

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed July 01, 2017, 12:00 a.m. through July 14, 2017, 11:59 p.m.

Number 2017-15  
August 01, 2017

Nancy L. Lancaster, Managing Editor

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

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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: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.

I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

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# SPECIAL NOTICES

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## Commerce Occupational and Professional Licensing

### Proposed Building Codes and Amendments under the Utah Uniform Building Standards Act

The following document has the full details and summary of proposed building codes and amendments. A public hearing regarding the proposed building codes will be held August 9, 2017, at 9:00 a.m. at Sandy City Hall, 10000 South Centennial Parkway, Room 341, Sandy, Utah.

The document has two parts: Part 1 -- Proposed Building Codes and Amendment Changes which have been recommended by the Uniform Building Code Commission (UBCC) and its advisory committees. It should be noted that the changes are made with strikethrough and underline as if making changes to existing statutes which have adopted the current building codes. This format is used for easier identification of items that are recommended for changes. Part 2 -- Summary and explanation of the changes proposed in Part 1.

### Recommended changes to Construction Codes Under Title 15A State Construction and Fire Code Act Proposed by the Uniform Building Code Commission Part 1

#### 15A-3-302 Amendments to Chapters 1 and 2 of IPC.

- (1) A new IPC, Section 101.2.1, is added as follows: "For clarification, the International Private Sewage Disposal Code is not part of the plumbing code even though it is in the same printed volume."
  - (2) In IPC, Section 202, the definition for "Backflow Backpressure, Low Head" is deleted.
  - (3) In IPC, Section 202, the following definition is added: "Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."
  - (4) In IPC, Section 202, the following definition is added: "Contamination (High Hazard). An impairment of the quality of the potable water that creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids or waste."
  - (5) In IPC, Section 202, the definition for "Cross Connection" is deleted and replaced with the following: "Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow")."
  - (6) In IPC, Section 202, the following definition is added: "Deep Seal Trap. A manufactured or field fabricated trap with a liquid seal of 4" or larger."
  - (7) In IPC, Section 202, the definition for "Essentially Nontoxic Transfer Fluid" is deleted and replaced with the following: "ESSENTIALLY NONTOXIC TRANSFER FLUID. Fluids having a Gosselin rating of 1, including propylene glycol; and mineral oil."
  - (8) In IPC, Section 202, the definition for "Essentially Toxic Transfer Fluid" is deleted and replaced with the following: "ESSENTIALLY TOXIC TRANSFER FLUID. Soil, waste, or gray water; and any fluid that is not an essentially nontoxic transfer fluid under this code."
  - (9) In IPC, Section 202, the following definition is added: "High Hazard. See Contamination."
  - (10) In IPC Section 202, the following definition is added: "Injection well. A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or a subsurface fluid distribution system the primary purpose for which is the subsurface emplacement of fluids. Injection wells are subject to the regulations of the Utah Underground Injection Control Program, Utah Administrative Code R317-7. Injection wells associated with single family residences are not subject to R317-7."
  - (40)(11) In IPC, Section 202, the following definition is added: "Low Hazard. See Pollution."
  - (44)(12) In IPC, Section 202, the following definition is added: "Pollution (Low Hazard). An impairment of the quality of the potable water to a degree that does not create a hazard to the public health but that does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use."
  - (42)(13) In IPC, Section 202, the definition for "Potable Water" is deleted and replaced with the following: "Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."
- Amended by Chapter 249, 2016 General Session

**15A-3-304 Amendments to Chapter 4 of IPC.**

(1) In IPC, Table 403.1, the following changes are made:

(a) The title for Table 403.1 is deleted and replaced with the following: "Table 403.1, Minimum Number of Required Plumbing Fixtures<sup>a, h</sup>";

(b) In row number "3", for "E" occupancy, in the field for "OTHER", a new footnote g is added.

(c) In row number "5", for "I-4 Adult day care and child day care" occupancy, in the field for "OTHER", a new footnote g is added.

(d) A new footnote f is added as follows: "FOOTNOTE: f. When provided, in public toilet facilities, there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms. Diaper changing facilities shall meet the requirements of ASTM F2285-04 (2010) Standard Consumer Safety Performance Specifications for Diaper Changing Tables for Commercial Use."

(e) A new footnote g is added to the table as follows: "FOOTNOTE g: Non- residential child care facilities shall comply with the additional requirements for sinks in administrative rule made by the Department of Health."

(2) A new IPC, Section 406.3, is added as follows: " 406.3 Automatic clothes washer safe pans. Safe pans, when installed under automatic clothes washers, shall be installed in accordance with Section 504.7."

(3) A new IPC, Section 412.5, is added as follows: "412.5 Public toilet rooms. All public toilet rooms in A & E occupancies and M occupancies with restrooms having multiple water closets or urinals shall be equipped with at least one floor drain."

(4) IPC, Section 423.3, is deleted.

(5) A new IPC, Section 412.6 is added as follows: "Prohibition of Motor Vehicle Waste Disposal Wells - Injection wells such as floor drains, septic systems, French drains, dry wells, etc. that discharge to the subsurface are prohibited if vehicular service and/or maintenance activities involving vehicular fluids and associated fluids occur within the catchment area of the injection well."

Amended by Chapter 249, 2016 General Session

**15A-3-206 Amendments to Chapters 37, 39, 44, and Appendix F of IRC.**

(1) In IRC, Section E3705.4.5 the following words are added after the word "assemblies" "with ungrounded conductors 10 AWG and smaller."

(1)(2) In IRC, Section E3901.9, the following exception is added:

"Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit."

(2)(3) IRC, Section E3902.16 is deleted.

(3)(4) In Section E3902.17:

(a) following the word "Exception" the number "1." is added; and (b) at the end of the section, the following sentences are added:

"2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence."

(4)(5) IRC, Chapter 44, is amended by adding the following reference standard:

Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3"

(5)(6)

(a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection (5)(a) is not required.

Amended by Chapter 236, 2017 General Session

**15A-2-103 Specific editions adopted of construction code of a nationally recognized code authority.**

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Part 3, Statewide Amendments to International Plumbing Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

- (a) the 2015 edition of the International Building Code, including Appendix J, issued by the International Code Council;
  - (b) the 2015 edition of the International Residential Code, issued by the International Code Council;
  - (c) the 2015 edition of the International Plumbing Code, issued by the International Code Council;
  - (d) the 2015 edition of the International Mechanical Code, issued by the International Code Council;
  - (e) the 2015 edition of the International Fuel Gas Code, issued by the International Code Council;
  - (f) the 2014 ~~2017~~ edition of the National Electrical Code, issued by the National Fire Protection Association;
  - (g) the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;
  - (h) the 2015 edition of the International Existing Building Code, issued by the International Code Council;
  - (i) subject to Subsection 15A-2-104(2), the HUD Code; subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council; and
  - (j) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.
- (2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.
- Amended by Chapter 249, 2016 General Session

### Statewide Amendments to National Electrical Code

#### 15A-3-601 General provisions.

The following are adopted as amendments to the NEC to be applicable statewide:

- (1) The IRC provisions are adopted as the residential electrical standards applicable to installations applicable under the IRC. All other installations shall comply with the adopted NEC.
- ~~(2) In NEC, Section 210.8(B), the words "and three phase receptacles rated 150 volts to ground or less, 100 amperes or less", are deleted.~~
- ~~(3) NEC, Section 210.71 is deleted.~~
- ~~(4) In NEC, Section 240.67, the words "January 1, 2020" are deleted and replaced with "upon adoption of the 2020 NEC".~~
- ~~(2) NEC, Section 240.87(B), is modified to add the following as an additional approved equivalent means:  
"6. An instantaneous trip function set at or below the available fault current."~~

Amended by Chapter 249, 2016 General Session

## Part 2

### Summary of Reasons for recommended changes Proposed by the Uniform Building Code Commission to Construction Codes Under Title 15A State Construction and Fire Code Act

15A-3-302. At the request of the Department of Environmental Quality, the UBCC is recommending statewide amendments to the International Plumbing Code (IPC) to incorporate the requirements of the Underground Injection Control (UIC) Program (UAC R317-7) regarding fluid disposal to the subsurface via injection wells. Discharge of fluids into individual or single family residential waste disposal systems is specifically excluded from regulation under the UIC rules at 40 CFR 144.1(g)2. There are a variety of fluid discharge practices that have been banned by the United States EPA which are addressed in the UIC program. It is necessary to now amend the 2015 IPC to reference the ban and other requirements of the UIC program.

15A-3-206. The UBCC is recommending this amendment to the International Residential Code (IRC) Section E3705.4.5 to make it consistent with the 2017 National Electric Code (NEC) which amends this section so that larger feeders are permitted to be sized in accordance with the 75 degree C ampacity when installed in thermal insulation. This will result in a significant cost savings of approximately \$100-\$200 per home as the current IRC requires larger feeder cables at a much higher cost.

15A-1-2-103. The UBCC Electrical Advisory Committee has extensively studied the 2017 National Electric Code throughout the course of the interim and is recommending adoption of the code with amendments as noted to implement updated technology provisions and increased welfare and safety of electrical workers and the public.

15A-3-601. NEC Section 210.8(B) The amendment removes the requirement for three phase receptacles 150 volts to ground or less to be GFCI protected. This will allow the manufacturers more time to come up with more cost effective means for providing GFCI protection for three phase 150 volts to ground or less circuits. This will be a significant cost savings as currently the only equipment available to GFCI protect a three phase circuit is a ground fault relay system which can cost upwards of \$3,500.

## SPECIAL NOTICES

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15A-601. Delete NEC Section 210.71 which is a new requirement for floor box receptacles in meeting rooms. The UBCC is recommending deletion of this section of the 2017 NEC determining it is an unnecessary cost to impose on individuals/business owners who can make that determination based upon need and without a code requirement.

15A-3-601. NEC, Section 240.67 changes the effective date of this requirement to allow for manufacturers to adjust equipment to comply. This will result in a significant cost savings as installers will not have to attempt to comply with this requirement until manufacturers have adjusted their equipment to be able to meet the specifications.

15A-3-601 NEC, Section 240.87(B). The UBCC is recommending deleting this section of the state amendments which adds an instantaneous trip function set at or below the available fault current as an additional approved equivalent means. It has been incorporated into the 2017 NEC and is no longer necessary as a state amendment.

**End of the Special Notices Section**



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between July 01, 2017, 12:00 a.m., and July 14, 2017, 11:59 p.m. are included in this, the August 01, 2017, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them (~~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 usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may 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 Office 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 August 31, 2017. 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 November 29, 2017, the agency may notify the Office 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 Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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, R15-4-5a, R15-4-9, and R15-4-10.

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

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-1-5  
Incorporations by Reference**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41927

FILED: 07/13/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to implement by rule Medicaid policy, through incorporating the 07/01/2017 versions of the Medicaid State Plan and Medicaid provider manuals by reference.

