2010-18/71
	33684	R616-3-6	NSC	06/14/2010	Not Printed
	33300	R616-4	NEW	03/11/2010	2010-3/54
	33454	R616-4-3	NSC	03/29/2010	Not Printed
Labor Commission, Occupational Safety and Health	33280	R614-1-4	NSC	05/25/2010	Not Printed
	34022	R614-1-4	AMD	10/22/2010	2010-18/68
	33279	R614-7-1	AMD	02/22/2010	2010-2/20
Transportation, Motor Carrier, Ports of Entry	33924	R912-16	5YR	08/12/2010	2010-17/117
	33948	R912-16-1	NSC	09/21/2010	Not Printed
Transportation, Preconstruction	33274	R930-5	R&R	02/08/2010	2010-1/49
safety regulation					
Transportation, Operations, Traffic and Safety	33900	R920-51	NSC	09/21/2010	Not Printed
salaries					
Human Resource Management, Administration	33605	R477-6	AMD	07/01/2010	2010-10/112
	33761	R477-6-7	NSC	07/01/2010	Not Printed
sales					
School and Institutional Trust Lands, Administration	33956	R850-80	NSC	10/20/2010	Not Printed
sales tax					
Tax Commission, Auditing	33350	R865-12L-5	AMD	04/08/2010	2010-4/54
	33352	R865-12L-6	AMD	04/08/2010	2010-4/55
	33848	R865-19S-4	AMD	09/23/2010	2010-16/56
	33849	R865-19S-33	AMD	09/23/2010	2010-16/57
	33850	R865-19S-64	AMD	09/23/2010	2010-16/58
	33852	R865-19S-80	AMD	09/23/2010	2010-16/59
	33853	R865-19S-85	AMD	09/23/2010	2010-16/61
	33854	R865-19S-109	AMD	09/23/2010	2010-16/62
	33855	R865-19S-111	AMD	09/23/2010	2010-16/64
	33856	R865-19S-121	AMD	09/23/2010	2010-16/65
	33857	R865-19S-122	AMD	09/23/2010	2010-16/66
salons					
Health, Epidemiology and Laboratory Services, Environmental Services	33213	R392-700-11	AMD	03/15/2010	2009-24/65
sand					
School and Institutional Trust Lands, Administration	33532	R850-23	5YR	04/01/2010	2010-8/62
sanitarian					
Commerce, Occupational and Professional Licensing	33812	R156-20a	5YR	07/06/2010	2010-15/70
sanitation					
Health, Epidemiology and Laboratory Services, Environmental Services	33210	R392-100-2	AMD	03/15/2010	2009-24/61
	33213	R392-700-11	AMD	03/15/2010	2009-24/65
scenic byways					

	33764	R512-200	AMD	08/11/2010	2010-13/99
	33926	R512-201	AMD	10/13/2010	2010-17/101
	33927	R512-202	AMD	10/13/2010	2010-17/103
	33765	R512-300	AMD	08/11/2010	2010-13/101
social workers					
Commerce, Occupational and Professional Licensing	33615	R156-60a	AMD	07/08/2010	2010-11/94
solid waste management					
Environmental Quality, Solid and Hazardous Waste	33391	R315-302-1	NSC	03/10/2010	Not Printed
	33145	R315-316	AMD	01/15/2010	2009-23/17
source development					
Environmental Quality, Drinking Water	33489	R309-515	5YR	03/22/2010	2010-8/51
	33832	R309-515	NSC	07/28/2010	Not Printed
	33462	R309-515-6	AMD	05/13/2010	2010-7/18
source maintenance					
Environmental Quality, Drinking Water	33489	R309-515	5YR	03/22/2010	2010-8/51
	33832	R309-515	NSC	07/28/2010	Not Printed
	33462	R309-515-6	AMD	05/13/2010	2010-7/18
source materials					
Environmental Quality, Radiation Control	33555	R313-21	AMD	07/14/2010	2010-9/21
	33917	R313-21-22	AMD	10/13/2010	2010-17/68
source monitoring					
Environmental Quality, Drinking Water	33477	R309-205	5YR	03/22/2010	2010-8/43
	33456	R309-205-9	NSC	03/29/2010	Not Printed
sovereign lands					