**SUMMARY OF THE RULE OR CHANGE:** The Department incorporates by reference the Utah Medicaid State Plan and any approved State Plan Amendments (SPAs) to 07/01/2017. Accordingly, the Department incorporates by reference the following: SPA 17-0002-UT Covered Outpatient Drug Rule, which addresses requirements for the coverage and reimbursement of covered outpatient drugs as mandated by the Covered Outpatient Drug Rule (CMS-2345-F); SPA 17-0003-UT MAGI-Based Income Methodologies, which clarifies the Department will treat separated spouses as separate households when determining eligibility for the Children's Health Insurance Program (CHIP) and Medicaid program; SPA 17-0004-UT Outpatient Hospital Supplemental Payments, which updates the utilization trend for the outpatient hospital upper payment limit in State Fiscal Year 2018 to -1.1 percent; SPA 17-0005-UT Reimbursement for Home Health Services, which updates the effective date of rates for home health services to 07/01/2017; SPA 17-0006-UT Reimbursement for Physician and Anesthesia Services, which updates the effective date of rates for physician and anesthesia services to 07/01/2017; SPA 17-0007-UT Reimbursement for Optometry Services, which updates the effective date of rates for optometry services to 07/01/2017; SPA 17-0008-UT Reimbursement for Speech Pathology Services, which updates the effective date of rates for speech pathology services to 07/01/2017; SPA 17-0009 Reimbursement for Audiology Services, which updates the effective date of rates for audiology services to 07/01/2017; SPA 17-0010-UT Reimbursement for Chiropractic Services, which updates the effective date of rates for chiropractic services to 07/01/2017; SPA 17-0011-UT Reimbursement for Eyeglasses Services, which updates the effective date of rates for eyeglasses services to 07/01/2017; SPA 17-0012-UT Reimbursement for Clinic Services, which updates the effective date of rates for clinic services to 07/01/2017; SPA 17-0013-UT Reimbursement for Physical Therapy and Occupational Therapy, which updates the effective date of rates for physical therapy and occupational therapy to

07/01/2017; SPA 17-0014-UT Reimbursement for Rehabilitative Mental Health Services, which updates the effective date of rates for rehabilitative mental health services to 07/01/2017; SPA 17-0015-UT Reimbursement for Transportation Services, which updates the effective date of rates for transportation services to 07/01/2017; SPA 17-0016-UT Reimbursement for Dental Services and Dentures, which updates the effective date of rates for dental services and dentures to 07/01/2017; and SPA 17-0018-UT Pediatric Dental Supplemental Payments, which corrects an amount for state funds on the State Plan page. This proposed rule also incorporates by reference the following Medicaid provider manuals to 07/01/2017: Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, and the manual's attachment for Donor Human Milk Request Form; Hospital Services Utah Medicaid Provider Manual with its attachments; Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid; Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual; Hospice Care Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual; Personal Care Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual; Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual; Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual; Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual; Office of Inspector General (OIG) Administrative Hearings Procedures Manual; Pharmacy Services Utah Medicaid Provider Manual with its attachments; Coverage and Reimbursement Code Look-up Tool; CHEC Services Utah Medicaid Provider Manual with its attachments; Chiropractic Medicine Utah Medicaid Provider Manual; Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual; General Attachments (All Providers) for the Utah Medicaid Provider Manual; Indian Health Utah Medicaid Provider Manual; Medical Transportation Utah Medicaid Provider Manual; Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment; Licensed Nurse Practitioner Utah Medicaid Provider Manual; Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables; Physician Services Utah Medicaid Provider Manual with its attachments; Anesthesiology Utah Medicaid Provider Manual; Podiatric Services Utah Medicaid Provider Manual; Primary Care Network Utah Medicaid Provider Manual with its attachments; Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid

Provider Manual; Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual; School-Based Skills Development Services Utah Medicaid Provider Manual; Section I; General Information Utah Medicaid Provider Manual; Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; Vision Care Services Utah Medicaid Provider Manual; Medically Complex Children's Waiver Utah Medicaid Provider Manual; and Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual. This incorporation of the manuals includes the following changes: The Laboratory Services and Women's Services manuals have been archived and the information is now incorporated into the Physician Services manual; Attachments to the Laboratory Services manual, which include the Clinical Laboratory Improvement Amendments and Nucleic Acid Probes have also been archived; information from these attachments may also be found in the Physician Services manual; within the Physician Services manual, certain services no longer require prior authorization and others have been removed from manual review; additionally, information regarding medications has been removed from the Physician services manual and relocated to the Pharmacy Services manual; updates to polysomnography coverage are also included in the Physician Services manual; changes to Pharmacy Services manual attachments include updates to the "Drug Criteria and Limits" and the "Over-the-Counter (OTC) Drug List"; the Personal Care Services manual clarifies policy, updates limitations, updates references to federal statutes, and clarifies the appropriate use of modifiers for submitted claims; it also clarifies employment-related services that include duplicate-same day service, paperwork for self-administered service workers, and inappropriate use of personal assistants; the New Choices Waiver manual has been updated to describe conflict-free case management guidelines, to describe the process of using of a contractor to pay for waiver goods and services, and to instruct providers on the use of the Provider Reimbursement Information System for Medicaid (PRISM); New Choices Waiver forms have also been removed and are available online; the manual also includes other technical changes for clarification purposes; Section I of the provider manual has been updated to include information on coverage for CPT modifiers, and to include a definition and new information on prior authorization; it also defers solely to the Medicaid State Plan on cost-sharing policy; the Hospital Services manual has been changed to update post-surgery policy and to re-define global surgical procedure; the manual also clarifies Medicaid policy on cosmetic or reconstructive procedures, and further clarifies Medicaid policy on medical supplies and durable equipment; the Anesthesiology manual has been updated to remove the definition of chronic pain; The Home Health Services and Medical Supplies and Durable Medical Equipment manuals have been revised to include the face-to-face encounter requirement for all Medicaid members; the Medical Transportation manual has been updated to remove contract-specific information in relation to non-emergency

medical transportation (NEMT), it also updates NEMT policy for Medicaid members who receive mental health services; the Rural Health Clinics and Federally Qualified Health Centers (RHC/FQHC) Services manual has been updated to clarify billing practices for mental health services in these facilities; the Rehabilitative Mental Health and Substance Use Disorder Services manual has been updated to clarify definitions of "Indian health care provider" and "supportive living". This manual also updates evaluations for chronic pain management, updates billing information for telemedicine, updates limitations on patient-substitution under Non-Traditional Medicaid, updates limitations on coverage and reimbursement, clarifies fee-for-service claims for neuropsychological testing, clarifies limits for psychological testing, clarifies prior authorization, and removes the manual review requirement.

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

**MATERIALS INCORPORATED BY REFERENCE:**

- ◆ Updates Chiropractic Medicine Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Removes Women's Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 04/01/2017
- ◆ Updates Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Hospice Care Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Podiatric Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, and Donor Human Milk Request Form, published by Division of Medicaid and Health Financing, 07/01/2017

- ◆ Updates Indian Health Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Office of Inspector General Administrative Hearings Procedures Manual, published by Office of Inspector General and Medicaid Services, 07/01/2017
- ◆ Updates Physician Services Utah Medicaid Provider Manual with attachments, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Removes Laboratory Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 04/01/2017
- ◆ Updates Personal Care Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates CHEC Services Utah Medicaid Provider Manual with attachments, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Adds Anesthesiology Utah Medicaid Provider Manual with attachments, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Primary Care Network Utah Medicaid Provider Manual with attachments, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Home Health Agencies Utah Medicaid Provider Manual, and Private Duty Nursing Acuity Grid, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Section I: General Information Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Medicaid State Plan, published by Centers for Medicare and Medicaid Services, 07/01/2017
- ◆ Updates Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates School-Based Skills Development Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Medically Complex Children's Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Licensed Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Pharmacy Services Utah Medicaid Provider Manual with attachments, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Hospital Services Utah Medicaid Provider Manual with attachments, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Coverage and Reimbursement Code Look-up Tool, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with attachments, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
- ◆ Updates General Attachments (All Providers) for the Utah Medicaid Provider Manual, published by

Division of Medicaid and Health Financing,  
07/01/2017  
♦ Updates Medical Transportation Utah Medicaid  
Provider Manual, published by Division of Medicaid  
and Health Financing, 07/01/2017

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to the Department or other state agencies.

♦ **LOCAL GOVERNMENTS:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to local governments.

♦ **SMALL BUSINESSES:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to Medicaid recipients and to Medicaid providers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to a single Medicaid recipient or to a Medicaid provider.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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 Office 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 or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON  
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO  
LATER THAN AT 5:00 PM ON 08/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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

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

**R414-1-5. Incorporations by Reference.**

The Department incorporates the ~~April~~ July 1, 2017, versions of the following by reference:

(1) Utah Medicaid State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;

(2) Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, as applied in Rule R414-70, and the manual's attachment for Donor Human Milk Request Form;

(3) Hospital Services Utah Medicaid Provider Manual with its attachments;

(4) Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;

(5) Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual;

(6) Hospice Care Utah Medicaid Provider Manual;

(7) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;

(8) Personal Care Utah Medicaid Provider Manual;

(9) Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual;

(10) Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual;

(11) Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;

(12) Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual;

(13) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;

(14) Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;

(15) Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual;

(16) Office of Inspector General Administrative Hearings Procedures Manual;

(17) Pharmacy Services Utah Medicaid Provider Manual with its attachments;

(18) Coverage and Reimbursement Code Look-up Tool found at <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>;

(19) CHEC Services Utah Medicaid Provider Manual with its attachments;

(20) Chiropractic Medicine Utah Medicaid Provider Manual;

(21) Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual;

(22) General Attachments (All Providers) for the Utah Medicaid Provider Manual;

(23) Indian Health Utah Medicaid Provider Manual;

~~[(24) Laboratory Services Utah Medicaid Provider Manual with its attachments;]~~

(2[5]4) Medical Transportation Utah Medicaid Provider Manual;

(2[6]5) Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment;

(2[7]6) Licensed Nurse Practitioner Utah Medicaid Provider Manual;

(2[8]7) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables;

(2[9]8) Physician Services~~;~~ ~~Anesthesiology and Laboratory Services]~~ Utah Medicaid Provider Manual with its attachments;

~~(29) Anesthesiology Utah Medicaid Provider Manual;~~

(30) Podiatric Services Utah Medicaid Provider Manual;

(31) Primary Care Network Utah Medicaid Provider Manual with its attachments;

(32) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;

(33) Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual;

(34) School-Based Skills Development Services Utah Medicaid Provider Manual;

(35) Section I: General Information Utah Medicaid Provider Manual;

(36) Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual;

(37) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual;

(38) Vision Care Services Utah Medicaid Provider Manual;

~~[(39) Women's Services Utah Medicaid Provider Manual;]~~

([40]39) Medically Complex Children's Waiver Utah Medicaid Provider Manual; and

(4[+]0) Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~[June 15], 2017~~

**Notice of Continuation:** February 15, 2017

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

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-60-7** Reimbursement

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41916

FILED: 07/10/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to update the dispensing fee for pharmacies located outside of the state of Utah, to be in accordance with the Medicaid State Plan.

**SUMMARY OF THE RULE OR CHANGE:** This amendment updates the dispensing fee for pharmacies located outside of the state of Utah, in accordance with the Medicaid State Plan.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 42 CFR 447.502 through 447.520 and Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no impact to the state budget because this change only updates by rule the dispensing-fee provision for out-of-state pharmacies, which has been implemented through the Medicaid State Plan.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund pharmacy services under the Medicaid program.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because this change only updates by rule the dispensing-fee provision for out-of-state pharmacies, which has been implemented through the Medicaid State Plan.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid members because this change only updates by rule the dispensing-fee provision for out-of-state pharmacies, which has been implemented through the Medicaid State Plan.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact to a single Medicaid provider or to Medicaid

member because this change only updates by rule the dispensing-fee provision for out-of-state pharmacies, which has been implemented through the Medicaid State Plan.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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 Office 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 or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/01/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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

##### **R414-60. Medicaid Policy for Pharmacy Program.**

##### **R414-60-7. Reimbursement.**

(1) A pharmacy may not submit a charge to Medicaid that exceeds the pharmacy's usual and customary charge.

(2) Covered-outpatient drugs are reimbursed at the lesser of the following:

- (a) The Wholesale Acquisition Cost;
- (b) The Federal Upper Limit assigned by the Centers for Medicare and Medicaid Services;
- (c) The Utah Maximum Allowable Cost; and
- (d) The submitted ingredient cost.