Natural Resources, Forestry, Fire and State Lands	33268	R652-70-700	AMD	02/25/2010	2010-1/43
space					
Capitol Preservation Board (State), Administration	33842	R131-6	5YR	07/19/2010	2010-16/77
spas					
Health, Epidemiology and Laboratory Services, Environmental Services	33873	R392-302	AMD	10/18/2010	2010-16/17
special events					
Health, Epidemiology and Laboratory Services, Environmental Services	33212	R392-400-17	AMD	03/15/2010	2009-24/64
special needs students					
Education, Administration	34114	R277-602	5YR	09/24/2010	2010-20/70
speech impaired					
Public Service Commission, Administration	33968	R746-510	5YR	08/18/2010	2010-18/116
speech-language pathology					
Commerce, Occupational and Professional Licensing	33865	R156-41	AMD	09/21/2010	2010-16/9
	34103	R156-41	NSC	10/27/2010	Not Printed
speech-language pathology services					
Health, Health Care Financing, Coverage and Reimbursement Policy	33343	R414-54-3	AMD	04/01/2010	2010-4/26
	33776	R414-54-3	AMD	08/31/2010	2010-13/87
	34085	R414-54-3	AMD	11/15/2010	2010-19/39
sportsmen					
Natural Resources, Wildlife Resources	33756	R657-41	AMD	08/09/2010	2010-13/117
	34187	R657-41	5YR	11/01/2010	2010-22/122
stabilization					
Environmental Quality, Drinking Water	33493	R309-535	5YR	03/22/2010	2010-8/53

taxation					
Tax Commission, Administration	33313	R861-1A-23	NSC	01/28/2010	Not Printed
	34091	R861-1A-31	NSC	10/18/2010	Not Printed
	33637	R861-1A-42	NSC	05/27/2010	Not Printed
	33231	R861-1A-43	AMD	01/21/2010	2009-24/90
Tax Commission, Auditing	33860	R865-6F-19	NSC	08/25/2010	Not Printed
	33693	R865-6F-27	AMD	08/12/2010	2010-12/58
	33643	R865-6F-28	NSC	05/27/2010	Not Printed
	33861	R865-6F-29	NSC	08/25/2010	Not Printed
	33859	R865-6F-31	NSC	08/25/2010	Not Printed
	33858	R865-6F-36	NSC	08/25/2010	Not Printed
	33350	R865-12L-5	AMD	04/08/2010	2010-4/54
	33352	R865-12L-6	AMD	04/08/2010	2010-4/55
	33691	R865-20T-13	AMD	08/12/2010	2010-12/62
	34177	R865-21U	5YR	10/28/2010	2010-22/124
Tax Commission, Collections	34178	R867-2B	5YR	10/28/2010	2010-22/124
Tax Commission, Property Tax	33692	R884-24P-24	AMD	08/12/2010	2010-12/62
	33794	R884-24P-33	AMD	09/23/2010	2010-14/29
	33697	R884-24P-35	NSC	06/14/2010	Not Printed
	33695	R884-24P-62	AMD	08/12/2010	2010-12/64
teacher certification					
Education, Administration	33746	R277-505-4	AMD	08/09/2010	2010-13/66
teachers					
Education, Administration	33801	R277-459	5YR	07/01/2010	2010-14/55
	33740	R277-459	AMD	08/09/2010	2010-13/49
	33805	R277-476	5YR	07/01/2010	2010-14/57
	34087	R277-503	AMD	11/08/2010	2010-19/26
technology best practices					
Technology Services, Administration	33878	R895-5	NSC	08/25/2010	Not Printed
	33334	R895-9	5YR	01/20/2010	2010-4/82
	33883	R895-9	NSC	09/21/2010	Not Printed
technology purchases					
Technology Services, Administration	33878	R895-5	NSC	08/25/2010	Not Printed
telecommunications					
Public Service Commission, Administration	34159	R746-341	5YR	10/18/2010	2010-22/123
	33886	R746-351	NSC	09/21/2010	Not Printed
	34001	R746-360-8	AMD	10/25/2010	2010-18/97
telecommuting					
Human Resource Management, Administration	33607	R477-8	AMD	07/01/2010	2010-10/124