(e) If a prescriber obtains prior authorization for a brand-name version of a multi-source drug in accordance with 42 CFR 447.512 or if a brand-name drug is covered because a financial benefit will accrue to the State in accordance with Section 58-17b-606, then Medicaid will not apply the Utah Maximum Allowable Cost or Federal Upper Limit to the claim.

(f) Pharmacies participating in the 340B program and using medications obtained through the 340B program to bill Medicaid must submit the actual acquisition cost of the medication on the claim.

(g) Pharmacies that participate in the Federal Supply Schedule and use medications obtained through the schedule to bill Utah Medicaid, must submit the actual acquisition cost of the medication on the claim unless the claim is reimbursed as a bundled charge or All Inclusive Rate.

(h) Pharmacies that obtain and use medications at a nominal price must submit the actual acquisition cost of the medication on the claim.

(i) The Utah Maximum Allowable Cost (UMAC) for drugs for which the Centers for Medicare and Medicaid Services (CMS) publishes a National Average Drug Acquisition Cost (NADAC), is the NADAC itself. The UMAC for which CMS does not publish a NADAC is calculated by the Department.

(3) Dispensing fees are as outlined in the Utah State Plan, Attachment 4.19-B as approved by CMS and as follows:

- ~~(a) [\$9.99 for urban pharmacies in Utah;~~
- ~~(b) \$10.15 for rural pharmacies in Utah;~~
- ~~(c) \$7.66 for pharmacies located in a state other than Utah;~~
- ~~(d) \$716.54 for hemophilia clotting factor dispensed by the contracted provider.~~

~~(e) ]Medicaid will pay the lesser of the assigned dispensing fee or the submitted dispensing fee;~~

~~(f) ]Medicaid will only pay one dispensing fee per 24 days per covered outpatient drug per pharmacy.~~

(4) Medicaid will pay the lesser of the sum of the allowed amount for the covered outpatient drug and dispensing fee or the billed charges.

(5) Immunizations provided to Medicaid clients who are at least 19 years of age will be paid for the cost of the immunization plus a dispensing fee. Medicaid will pay the lesser of the allowed or submitted charges.

(6) Immunizations provided to Medicaid clients who are 18 years old or younger will only be eligible for a dispensing fee with no reimbursement for the immunization. Immunizations for Medicaid clients who are 18 years old or younger must be obtained through the Vaccines for Children program.

(7) Blood glucose test strips listed as preferred on the Utah Medicaid Preferred Drug List will be reimbursed at the lesser of the Wholesale Acquisition Cost with no dispensing fee or the billed charges.

(8) In accordance with the Utah Medicaid State Plan, the Department may only reimburse a single-contracted provider for the purchase of hemophilia clotting factor.

#### **KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment: [April 4], 2017**

**Notice of Continuation: April 30, 2012**

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

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-100-4** Cost Sharing Provisions

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41914

FILED: 07/10/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to implement new cost-sharing policy in accordance with the Affordable Care Act.

**SUMMARY OF THE RULE OR CHANGE:** This amendment removes cost-sharing provisions from the rule to defer implementation of the cost-sharing policy to the Medicaid State Plan. The Department will adopt the new cost-sharing policy in Section R414-1-5 when it incorporates the Medicaid State Plan by reference to 07/01/2017.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 42 CFR 447.50 through 447.57 and Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The Department estimates annual savings to the state budget based on the new cost-sharing policy. The total savings amount can be found in the companion filing to this rulemaking (Section R414-1-28, published in the May 15, 2017, Utah State Bulletin). (EDITOR'S NOTE: The proposed amendment to Section R414-1-28 was published under Filing No. 41498 in the May 15, 2017, issue of the Utah State Bulletin on page 75.)
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund Medicaid services nor receive cost-sharing amounts from Medicaid members.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because the cost-sharing increase is offset by a decrease in reimbursement and does not affect total annual revenue.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers because the cost-sharing increase is offset by a decrease in reimbursement and does not affect total annual revenue. Medicaid members, however, may see an annual increase in out-of-pocket expenses with the policy's implementation. The total out-of-pocket cost can be found in the companion filing to this rulemaking (Section R414-1-28, published in the May 15, 2017, Utah State Bulletin).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A single Medicaid member may share a portion of the annual increase in out-of-pocket expenses with the policy's implementation. The total out-of-pocket cost can be found in the companion filing to this rulemaking (Section R414-1-28, published in the May 15, 2017, Utah State Bulletin).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that

this proposed rule will not result in a fiscal impact to businesses.

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 Office 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 or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.****R414-100. Medicaid Primary Care Network Services.****[R414-100-4. Cost Sharing Provisions:**

- ~~\_\_\_\_\_ (1) Emergency department visits require a \$30 copayment.~~
- ~~\_\_\_\_\_ (2) Outpatient office visits require a \$5 copayment for physician and physician-related visits. There is no copayment for preventive services, immunizations and health education.~~
- ~~\_\_\_\_\_ (3) Dental office visits require a \$5 copayment.~~
- ~~\_\_\_\_\_ (4) Laboratory and x-ray services:~~
  - ~~\_\_\_\_\_ (a) laboratory services costing less than \$50 require no copayment or co-insurance;~~
  - ~~\_\_\_\_\_ (b) laboratory services costing more than \$50 require a co-insurance of 5% of the Medicaid allowed amount;~~
  - ~~\_\_\_\_\_ (c) x-ray services costing less than \$100 require no copayment or co-insurance; and~~
  - ~~\_\_\_\_\_ (d) x-ray services costing more than \$100 require a co-insurance of 5% of the Medicaid allowed amount.~~
- ~~\_\_\_\_\_ (5) Pharmacy services require:~~
  - ~~\_\_\_\_\_ (a) a \$5 copayment per prescription for generic drugs;~~
  - ~~\_\_\_\_\_ (b) a 25% of the estimated acquisition cost co-insurance for brand name drugs for which there is no generic equivalent; and~~
  - ~~\_\_\_\_\_ (c) a 100% copay for brand name drugs for which there is a generic equivalent.~~
- ~~\_\_\_\_\_ (6) Durable medical equipment and supplies require a co-insurance of 10% of Medicaid allowed amount.~~
- ~~\_\_\_\_\_ (7) The out-of-pocket maximum payment for copayments or co-insurance is limited to \$1000 per enrollee per enrollment year.~~
- ~~\_\_\_\_\_ (8) Tribal members utilizing the federal Indian Health Care or tribal health care systems will not pay copayments, co-insurance or deductibles.~~
- ~~\_\_\_\_\_ (9) Vision services require a \$5 copayment per office visit.]~~



**KEY: Medicaid, primary care network**

**Date of Enactment or Last Substantive Amendment:** ~~[May 5], 2017~~

**Notice of Continuation:** May 14, 2012

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

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

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41915

FILED: 07/10/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to implement new cost-sharing policy in accordance with the Affordable Care Act.

**SUMMARY OF THE RULE OR CHANGE:** This amendment removes cost-sharing provisions from the rule to defer implementation of the cost-sharing policy to the Medicaid State Plan. The Department will adopt the new cost-sharing policy in Section R414-1-5 when it incorporates the Medicaid State Plan by reference to 07/01/2017.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 42 CFR 447.50 through 447.57 and Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The Department estimates annual savings to the state budget based on the new cost-sharing policy. The total savings amount can be found in the companion filing to this rulemaking (Section R414-1-28, published in the May 15, 2017, Utah State Bulletin). (EDITOR'S NOTE: The proposed amendment to Section R414-1-28 was published under Filing No. 41498 in the May 15, 2017, issue of the Utah State Bulletin on page 75.)

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund Medicaid services nor receive cost-sharing amounts from Medicaid members.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because the cost-sharing increase is offset by a decrease in reimbursement and does not affect total annual revenue.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers because the cost-sharing increase is offset by a decrease in reimbursement and does not affect total annual revenue. Medicaid members, however, may see an annual increase in out-of-pocket

expenses with the policy's implementation. The total out-of-pocket cost can be found in the companion filing to this rulemaking (Section R414-1-28, published in the May 15, 2017, Utah State Bulletin).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A single Medicaid member may share a portion of the annual increase in out-of-pocket expenses with the policy's implementation. The total out-of-pocket cost can be found in the companion filing to this rulemaking (Section R414-1-28, published in the May 15, 2017, Utah State Bulletin).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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 Office 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 or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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

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

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

- ~~(1) An enrollee is responsible to pay to the:~~
- ~~(a) hospital a \$220 co-insurance payment for each inpatient hospital admission;~~
- ~~(b) hospital a \$6 copayment for each non-emergency use of hospital emergency services;~~
- ~~(c) provider a \$3 copayment for outpatient office visits for physician, physician-related, mental health services, physical therapy, and occupational therapy services; except, no copayment is due for preventive services, immunizations and health education; and~~
- ~~(d) pharmacy a \$3 copayment per prescription for prescription drugs.~~

~~(c) physician costs for services that include family planning purposes. Pharmacy products related to family planning purposes are exempt from copayment requirements.~~

~~(2) The out-of-pocket maximum payment for copayments or co-insurance is limited to \$500 per enrollee per calendar year.~~

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

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

~~(a) American Indians; and~~

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

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

**Date of Enactment or Last Substantive Amendment: [May 5], 2017**

**Notice of Continuation: May 14, 2012**

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

## Health, Family Health and Preparedness, Licensing **R432-600** Abortion Clinic Rule

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41909

FILED: 07/07/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule amendment is to modify the emergency transfer requirements, and to amend incorrect references and wording. The Health Facility Committee reviewed and approved these rule amendments on 05/10/2017.

**SUMMARY OF THE RULE OR CHANGE:** The rule amendment removes the Emergency Transfer Agreement requirement (Section R432-600-13), which required the facility to have an agreement with a hospital that included admitting privileges. The amendment adds policies and procedures requirements for an emergency treatment transfer plan which does not require the clinic to have hospital admitting privileges. This amendment also corrects many outdated references and corrects errors.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 21

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the state budget because this amendment simply updates references and simplifies the rule requirements.

◆ **LOCAL GOVERNMENTS:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the local government budget because this amendment simply updates references and simplifies the rule requirements.

◆ **SMALL BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the small businesses budget because this amendment simply updates references and simplifies the rule requirements.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses, individuals, local governments, and persons that are not small businesses because this amendment simply updates references and simplifies the rule requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to affected persons because this amendment simply updates references and simplifies the rule requirements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov  
◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov or mail at PO Box 142003, Salt Lake City, UT 84114-2003

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2017**

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R432. Health, Family Health and Preparedness, Licensing.**

**R432-600. Abortion Clinic Rule.**

**R432-600-7. Clinic Protocols, Policies, and Procedures.**

~~[Clear, explicit written protocols, criteria, policies and procedures in accordance with Section 76-7-302, shall be established by the licensee with consultation of the medical director and the administrator in the following areas:~~

]  
 (1) The licensee shall develop and implement written policies and procedures with the medical director and the administrator in accordance with State law including:

(a) Patient eligibility criteria;

~~(2)~~b) Physician competency criteria;

~~(3)~~c) Informed consent;

~~(4) Abortion procedure protocols to include;~~

~~(a)d) For Type II Clinics, policy must indicate a limit on the number of weeks within the second trimester of pregnancy during which abortions can be safely performed in the clinic[.];~~

(e) For Type II Clinics, an emergency treatment transfer plan which shall include:

(i) patient acknowledgment of the transfer plan;

(ii) notification to the receiving hospital when a patient requires emergency transfer;

(iii) explanation of how information will be provided to receiving hospital for proper care and treatment of the individual transferred;

(iv) plan for security and accountability of the personal effects of the individual transferred; and

(v) mode of transportation for the transfer.

~~(b)f) If an abortion is performed when an unborn child is sufficiently developed to have any reasonable possibility of survival outside its mother's womb, the medical procedure used must be that which, in the best medical judgment of the physician, will give the unborn child the best chance of survival. (Refer to Section 76-7-307.)~~

~~(5)~~g) Pre and post counseling;

~~(6)~~h) Clinic operational functions;

~~(7)~~i) Patient care and patient rights policies;

~~(8)~~j) A quality assurance committee;

~~(9)~~k) Ongoing relevant training program for all clinic personnel;

~~(10)~~l) Emergency and disaster plans;

~~(11)~~m) Fire evacuation plans.

**~~[R432-600-13. Emergency Transfer Agreements.~~**

~~(1) The licensee shall maintain either admitting privileges for the medical director or a written transfer agreement with one or more full-service JCAHO-accredited hospitals located within an overall travel time of 15 minutes or less from the clinic.~~

~~(2) The transfer agreement shall include provisions for:~~

~~(a) Hospital admitting privileges for the clinic medical director or the attending physician;~~

~~(b) Transfer of information needed for proper care and treatment of individual transferred;~~

~~(c) Security and accountability of the personal effects of the individual transferred.]~~

**R432-600-1[4]3. Quality Assurance.**

(1) The administrator, in conjunction with the medical staff, shall establish a quality assurance committee and program. This committee shall review regularly clinic operations, protocols, policies and procedures, incident reports, infection control, patient care policies and safety.

(2) The committee shall include a representative from the clinic administration, a physician, and a nurse.

(3) The committee shall meet at least quarterly and keep minutes of the proceedings. The minutes shall be available for review by the Department.

(4) The committee shall initiate action to resolve identified quality assurance problems by filing a written report of findings and recommendations with the licensee.

**R432-600-1[5]4. Emergency and Disaster.**

(1) Each facility has the responsibility to assure the safety and well-being of patients in the event of an emergency or disaster. An emergency or disaster may include but is not limited interruption of public utilities, explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic, and injury.

(2) The administrator shall be in charge of facility operations during any significant emergency. If not on the premises, the administrator shall make every reasonable effort to get to the facility to relieve subordinates and take charge during the emergency.

(3) The licensee and the administrator shall be responsible for the development of a plan, coordinated with state and local emergency or disaster authorities, to respond to emergencies and disasters.

(a) This plan shall be in writing and shall be distributed or made available to all facility staff to assure prompt and efficient implementation.

(b) The plan shall be reviewed and updated at least annually by the administrator and the licensee.

(4) The names and telephone numbers of clinic staff, emergency medical personnel, and emergency service systems shall be posted.

(5) The facility's emergency plan shall address the following:

(a) Evacuation of occupants to a safe place within the facility or to another location;

(b) Delivery of emergency care and services to facility occupants when staff is reduced by an emergency;

(c) The person or persons with decision-making authority for fiscal, medical, and personnel management;

(d) An inventory of available personnel, equipment, and supplies and instructions on how to acquire additional assistance;

(e) Assignment of personnel to specific tasks during an emergency;

(f) Names and telephone numbers of on-call physicians and staff shall be available;

(g) Documentation of emergency events.

(6) The licensee and administrator shall develop a written fire emergency and evacuation plan in consultation with qualified fire safety personnel.

(a) The evacuation plan shall identify evacuation routes, location of fire alarm boxes, fire extinguishers, and emergency

telephone numbers of the local fire department and shall be posted throughout the facility.

(b) The written fire emergency plan shall include fire-containment procedures and how to use the facility alarm systems and signals.

(c) Fire drills and documentation shall be in accordance with R710-4, State of Utah Fire Protection Board. The actual evacuation of patients during a drill is optional.

**R432-600-1[6]5. Patients' Rights.**

(1) The clinic shall provide informed consent material (see Section 76-7-305.5) to any patient or potential patient.

(2) Written policies regarding the rights of patients shall be made available to the patient, public, and the Department upon request.

(3) Each patient admitted to the facility shall have the following rights:

(a) To be fully informed, prior to or at the time of admission and during stay, of these rights and of all facility rules that pertain to the patient;

(b) To be fully informed, prior to or at the time of admission and during stay, of services available in the facility and of any charges for which the patient may be liable;

(c) To refuse to participate in experimental research;

(d) To refuse treatment and to be informed of the medical consequences of such refusal;

(e) To be assured confidential treatment of personal and medical records and to approve or refuse release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third party payment contract;

(f) To be treated with consideration, respect, and full recognition of personal dignity and individuality, including privacy in treatment and in care for personal needs.

**R432-600-1[7]6. General Patient Care Policies.**

(1) Each patient shall be treated as an individual with dignity and respect.

(2) Each clinic shall develop and implement patient care policies to be reviewed annually by the administrator or designee.

(a) Patient care policies shall be developed and revised through patient-care conferences with all professionals involved in patient care.

(b) Admission and discharge policies shall be included in general patient care policies.

(3) The facility shall have a policy to notify next of kin in the event of serious injury to, or death of, the patient.

(4) Each patient shall be under the care of a physician who is a member of the clinic staff.

**R432-600-1[8]7. Nursing Services.**

(1) Each facility shall provide nursing services commensurate with the needs of the patients served.

(2) All non-medical patient services shall be under the general direction of the director of nursing, except as specifically exempted by facility policy.

(3) Each Type II clinic shall employ and designate in writing a director of nursing who will be responsible for the organization and functioning of the nursing staff and related service.

(a) The director of nursing shall be a registered nurse who has academic or post graduate training acceptable to the medical director.

(b) The director of nursing in consultation with the medical director shall plan and direct the delivery of nursing care by nursing staff.

(4) Nursing service personnel shall assist the physician, plan and deliver nursing care, treatments, and procedures commensurate with the patient's needs and clinic protocols.

(5) The facility shall provide adequate equipment in good working order to meet the needs of patients.

(6) Disposable and single-use items shall be properly disposed after use.

**R432-600-1[9]8. Pharmacy Service.**

(1) There shall be written policies and procedures, approved by the medical director and administrator, to govern the acquisition, storage, and disposal of medications.

(2) There shall be provision for the supply of necessary drugs and biologicals on a prompt and timely basis.

(3) The clinic shall obtain reference material containing monographs on all drugs used in the facility. The drug monographs shall include generic and brand names, available strengths, dosage forms, indications and side effects, and other pharmacological data.

(4) All medications, solutions, and prescription items shall be kept in a secure controlled storage area and separate from non-medicine items.

(5) An accessible emergency drug supply shall be maintained in the facility.

(a) Specific drugs and dosages to be included in the emergency drug supply shall be approved by the medical director.

(b) Contents of the emergency drug supply shall be listed on the outside of the container.

(c) The use and regular inventory of the contents shall be documented by nursing staff.

(6) Medications stored at room temperature shall be maintained within 59 degrees - 80 degrees F (15 degrees to 30 degrees C). Refrigerated medications shall be maintained within 36 degrees - 46 degrees F (2 degrees to 8 degrees C).

(7) Medications and other items that require refrigeration shall be stored securely and segregated from food items.

**R432-600-[20]19. Laboratory and Radiology Services.**

(1) The facility shall make provisions, as appropriate, for Laboratory and Radiology services.

(2) There shall be a valid order, documented in the patients medical record, from a physician or a person licensed to prescribe such services.

(3) Services shall be performed by a qualified licensed provider.

(4) If the facility provides its own laboratory service, these services shall comply with R432-100-2[2]3 in the General Hospital Facility Rules.

(5) If the facility provides its own radiology services, these shall comply with R432-100-2[4]2.

(6) If laboratory and radiology services are not provided directly, provision shall be made for such services. Reports or results

shall be reported promptly to the attending physician and documented in the patient's medical record.

**R432-600-2[1]0. Anesthesia Services.**

Anesthesia services provided in the clinic shall comply with the General Hospital Rules R432-100-15 and Utah Code 76-7-305.

**R432-600-2[2]1. Medical Records.**

(1) Medical records shall be complete, accurately documented, and systematically organized to facilitate storage and retrieval. There shall be written policies and procedures to accomplish these purposes.

(2) A permanent individual medical record shall be maintained for each patient.

(3) All entries shall be permanent and capable of being photocopied. Entries must be authenticated including date, name or identified initials, and title of the person making the entry.

(4) Records shall be kept for all patients admitted or accepted for treatment and care. Records shall be kept current and shall conform to good medical and professional practice based on the service provided to each patient.

(5) All records of discharged patients shall be completed and filed as soon as possible or within 30 days of discharge.

(6) Each patient's medical record shall include the following:

(a) An admission record (face sheet) including the patient's name; age; date of admission; name, address, and telephone number of physician and responsible person;

(b) Reports of physical examinations, laboratory tests and X-rays prescribed and completed, including ultrasound reports;

(c) Signed and dated physician orders for drugs and treatments;

(d) Signed and dated nurse's notes regarding the care of the patient. The notes shall include vital signs, medications, treatments and other pertinent information;

(e) Discharge summary which contains a brief narrative of conditions and diagnoses of the patient and final disposition;

(f) The pathologist's report of human tissue removed during an abortion;

(g) All information indicated in Section 76-7-313.

(7) Medical records shall be retained for at least seven years after the last date of patient care. Records of minors shall be retained until the minor reaches age 18 or the age of majority plus an additional two years. In no case shall the record be retained less than seven years.

(8) All patient records shall be retained within the clinic upon change of ownership.

(9) Provision shall be made for filing, safe storage, security, and easy accessibility of medical records.

(10) Medical record information shall be confidential. There shall be written procedures for the use and removal of medical records and the release of patient information.

(a) Information may be disclosed only to authorized persons in accordance with federal and state laws, and clinic policy.

(b) Requests for information which may identify the patient (including photographs) shall require the written consent of the patient.

**R432-600-2[3]2. Housekeeping Services.**

(1) There shall be adequate housekeeping services to maintain a clean, sanitary, and healthful environment in the facility.

(2) Written housekeeping policies and procedures shall be developed and implemented by each facility, and reviewed and updated as necessary.

(3) The facility shall employ housekeeping staff to maintain both the exterior and interior of the facility in a safe, clean, orderly manner.

(4) Housekeeping equipment shall be for institutional use and properly maintained.

(5) Cleaning solutions for floors shall be prepared in proper strengths according to the manufacturer's instructions and be checked to insure that the proper germicidal concentrations are maintained.

(6) There shall be sufficient number of noncombustible trash containers. Lids shall be provided where appropriate.

(7) Storage areas containing cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials, shall be stored in a locked area to prevent unauthorized access. Toilet rooms shall not be used as storage places.

**R432-600-2[4]3. Laundry Services.**

(1) Each facility shall have provisions for storage and processing of clean and soiled linen as required for patient care.

(2) Processing may be done within the facility, in a separate building or in a commercial or shared laundry.

(3) Each facility shall develop and implement policies and procedures relevant to operation of the laundry.

(4) Clean linen shall be stored, handled, and transported in a manner to prevent contamination.

(a) Clean linen shall be stored in clean ventilated closets, rooms, or alcoves used only for that purpose.

(b) Clean linen shall be covered if stored in alcoves and transported through the facility.

(c) Clean linen from a commercial laundry shall be delivered to a designated clean area in a manner that prevents contamination.

(d) Linens shall be maintained in good condition.

(e) A supply of clean washcloths and towels shall be provided and available to staff to meet the care needs of patients.

(5) Soiled linen shall be handled, stored and processed in a manner that will prevent the spread of infections.

(a) Soiled linen shall be sorted in a separate room by methods affording protection from contamination, according to facility policy and applicable rules.

(b) Soiled linen shall be stored and transported in a closed container which prevents airborne contamination of corridors, areas occupied by patients, and precludes cross contamination of clean linens.

(6) Laundry chutes shall be maintained in a clean sanitary state.