telephones					
Public Service Commission, Administration	34159	R746-341	5YR	10/18/2010	2010-22/123
temporary mass gatherings					
Health, Epidemiology and Laboratory Services, Environmental Services	33212	R392-400-17	AMD	03/15/2010	2009-24/64
textbooks					
Education, Administration	33739	R277-433-3	AMD	08/09/2010	2010-13/48
therapeutic schools					
Human Services, Administration, Administrative Services, Licensing	34139	R501-15	EXD	10/06/2010	2010-21/57
therapists					
Commerce, Occupational and Professional Licensing	33735	R156-60b	AMD	08/16/2010	2010-13/39
timber					
School and Institutional Trust Lands, Administration	33958	R850-70-300	NSC	10/20/2010	Not Printed

	33447	R926-14	NEW	06/21/2010	2010-7/46
Transportation Commission, Administration	33369	R940-1-3	EMR	02/10/2010	2010-5/67
	33386	R940-1-3	AMD	04/07/2010	2010-5/52
transportation conformity					
Environmental Quality, Air Quality	33702	R307-310	5YR	06/02/2010	2010-13/146
trespass					
Natural Resources, Parks and Recreation	33664	R651-620-2	NSC	06/14/2010	Not Printed
	33890	R651-620-2	NSC	09/21/2010	Not Printed
trespassing					
Regents (Board Of), University of Utah, Administration	33146	R805-4	NEW	01/07/2010	2009-23/27
trucking industries					
Tax Commission, Auditing	33860	R865-6F-19	NSC	08/25/2010	Not Printed
	33693	R865-6F-27	AMD	08/12/2010	2010-12/58
	33643	R865-6F-28	NSC	05/27/2010	Not Printed
	33861	R865-6F-29	NSC	08/25/2010	Not Printed
	33859	R865-6F-31	NSC	08/25/2010	Not Printed
	33858	R865-6F-36	NSC	08/25/2010	Not Printed
trucks					
Transportation, Motor Carrier, Ports of Entry	33675	R912-6	5YR	05/26/2010	2010-12/75
	33819	R912-9	5YR	07/14/2010	2010-15/71
	33820	R912-10	5YR	07/14/2010	2010-15/72
	33924	R912-16	5YR	08/12/2010	2010-17/117
	33948	R912-16-1	NSC	09/21/2010	Not Printed
trust lands funds					
Education, Administration	34233	R277-477	5YR	11/10/2010	Not Printed
trustees					
Money Management Council, Administration	33728	R628-13	AMD	08/10/2010	2010-13/104
	34220	R628-13	5YR	11/07/2010	Not Printed
tuberculosis					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	33188	R388-804-9	AMD	03/15/2010	2009-24/60
ultraviolet light safety					
Health, Epidemiology and Laboratory Services, Environmental Services	33213	R392-700-11	AMD	03/15/2010	2009-24/65
unarmed combat					
Governor, Economic Development, Pete Suazo Utah Athletic Commission	33711	R359-1	AMD	10/01/2010	2010-13/83
	33460	R359-1-508	AMD	07/01/2010	2010-7/20
unassignable					
Capitol Preservation Board (State), Administration	33842	R131-6	5YR	07/19/2010	2010-16/77
undercover identification					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	33910	R722-320	NSC	09/21/2010	Not Printed
underserved					
Health, Health Systems Improvement, Primary Care and Rural Health	34129	R434-100	5YR	09/30/2010	2010-20/70
unemployed workers					
Workforce Services, Unemployment Insurance	33990	R994-207	5YR	08/24/2010	2010-18/117
unemployment compensation					
Human Services, Recovery Services	33243	R527-412	AMD	02/09/2010	2010-1/40
Workforce Services, Unemployment Insurance	33114	R994-106-104	AMD	01/13/2010	2009-22/98