**R432-600-2[5]4. Maintenance Services.**

(1) There shall be adequate maintenance service to ensure that the facility, equipment, and grounds are maintained in a clean and sanitary condition and in good repair at all times, in accordance with manufacturer specifications for the safety and well-being of patients, staff, and visitors.

(2) The administrator shall employ or contract with a person qualified by experience and training to be in charge of facility maintenance.

(3) The facility shall develop and implement a written maintenance program, including preventive maintenance, to ensure continued operation and sanitary practices throughout the facility.

(4) All buildings, fixtures, equipment and spaces shall be maintained in operable conditions.

(5) A pest control program shall be conducted to ensure the facility is free from vermin and rodents.

(6) Equipment used in the clinic shall be approved by Underwriter's Laboratory and meet all applicable Utah Occupational Safety and Health Act requirements in effect at the time of purchase.

(7) Electrical systems including appliances, cords, equipment, call lights, and switches shall be maintained to guarantee safe functioning and compliance with the National Electrical Code.

(8) There shall be regular inspections, to clean or replace all filters installed in heating, air conditioning, and ventilation systems, to maintain the systems in operating condition.

**R432-600-2[6]5. Emergency Electric Service.**

(1) The clinic shall make provision for emergency electrical power to provide lighting and power to critical areas essential for patient safety in the event of an interruption of normal electrical power service.

(2) The method utilized for emergency electrical power is subject to Departmental review and approval.

(3) There shall be provision for emergency exit lighting according to NFPA 101.

(4) Flashlights shall be available for emergency use by staff.

(5) All emergency electrical power systems shall be maintained in operating condition and tested as follows:

(a) Emergency generators shall be tested in accordance with NFPA 99.

(b) Transfer switches and battery operated equipment shall be functionally tested every 30 days and load tested at least annually, for 90 minutes.

(6) A written record of inspection, performance, test period, and repair of the emergency electrical system shall be maintained on the premises for review.

**R432-600-2[7]6. Storage and Disposal of Solid Wastes.**

Facilities and equipment shall be provided for the sanitary storage and treatment or disposal of all categories of waste, including hazardous and infectious wastes if applicable, using techniques acceptable to the Department of Environmental Quality, and the local health department having jurisdiction.

**R432-600-2[8]7. Oxygen.**

If oxygen is utilized:

(1) Provision shall be made for safe handling and storage of oxygen according to the NFPA 101, Life Safety Code and referenced NFPA standards.

(2) Piped oxygen systems shall be tested and installed in accordance with NFPA 99.

(3) A written report shall be filed with the Utah Department of Health as follows:

(a) Upon completion of initial installation;

(b) Whenever changes are made to a system; and

(c) Whenever the integrity of the system has been breached.

**R432-600-2[9]8. Lighting.**

(1) At least 30 foot-candles of light shall illuminate reading, patient care (bed level) and working areas in patient treatment areas and not less than 20 foot-candles of light shall be provided in the rest of the room.

(2) All accessible storeroom, stairway, ramp, exit and entrance areas shall be illuminated by at least 20 foot-candles of light at floor level.

(3) All corridors shall be illuminated with a minimum of 20 foot-candles of light at floor level.

(4) Other areas shall be provided with the following minimum foot-candles of light at working surfaces:

(a) Operating rooms 50 Foot-candles

(b) Medication preparation areas 50 foot-candles

(c) Charting areas 50 foot-candles

(d) Reading rooms 50 foot-candles

(e) Laundry areas 20 foot-candles

(f) Bath and shower rooms 20 foot-candles

**R432-600-[30]29. Water Supply.**

(1) Plumbing and drainage facilities shall be maintained in compliance with Utah Plumbing Code.

(2) Backflow prevention devices shall be maintained in operating condition and tested when required by the Utah Plumbing Code and Utah Public Drinking Water Regulations.

(3) Hot water temperature controls shall automatically regulate temperatures of hot water delivered to plumbing fixtures used by patients. The facility shall maintain hot water delivered to patient care areas at temperature between 105 degrees and 120 degrees F.

(4) There shall be grab bars at each toilet, bathtub, and shower used by patients.

(5) Toilet, hand washing facilities, shall be maintained in operating condition and in the number and types specified in construction requirements.

**R432-600-3[1]0. Smoking Policy.**

The smoking policy shall comply with the "Utah Clean Air Act", Title 26, Chapter 38, and Section 20.7.4 of the Life Safety Code.

**R432-600-3[2]1. Penalties.**

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-[6]7 and be punished for violation of a class A misdemeanor as provided in 26-21-16.

**KEY: health care facilities**

**Date of Enactment or Last Substantive Amendment:** [~~December 23, 2014~~]**2017**

**Notice of Continuation: November 9, 2015**

**Authorizing, and Implemented or Interpreted Law:** 26-21-5; 26-21-6; 26-21-16

**Money Management Council,  
Administration  
R628-2  
Investment of Funds of Public  
Education Foundations Established  
under Section 53A-4-205 or Funds  
Acquired by Gift, Devise, or Bequest**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 41928

FILED: 07/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to provide investment criteria as per Section 51-7-13 for funds of public education foundations or other funds acquired by gift, devise, or bequest which have a permanent longer term nature, different than operating funds that the Money Management Act, Title 51, Chapter 7, details investments for. This rule was in place and due to oversight it expired.

**SUMMARY OF THE RULE OR CHANGE:** This rule allows for funds of public education foundations or funds given to an entity that were given by gift, devise, or bequest to be invested in a broader range of investments as these types of funds are longer term or permanent in nature. It allows for the use of highly rated mutual funds, equity securities, fixed income securities, and fixed income securities issued by agencies of the United State and US government sponsored organizations with no limit on maturity. It provides for limitations on the percentage of the funds that may be in equity securities, the disposition of non-qualifying investments, investment policy approval by trustees and reporting requirements.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 51-7-13 and Subsection 51-7-11(4) and Subsection 51-7-18(2)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This rule does not apply to state funds.
- ◆ **LOCAL GOVERNMENTS:** As this rule has been in place there are no changes as to how public entities have been investing.
- ◆ **SMALL BUSINESSES:** This rule applies to public entities and has been in place so there are no costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule does not apply to other businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be not compliance costs as the rule has been in place and there are no changes.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to business as it has been in place and there are no changes.

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  
SALT LAKE CITY, UT 84114  
or at the Office 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
- ◆ Marina Scott by phone at 801-535-6565, or by Internet E-mail at marina.scott@slcgov.com

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2017

AUTHORIZED BY: Marina Scott, Chair

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

**R628-2. Investment of Funds of Public Education Foundations Established Under Section 53A-4-205 or Funds Acquired by Gift, Devise, or Bequest.**

**R628-2-1. Authority.**

This rule is issued pursuant to Section 51-7-18(2)(b).

**R628-2-2. Scope of Rule.**

This rule relates to all funds of public education foundations established under Section 53A-4-205 and any funds held by a public treasurer which were acquired by gift, devise, or bequest and which are permitted by statute to be invested according to rules adopted by the Money Management Council.

**R628-2-3. Investment Directions Contained in Gift or Grant.**

If any gift, devise, or bequest, whether outright or in trust, is made by a written instrument which contains lawful directions as to investment thereof, the funds embodied within the gift, devise or bequest shall be invested and held in accordance with those directions. Common stock received by donation which is registered stock, or which is otherwise restricted from sale because it is not registered with the Securities and Exchange Commission, may be retained until the

restrictions lapse, expire, or are revoked and shall be considered to be invested according to the terms of the donation. A gift, devise or bequest of closely held non-marketable securities, shall be purchased by the closely held entity within twenty four months of the gift, devise or bequest. Evidence of such put shall be furnished at the time of the gift, devise or bequest.

**R628-2-4. Investment of Funds.**

A. Funds within the scope of this rule, except funds described in Section R628-2-3, may be invested in any of the following:

1. in any deposit or investment authorized by Section 51-7-11 or 51-7-5;

2. in professionally managed pooled or commingled investment funds registered with the Securities and Exchange Commission with a Morningstar rating of "3" or higher;

3. in equity securities, including common and convertible preferred stock and convertible bonds, issued by corporations listed on a major securities exchange or in the NASDAQ, in accordance with the following criteria applied, on a total market basis, at the time of investment:

a) no more than 20% of all funds may be invested in securities listed in the NASDAQ;

b) no more than 5% of all funds may be invested in the securities of any one corporate issuer;

c) no more than 25% of all funds may be invested in a particular industry;

d) no more than 5% of all funds may be invested in securities of corporations that have been in continuous operation for less than three years;

e) no more than 5% of the outstanding voting securities of any one corporation may be held; and

f) at least 50% of the corporations in which equity investments are made under R628-2-4(A)(3) must appear on the Standard and Poor's 500 Composite Stock Price Index and the Wilshire 5000;

4. in fixed-income securities, including bonds, notes, mortgage securities and zero coupon securities, issued by corporations rated "investment grade" or higher by Moody's Investors Service, Inc. or by Standard and Poor's Corporation in accordance with the following criteria applied, on a total market basis, at the time of investment:

a) no more than 5% of all funds may be invested in the securities of any one corporate issuer;

b) no more than 25% of all funds may be invested in a particular industry;

c) the dollar-weighted average maturity of fixed-income securities acquired under R628-2-4(A)(4) may not exceed ten years; and

5. in fixed-income securities issued by agencies of the United States and United States government-sponsored organizations, including mortgage-backed pass-through certificates, mortgage-backed bonds and collateralized mortgage obligations (CMO's).

B. Investments made under this rule shall observe the following investment percentages on a total market basis as of the most recent quarterly review, for specified subsections:

1. no more than 75% of all funds may be invested in equity securities (Subsection R628-2-4(A)(3) investments).

2. no more than 5% of all funds may be invested in collateralized mortgage obligations (CMO's) (Subsection R628-2-4(A)(5) investments).

C. The selection criteria established in Section 51-7-14 shall apply to investments permitted by this rule.

D. Certified investment advisers may be employed to assist in the investment of funds under this rule. Compensation to certified investment advisers may be provided from earnings generated by the funds' investments.

**R628-2-5. Disposition of Nonqualifying Investments.**

A. If at any time securities do not qualify for investment in accordance with this rule, investments shall be disposed of within a reasonable time. In determining what constitutes reasonable time for the disposition of assets, the following factors, among others, shall be given consideration:

1. the legality of sale under the rules and regulations of the Securities and Exchange Commission and the Utah State Securities Commission;

2. the size of the investment held in relation to the normal trading volume therein, and the effect upon the market price of the sale of the investment; and

3. the wishes of the donor respecting the sale of the investment.

B. If, in the opinion of the custodian or investment manager of the funds, an orderly liquidation of a nonqualifying investment cannot be accomplished within a period of two years, a request may be made to the Council for approval of a specific plan of disposition of nonqualifying investments. Nothing contained in this paragraph shall make an investment nonqualifying, if the retention of the investment is specifically authorized or directed under terms of the gift, devise, or bequest, or if the security is restricted from sale as provided in this rule.

**R628-2-6. Nonqualifying Investments Held on Effective Date.**

Any nonqualifying investments held on November 1, 2005 shall be treated as having been received on the effective date and shall be disposed of as provided in Subsection R628-2-5.

**R628-2-7. Multiple Funds.**

If a public treasurer or a public education foundation has more than one fund or investment pool in which funds covered by this rule are managed, the following rules apply in determining investment percentages:

A. If the investment of any funds is covered by a direction in the instrument creating a gift, devise, or bequest, or if the donation consists of securities restricted from sale, the funds shall be excluded from any computation of permitted investments.

B. All other funds within the scope of this rule shall be consolidated for determining the propriety of investments. Any restrictions as to investment percentages shall be determined as provided for in Subsection R628-2-4(B).

**R628-2-8. Investment Policy Approval.**

Each public education foundation or public treasurer having funds acquired by gift, devise, or bequest shall have their investment policies approved by their respective board of trustees or governing body.



**R628-2-9. Reporting by Public Education Foundations and Public Treasurers.**

Each public education foundation and public treasurer, having funds acquired by gift, devise, or bequest and funds functioning as endowments shall file a written report with the Council on or before July 31 and January 31 of each year containing the following information for investments held on June 30 and December 31 respectively:

A. total market value of funds held under gifts, devise or bequest and funds functioning as endowments;

B. amount invested under this rule;

C. amounts invested under this rule indicating the carrying value and market value of each category of investment; and

D. a list of all nonqualifying assets held under this rule containing the date acquired, the carrying value and market value of each asset.

E. The board of trustees or governing body shall review the portfolio at least quarterly, and shall receive the certification from the public treasurer that the portfolio complies with the Money Management Act, Rules of the Money Management Council and the prudent person rule in section 51-7-14 of the Act.

**KEY: public investments, higher education, public education**

**Date of Enactment or Last Substantive Amendment: 2017**

**Authorizing, and Implemented or Interpreted Law: 51-7-11(4); 51-7-13; 51-7-18(2)**

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



## NOTICES OF CHANGES IN PROPOSED RULES

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

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

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends August 31, 2017.

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

From the end of the 30-day waiting period through November 29, 2017, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-305-5  
Resource Provisions for Parents and  
Caretaker Relatives, Pregnant Woman,  
and Child Under Non-MAGI-Based  
Community and Institutional Medicaid**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 41557

FILED: 07/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** After consultation with the Centers for Medicare and Medicaid Services to receive approval of the corresponding State Plan Amendment (SPA 17-0017-UT Utah Educational Savings Plan) required by H.B. 172 from the 2017 General Session, the Department submits this change to be in accordance with the proposed SPA.

**SUMMARY OF THE RULE OR CHANGE:** This amendment clarifies and implements provisions of H.B. 172 (2017), which instruct the Department to disregard resources held in a Utah Educational Savings Plan when making eligibility determinations for certain Medicaid programs. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the May 15, 2017, issue of the Utah State Bulletin, on page 91. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Estimated costs or savings to the state budget are explained in the original rule filing (Filing No. 41557, published in the May 15, 2017, Utah State Bulletin).
- ◆ **LOCAL GOVERNMENTS:** Estimated costs or savings to local governments are explained in the original rule filing (Filing No. 41557, published in the May 15, 2017, Utah State Bulletin).
- ◆ **SMALL BUSINESSES:** Estimated costs or savings to small businesses are explained in the original rule filing (Filing No. 41557, published in the May 15, 2017, Utah State Bulletin).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:**

Estimated costs or savings to Medicaid providers and to Medicaid members are explained in the original rule filing (Filing No. 41557, published in the May 15, 2017, Utah State Bulletin).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs to a single business or provider are explained in the original rule filing (Filing No. 41557, published in the May 15, 2017, Utah State Bulletin).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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 Office 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 or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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

**R414-305. Resources.**

**R414-305-5. Resource Provisions for Parents and Caretaker Relatives, Pregnant Woman, and Child Under Non-MAGI-Based Community and Institutional Medicaid.**

(1) The Department determines resource eligibility for an individual under the Parents and Caretaker Relatives, Pregnant Woman, and Child non-MAGI-based Medicaid programs, as described in 45 CFR 233.20(a)(3)(i)(B)(1), (2), (3), (4), and (6), 233.20(a)(3)(vi)(A), 42 U.S.C. 604(h), 1382b(a)(13), and 1396p(d), (e), (f) and (g). The eligibility agency may not count as an available resource retained funds from sources that federal laws specifically prohibit from being counted as a resource to determine eligibility for federally-funded medical assistance programs. In addition, the eligibility agency shall apply the following rules.

(2) A resource is available when the individual owns it or has the legal right to sell or dispose of the resource for the individual's own benefit.

(3) The medically needy resource limit is \$2,000 for a one-person household, \$3,000 for a two-person household and \$25 for each additional household member.

(4) To determine countable resources for Medicaid eligibility, the eligibility agency shall consider all available resources owned by the individual. The agency may not consider a resource unavailable based upon the individual's intent or action of disposing of non-liquid resources.

(5) The eligibility agency shall count resources of a household member who has been disqualified from Medicaid for failure to cooperate with third party liability or duty of support requirements.

(6) If a legal guardian, conservator, authorized representative, or other responsible person controls any resources of an individual, the eligibility agency shall count the resources as the individual's. The arrangement may be formal or informal.

(7) If a resource is available, but a legal impediment exists, the agency may not count the resource until it becomes available. The individual must take appropriate steps to make the resource available unless one of the following conditions exist:

(a) Reasonable action does not allow the resource to become available; and

(b) The cost of making the resource available exceeds its value.

(8) The eligibility agency shall exclude a maximum of \$1,500 in equity value of one vehicle.

(9) The eligibility agency may not count as resources the value of household goods and personal belongings that are essential for day-to-day living. The agency shall count any single household good or personal belonging with a value that exceeds \$1,000 toward the resource limit. The agency may not count as a resource the value of any item that a household member needs because of the household member's medical or physical condition.

(10) The eligibility agency may not count the value of one wedding ring and one engagement ring as a resource.

(11) For a non-institutionalized individual, the eligibility agency may not count the value of a life estate as an available resource if the life estate is the individual's principal residence. If the life estate is not the principal residence, the provision in Subsection R414-305-3(28) shall apply.

(12) The eligibility agency may not count the resources of a child who is not counted in the household size to determine eligibility of other household members.

(13) For a non-institutionalized individual, the eligibility agency may not count as a resource, the value of the lot on which the excluded home stands if the lot does not exceed the average size of residential lots for the community in which it is located. The agency shall count as a resource the value of the property in excess of an average size lot. If the individual is institutionalized, the provisions of Subsections R414-305-3(12), (13) and (28) shall apply to the individual's home or life estate.

(14) The agency may not count as a resource the value of water rights attached to an excluded home and lot.

(15) The eligibility agency may not count any resource or interest from a resource held within the rules of the Uniform Transfers to Minors Act. The agency shall count as a resource any money that a

child receives as unearned income, which the child retains beyond the month of receipt.

(16) The eligibility agency may not count lump sum payments that an individual receives on a sales contract for the sale of an exempt home if the entire proceeds are used to purchase a new exempt home within three calendar months of when the property is sold. The eligibility agency shall grant the individual one three-month extension, if more than three months is needed to complete the actual purchase. Proceeds are defined as all payments made on the principal of the contract. Proceeds do not include interest earned on the principal.

(17) The eligibility agency shall exclude as a resource retroactive benefits received from the Social Security Administration and the Railroad Retirement Board for the first nine months after receipt.

(18) The eligibility agency shall exclude from resources a burial and funeral fund or funeral arrangement up to \$1,500 for each household member who is counted in the household size. Burial and funeral agreements include burial trusts, funeral plans, and funds set aside expressly for the purposes of burial. The client shall separate and clearly designate the burial funds from the non-burial funds. The agency may not count as a resource interest earned on exempt burial funds that is left to accumulate. If an individual uses exempt burial funds for some other purpose, the agency shall count the remaining funds as an available resource beginning on the date that the funds are withdrawn.

(19) Assets of an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act after December 18, 1997, are considered available to the alien. The eligibility agency shall stop counting a sponsor's assets when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. After December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

(20) The eligibility agency may not consider a sponsor's assets as being available to applicants who are eligible for Medicaid for emergency services only.

(21) The eligibility agency may not count business resources that are required for employment or self-employment. The agency shall treat non-business, income-producing property in the same manner as the SSI program as defined in 42 CFR 416.1222.

(22) The eligibility agency may not count as a resource retirement funds held in an employer or union pension plan, a retirement plan or account including 401(k) plans, and Individual Retirement Accounts of a disabled parent or disabled spouse who is not included in the coverage.

(23) The eligibility agency may not count as a resource any federal tax refund and refundable credit that an individual receives for 12 months after the month of receipt.

(24) The eligibility agency may not count as income, for one year after the date of receipt, any payments that an individual receives under the Individual Indian Money Account Litigation Settlement under the Claims Resettlement Act of 2010, Pub. L. No. 111 291, 124 Stat. 3064.

(25) The eligibility agency may not count as resources certain property and rights of federally-recognized American Indians including:

(a) certain tribal lands held in trust which are located on or near a reservation, or allotted lands located on a previous reservation;

(b) ownership interests in rents, leases, royalties or usage rights related to natural resources (including extraction of natural resources); and

(c) ownership interests and usage rights in personal property which has unique religious, spiritual, traditional or cultural significance, and rights that support subsistence or traditional lifestyles, as defined in Section 5006(b)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111 5, 123 Stat. 115.

(26) The eligibility agency ~~[shall treat Utah Educational Savings Plans in accordance with Section 26-18-3]~~ may not count as a resource, funds held in a Utah Educational Savings Plan for the following individuals:

(a) Medically Needy Children as described in Subsection 1902(a)(10)(C)(ii)(I) of the Social Security Act;

(b) Medically Needy Children as described in Subsection 1905(a)(i) of the Social Security Act, who are 18 years old, in school, and expected to graduate before turning 19 years of age;

(c) Medically Needy Pregnant Women as describe in Subsection 1902(a)(10)(C)(ii)(II) of the Social Security Act; and

(d) Medically Needy Parents and Caretaker Relatives as described in Subsection 1905(a)(ii) of the Social Security Act.

(27) The eligibility agency may only count the portion of an asset such as a retirement plan that is legally available to an individual when that asset has been divided between two divorced spouses pursuant to a qualified domestic relations order.

**KEY: Medicaid, resources**

**Date of Enactment or Last Substantive Amendment: 2017**

**Notice of Continuation: January 23, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; Pub. L. No. 111-148**

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

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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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 help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Commerce, Securities **R164-1** Fraudulent Practices

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

DAR FILE NO.: 41885  
FILED: 07/03/2017

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 61-1-24(1)(a) of the Utah Uniform Securities Act, which authorizes the Division to make, amend, or rescind a rule when necessary to carry out the chapter. Under Subsection 61-1-1(3) of the Utah Uniform Securities Act, it is unlawful for any person to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Pursuant to Subsection 61-1-24(1)(a), this rule identifies specific acts and practices that are deemed fraudulent under Subsection 61-1-1(3).

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

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 assists licensees, the public and courts in interpreting "act, practice, or course of business which operates or would operate as a fraud or deceit upon any person". Therefore, this rule should be continued. The

list is not all-inclusive but provides examples of conduct deemed to be fraudulent in nature.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at [clyons@utah.gov](mailto:clyons@utah.gov)
- ◆ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at [kwoodwell@utah.gov](mailto:kwoodwell@utah.gov)

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/03/2017

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## Commerce, Securities **R164-4** Licensing Requirements

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

DAR FILE NO.: 41886  
FILED: 07/03/2017

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: This rule is authorized by Section 61-1-4 and Subsection 61-1-24(1)(a) of the Utah Uniform Securities Act. Subsection 61-1-24(1)(a) authorizes the Division to make, amend, or rescind a rule when necessary to carry out the chapter. Section 61-1-4 of the Act provides general licensing and notice filing procedures and authorizes the Division to augment those requirements by rule or order.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Uniform Securities Act requires that to act as a broker-dealer, broker-dealer agent, issuer agent, investment adviser, or investment adviser representative, a person or entity must be appropriately licensed. Rule R164-4 describes the procedures and requirements for obtaining the appropriate licenses. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov  
♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/03/2017

**Commerce, Securities  
R164-5**

**Broker-Dealer and Investment Adviser  
Books and Records**

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

DAR FILE NO.: 41887  
FILED: 07/03/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 61-1-24(1)(a) of the Utah Uniform Securities Act, which authorizes the Division to make, amend, or rescind a rule when necessary to carry out the chapter. Section 61-1-5 of the Act provides postlicensing recordkeeping requirements for licensees and also authorizes the Division to identify, through rulemaking, books and records to be maintained by licensees.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R164-5 assists licensees by identifying specific books, records, financial reports and other information that must be maintained by Division licensees. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov  
♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/03/2017

**Commerce, Securities  
R164-6**

**Denial, Suspension or Revocation of a  
License**

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

DAR FILE NO.: 41888  
FILED: 07/03/2017



**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 61-1-24(1)(a) of the Utah Uniform Securities Act, which authorizes the Division to make, amend, or rescind a rule when necessary to carry out the chapter. Section 61-1-6 of the Act sets forth grounds upon which the Division may sanction a licensee, including denial, suspension or revocation of a license.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The grounds for taking disciplinary action under Section 61-1-6 of the Act include engaging in "dishonest or unethical practices in the securities business." Rule R164-6 assists licensees, the public and courts in interpreting "dishonest or unethical practices" by identifying specific acts deemed to be dishonest or unethical. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov  
 ♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/03/2017

Commerce, Securities  
**R164-18**  
 Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41889  
 FILED: 07/03/2017

**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-4-202 of the Utah Administrative Procedures Act provides that an agency may by rule designate categories of adjudicative proceedings to be conducted informally. Section 63G-4-203 sets forth the procedures for such informal proceedings. Pursuant to that authority, this rule designates those categories of adjudicative proceedings which will be conducted on an informal basis.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R164-18 provides information for licensees and the public as to which actions will be conducted on an informal basis. This rule helps licensees and the public understand the procedures used in various actions taken by the Division. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov  
 ♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/03/2017

Commerce, Securities  
**R164-25**  
 Record of Registration

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41890  
 FILED: 07/03/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsections 61-1-24(1)(a) and 61-1-25(5) of the Utah Uniform Securities Act. Subsection 61-1-24(1)(a) authorizes the Division to make, amend, or rescind a rule when necessary to carry out the chapter. Subsection 61-1-25(5) authorizes the Division to issue an interpretive opinion of the Act when requested by an interested person.

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

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 assists licensees and the public in interpreting the Act by providing guidelines and procedures for requesting interpretive opinions and no-action letters from the Division. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov  
♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/03/2017

**Environmental Quality, Water Quality  
R317-6  
Ground Water Quality Protection**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41891  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(a)(iv) authorizes the Utah Water Quality Board to make rules which implement or effectuate the powers and duties of the Board. Subsection 19-5-104(3)(a) authorizes the Board to develop programs for the prevention, control, and abatement of new or existing pollution of waters of the state.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required for the Water Quality director and Board to implement the state's Ground Water Protection Program. The rule should be continued as it provides ground water quality standards, defines ground water classes and protection levels; sets minimum requirements for ground water discharge permits; and corrective action.

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

ENVIRONMENTAL QUALITY  
WATER QUALITY  
THIRD FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

AUTHORIZED BY: Erica Gaddis, Director

EFFECTIVE: 07/06/2017

**Environmental Quality, Water Quality  
R317-10  
Certification of Wastewater Works  
Operators**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41892  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(2) authorizes the Utah Water Quality Board to adopt and enforce rules and establish fees to cover the costs of testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been amended twice since the last five-year review. No written comments were received during those rulemakings. The initial changes were proposed as a result of changes in duties of the Water Quality Board's executive secretary and the division director as a result of S.B. 21 (2012). The specific language of the rule changes were developed through an advisory committee of wastewater certification stakeholders. The results of those efforts were then approved and adopted by the Water Quality Board.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required for the Water Quality Board to implement the state's Wastewater Operator Certification Program as directed in the Water Quality Act. The certification program is established to assist in protecting the quality of waters in the state of Utah; protect the public health and the environment; provide for the health and safety of wastewater works operators; and establish standards and methods whereby wastewater works operating personnel can demonstrate competency. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
WATER QUALITY  
THIRD FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at [jetherington@utah.gov](mailto:jetherington@utah.gov)

AUTHORIZED BY: Brad Johnson, Deputy Director

EFFECTIVE: 07/06/2017

Environmental Quality, Water Quality  
**R317-100**  
Utah State Project Priority System for  
the Utah Wastewater Project  
Assistance Program

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

DAR FILE NO.: 41893  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1) authorizes the Utah Water Quality Board to enact rules for construction assistance, including development of a priority schedule for awarding loans. 40 CFR 35.3115 requires that one of the qualifications for awarding those loans is ranking on the project priority list. This rule establishes the process for developing the project priority list.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The priority ranking system is used to rank wastewater projects for possible state and federal funding assistance. It is a required component of the Clean Water State Revolving Fund program. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
WATER QUALITY  
THIRD FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at [jetherington@utah.gov](mailto:jetherington@utah.gov)

AUTHORIZED BY: Erica Gaddis, Director

EFFECTIVE: 07/06/2017

**Health, Administration**  
**R380-41**  
**Governance Committee Electronic Meetings**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41926  
 FILED: 07/13/2017

**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 52-4-207 requires a state public body that holds electronic meetings to have a rule governing the use of electronic meetings. This rule establishes procedures for conducting electronic meetings by the Governance Committee.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Allowing members of Governance Committee to attend electronically has ensured a consistent attendance to the meetings. Requiring in-person attendance to these meetings could have a negative effect in meeting participation. Therefore, this rule should be continued.

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

HEALTH  
 ADMINISTRATION  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Tamara Hampton by phone at 801-538-6622, by FAX at 801-538-6306, or by Internet E-mail at thampton@utah.gov

AUTHORIZED BY: Joseph Miner, Executive Director

EFFECTIVE: 07/13/2017

**Insurance, Administration**  
**R590-148**  
**Long-Term Care Insurance Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41922  
 FILED: 07/12/2017

**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 31A-2-201 authorizes the Commissioner to write rules to implement the provisions of the Utah Insurance Code, Title 31A. Section 31A-22-1404 authorizes the Commissioner to write rules to permit or include standards for full and fair disclosure of the manner, content, and required disclosures for the sale of long-term insurance policies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is a major protection to the consumer. The department has incorporated a rate stability requirement approved by the industry through the NAIC. As the Utah population ages, the Department will need better guidance and protections for the aging. This rule will provide better understanding of products being sold. The rule requires better analysis by the producer of the suitability of the product they are selling to an individual. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 07/12/2017

**Insurance, Administration**  
**R590-151**  
**Records Access Rule**

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

DAR FILE NO.: 41920

FILED: 07/12/2017

**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 63G-2-204(2) allows governmental agencies to make rules specifying where and to whom Government Records Access and Management Act (GRAMA) requests may be made. Subsection 63A-12-104(2) specifies at which level GRAMA requests are to be made for those government entities that have divisions, boards, departments, committees, commissions, or any other subpart. This rule defines how record requests are to be made to the department and designates the person who shall fulfill those functions required by a GRAMA request. The rule also defines how an individual may contest the accuracy and completeness of records.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes fair and reasonable records management and access practices that allow the public access to public records and restricts those records that are private in an attempt to prevent abuses in regards to these records. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 07/12/2017

**Insurance, Administration**  
**R590-241**  
**Rule to Recognize the Preferred  
Mortality Tables for Use in Determining  
Minimum Reserve Liabilities**

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

DAR FILE NO.: 41923

FILED: 07/12/2017

**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 31A-2-201(3) authorizes the Commissioner to write rules to implement the provisions of the Utah Insurance Code, Title 31A. Subsection 31A-17-402(1) requires the Commissioner to write rules to specify the liabilities required to be reported by an insurer in a financial statement and to set the methods of valuing these liabilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was developed to recognize, permit, and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities. Without this rule, insurance companies would have to raise reserves held in support of the preferred business which, in turn, would require them to raise rates for the best risks. The rule enables more equitable pricing of life insurance policies. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 07/12/2017

**Insurance, Administration**  
**R590-264**  
**Property and Casualty Actuarial**  
**Opinion Rule**

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

DAR FILE NO.: 41921  
 FILED: 07/12/2017

**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 31A-2-201 authorizes the Commissioner to write rules to implement the provisions of the Utah Insurance Code, Title 31A. Section 31A-4-113 requires every insurer to file annually a true statement of its financial condition.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule requires all property and casualty insurers to prepare annually the Actuarial Opinion Summary, a document intended to aid regulators in understanding the financial condition of the company. The rule also allows the insurer to request that this document be kept confidential. The rule implements a regulatory requirement that is a part of the NAIC accreditation standards (NAIC Property and

Casualty Actuarial Opinion Model Law, #745). NAIC accreditation allows non-domestic states to rely on the accredited domestic regulator to fulfill a baseline level of effective financial regulatory oversight. Maintaining accreditation is vital for the state of Utah and its domestic companies. The Statement of Actuarial Opinion and the Actuarial Opinion Summary are essential regulatory tools needed to assess the financial condition of the insurer. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 07/12/2017

**Transportation, Operations,**  
**Maintenance**  
**R918-3**  
**Snow Removal**

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

DAR FILE NO.: 41913  
 FILED: 07/07/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the general rulemaking authority in Section 72-1-201.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency has not received any written comments 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: The need for the agency to identify those roads where it will provide snow removal services and those roads where it will not continue to exist. This rule satisfies that need. Therefore, this rule should be continued.

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

TRANSPORTATION  
OPERATIONS, MAINTENANCE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/07/2017

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Transportation, Operations, Traffic and  
Safety  
**R920-1**  
Utah Manual on Uniform Traffic Control  
Devices

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

DAR FILE NO.: 41910  
FILED: 07/07/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized and required by Sections 41-6a-301, 41-6a-303, and 41-6a-1307.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency has not received any written comments 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: The Department of Transportation is required by Section 41-6a-301 to make rules consistent with the Traffic Code adopting standards and establishing specifications for a uniform system of traffic-control devices used on a highway. This rule satisfies that requirement. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/07/2017

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Transportation, Operations, Traffic and  
Safety  
**R920-2**  
Rural Conventional Road Definition

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

DAR FILE NO.: 41925  
FILED: 07/12/2017

**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 72-7-504 requires the Department to adopt standards and establish specifications for the definition of rural conventional roads. This rule satisfies the requirements of Section 72-7-504.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE

FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments 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: Section 72-7-504 is still in effect and requires the Department to define rural conventional roads in rule. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
 ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
 ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/12/2017

**Transportation, Operations, Traffic and Safety**  
**R920-4**  
**Special Road Use or Event**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41924  
 FILED: 07/12/2017

**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 72-1-201 authorizes the Department to make rules for the administration of the department, state transportation systems, and programs. Section 72-1-212 requires the Department to make rules that are not inconsistent with this chapter or the constitution and laws of this state or of the United States governing the

issuance of a special use permit to maintain public safety and serve the needs of the traveling public. The Traffic Code prohibits bicycle racing on highways. Section 41-6a-1111 provides an exception to the rule prohibiting bicycle racing on highways if a highway authority takes steps to assure reasonable safety for all race participants, spectators, and other highway users, prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users. Section 41-6a-1111 implies authority to the Department to make and continue this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing the rule. However, parts of the rule were determined to be unconstitutional by the federal district court in *Imatter Utah, et al., v. Njord*, 774 F.3d 1258 (2014). The rule was subsequently amended effective 01/07/2016 to overcome the constitutional failings identified in Judge Shelby's decision. The Department did not receive any comments during the proposed amendment's 30-day comment period.

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 the public's use of state highways for special events such as parades, road races, protests, demonstrations, film-related activities, and other non-transportation related uses. The rule attempts to maximize the the public's access to roads for special events while minimizing the cost to the state and protecting the safety and well-being of those participating in the special events and the traveling public. This rule serves a critical and worthwhile purpose and therefore, must be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
 ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
 ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/12/2017



Transportation, Operations, Traffic and  
Safety  
**R920-6**

Snow Tire and Chain Requirements

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

DAR FILE NO.: 41911  
FILED: 07/07/2017

**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: Authority for this rule is in Sections 72-1-201 and 72-3-102; Title 72, Chapter 4, Part 1, Transportation Code; and Sections 41-6a-302 and 41-6a-1636 of the Utah Code.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency has not received any written comments 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: Section 41-6a-1636 requires the Department of Transportation to make rules to permit the use of tires on a vehicle having protuberances other than rubber, if the department concludes that protuberances do not damage the highway significantly or constitute a hazard to life, health, or property is still effective. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/07/2017

Transportation, Operations, Traffic and  
Safety  
**R920-50**

Ropeway Operation Safety

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

DAR FILE NO.: 41907  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 72-11-210 to implement Title 72, Chapter 11, Passenger Ropeway Systems Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency has not received any written comments 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: This rule is still necessary because the agency uses it to regulate public safety in the design, construction, and operation of passenger ropeways in the state and implement the requirements of the Passenger Ropeway Systems Act. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)

♦ Jason Davis by phone at 801-965-4895, or by Internet E-mail at [jasondavis@utah.gov](mailto:jasondavis@utah.gov)  
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/06/2017

**Workforce Services, Administration**  
**R982-401**  
**Energy Assistance: General Provisions**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41905  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department to administer the HEAT Program in accordance with the above-cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to set forth program standards and rights of review for the HEAT Program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

**Workforce Services, Administration**  
**R982-405**  
**Energy Assistance: Program Benefits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41894  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department of Workforce Services to administer the HEAT Program in accordance with the above-cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule sets standards for when and how HEAT Program benefits may be paid. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY

SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

**Workforce Services, Administration**  
**R982-406**  
**Energy Assistance: Eligibility Determination**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41895  
 FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department of Workforce Services to administer the HEAT Program in accordance with the above-cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule sets forth procedure for how HEAT Program applications are to be handled and an applicant's eligibility determined. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 WORKFORCE SERVICES  
 ADMINISTRATION  
 140 E BROADWAY  
 SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

**Workforce Services, Administration**  
**R982-407**  
**Energy Assistance: Records and Benefit Management**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41896  
 FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department of Workforce Services to administer the HEAT Program in accordance with the above-cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule sets forth standards for the handling of HEAT Program records and payments. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

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**Workforce Services, Administration**  
**R982-408**  
**Energy Assistance: Special State Programs**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41897  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department of Workforce Services to administer the HEAT Program in accordance with the above-cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule sets forth the standards for administering and enforcing the shutoff moratorium for eligible persons. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

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**Workforce Services, Administration**  
**R982-501**  
**Olene Walker Housing Loan Fund (OWHLF)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41898  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Olene Walker Housing Loan Fund has been created by statute (Section 35A-8-501 et seq.) to allocate and distribute funds to rehabilitate and develop housing for lower-income Utahns. Section 35A-8-504 specifically grants the executive director of the Department of Workforce Services the authority to make rules to establish procedures for grants and loans made by the Fund.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to set standards ensuring that grants and loans made by the Fund are made in accordance with state law. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

## Workforce Services, Housing and Community Development

### **R990-8**

#### Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance

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

DAR FILE NO.: 41899  
FILED: 07/06/2017

#### **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: Provisions of the federal Mineral Leasing Act of 1920, 30 U.S.C. 191, as amended, provide for states to receive revenue from federal mineral leases. Consistent with these provisions, the Utah Legislature has created the Permanent Community Impact Fund and the Permanent Community Impact Fund Board to administer and distribute these revenues (see Section 35A-8-301 et seq.). The Board has rulemaking authority under Section 35-8-306.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to set forth standards and procedures for evaluating applications for funding and otherwise administering the Fund in accordance with federal and state law. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
HOUSING AND COMMUNITY DEVELOPMENT  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

## Workforce Services, Housing and Community Development

### **R990-9**

#### Policy Concerning Enforceability and Taxability of Bonds Purchased

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

DAR FILE NO.: 41903  
FILED: 07/06/2017

#### **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: Provisions of the federal Mineral Leasing Act of 1920, 30 U.S.C. 191, as amended, provide for states to receive revenue from federal mineral leases. Consistent with these provisions, the Utah Legislature has created the Permanent Community Impact Fund and the Permanent Community Impact Fund Board to administer and distribute these revenues (see Section 35A-8-301 et seq.). Section 35A-8-307 specifically requires the Board to consider a political subdivision's bonded indebtedness and availability of bonds in the course of determining whether to provide funding. The Board has rulemaking authority under Section 35-8-306.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to set forth standards for the use of bonds in providing funding to political subdivisions as required under state law. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
HOUSING AND COMMUNITY DEVELOPMENT  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

distribute these revenues (see Section 35A-8-301 et seq.). The Board has rulemaking authority under Section 35-8-306.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to set forth procedures for review of Board decisions. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
HOUSING AND COMMUNITY DEVELOPMENT  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

**Workforce Services, Housing and  
Community Development**

**R990-10**

**Procedures in Case of Inability to  
Formulate Contract for Alleviation of  
Impact**

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

DAR FILE NO.: 41900  
FILED: 07/06/2017

**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: Provisions of the federal Mineral Leasing Act of 1920, 30 U.S.C. 191, as amended, provide for states to receive revenue from federal mineral leases. Consistent with these provisions, the Utah Legislature has created the Permanent Community Impact Fund and the Permanent Community Impact Fund Board to administer and

**Workforce Services, Housing and  
Community Development**

**R990-11**

**Community Development Block Grants  
(CDBG)**

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

DAR FILE NO.: 41901  
FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended, and its accompanying regulations, 24 CFR 570.1 et seq., provide for the funding of community development block grants. The Department's Housing and Community Development Division is authorized by Section

35A-8-202 to administer the state's participation in the community development block grant program, including ensuring the state's compliance with the above-referenced federal authorities as a condition of participating in the program.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to comply with the federal statutes and regulations as required for continued participation in the community development block grant program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 WORKFORCE SERVICES  
 HOUSING AND COMMUNITY DEVELOPMENT  
 140 E BROADWAY  
 SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

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**Workforce Services, Housing and  
 Community Development  
 R990-100  
 Community Services Block Grant Rules**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 41904  
 FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Pursuant to the federal Community Services Block Grant Act, 42 U.S.C. 9901 et seq., as amended, and its accompanying regulations, 45 CFR

96.1 et seq., the Utah Legislature has passed the State Community Services Act, Section 35A-8-1001 et seq. The State Community Services Act creates the State Community Services Office and authorizes the Office to administer funds made available to the State under the above-referenced federal authorities. Section 35A-8-1004 specifically authorizes the State Office to make rules for this purpose.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to administer Community Services Block Grant funds in accordance with state and federal law. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 WORKFORCE SERVICES  
 HOUSING AND COMMUNITY DEVELOPMENT  
 140 E BROADWAY  
 SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

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**Workforce Services, Housing and  
 Community Development  
 R990-101  
 Qualified Emergency Food Agencies  
 Fund (QEFAF)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 41902  
 FILED: 07/06/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Section 35A-8-1009 of the Utah Code creates the Qualified Emergency Food Agencies Fund (QEFAF) and specifically grants the Department's Housing and Community Development Division the authority to make rules regarding standards for the distribution of funds to qualified emergency food agencies.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to set standards and procedures for the distribution of QEFAF funds and applications for those funds. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
HOUSING AND COMMUNITY DEVELOPMENT  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 07/06/2017

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



**NOTICES OF  
FIVE-YEAR REVIEW EXTENSIONS**

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

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

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

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Transportation, Operations, Traffic and  
Safety

**R920-51**

Safety Regulations for Railroads

**FIVE-YEAR REVIEW EXTENSION**

DAR FILE NO.: 41912

FILED: 07/07/2017

**EXTENSION REASON AND NEW DEADLINE:** Agency personnel have reviewed this rule and believe it needs to be repealed. However, the Transportation Commission must review the rule and the agency's decision to repeal the rule before it may be repealed. The next Transportation Commission meeting is scheduled for 08/11/2017, which is after the deadline to file the Five-Year Review and Notice of Continuation. The Commission may disagree with the agency and want to continue the rule. Therefore, an extension of time to file the Five-Year Review and Notice of Continuation is needed to provide time for the Commission to perform its review. The new deadline is 11/29/2017.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

**AUTHORIZED BY:** Carlos Braceras, Executive Director

**EFFECTIVE:** 07/07/2017

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



## NOTICES OF FIVE-YEAR EXPIRATIONS

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Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

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Money Management Council,  
Administration

### **R628-2**

Investment of Funds of Public  
Education Foundations Established  
Under Section 53A-4-205 or Funds  
Acquired by Gift, Devise or Bequest

#### **FIVE-YEAR REVIEW EXPIRATION**

DAR FILE NO.: 41919

FILED: 07/12/2017

SUMMARY: The five-year notice of review and statement of continuation was not filed by the deadline so this rule is expired and will be removed from the Administrative Code as of 07/12/2017. (EDITOR'S NOTE: A proposed new Rule R628-2 is under Filing No. 41928 in this issue, August 1, 2017, of the Bulletin to put the rule back in the Administrative Code.)

EFFECTIVE: 07/12/2017

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**End of the Notices of Notices of Five Year Expirations Section**



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Administrative Services

Facilities Construction and Management

No. 41578 (AMD): R23-3. Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities

Published: 06/01/2017

Effective: 07/12/2017

### Fleet Operations

No. 41609 (AMD): R27-7. Safety and Loss Prevention of State Vehicles

Published: 06/01/2017

Effective: 07/11/2017

### Commerce

#### Real Estate

No. 41618 (AMD): R162-2c. Utah Residential Mortgage Practices and Licensing Rules

Published: 06/01/2017

Effective: 07/11/2017

### Education

#### Administration

No. 41646 (NEW): R277-122. Board of Education

Procurement

Published: 06/01/2017

Effective: 07/10/2017

No. 41647 (AMD): R277-474-3. General Provisions

Published: 06/01/2017

Effective: 07/10/2017

No. 41648 (AMD): R277-487. Public School Data Confidentiality and Disclosure

Published: 06/01/2017

Effective: 07/10/2017

### Environmental Quality

Waste Management and Radiation Control, Waste Management

No. 41477 (AMD): R315-302-1. Location Standards for Disposal Facilities

Published: 05/01/2017

Effective: 08/01/2017

### Financial Institutions

#### Administration

No. 41608 (AMD): R331-10. Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions

Published: 06/01/2017

Effective: 07/10/2017

### Governor

Economic Development

No. 41649 (NEW): R357-20. Education Computing Partnerships

Published: 06/01/2017

Effective: 07/14/2017

### Health

Family Health and Preparedness, Emergency Medical Services

No. 41617 (AMD): R426-8. Emergency Medical Services Ground Ambulance Rates and Charges

Published: 06/01/2017

Effective: 07/10/2017

NOTICES OF RULE EFFECTIVE DATES

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Insurance

Administration

No. 41296 (AMD): R590-206. Privacy of Consumer Financial and Health Information Rule  
Published: 03/01/2017  
Effective: 07/11/2017

No. 41296 (CPR): R590-206. Privacy of Consumer Financial and Health Information Rule  
Published: 06/01/2017  
Effective: 07/11/2017

Judicial Performance Evaluation Commission

Administration

No. 41620 (AMD): R597-2-2. Disclosure, Recusal, and Disqualification  
Published: 06/01/2017  
Effective: 07/10/2017

No. 41623 (AMD): R597-3-1. Evaluation Cycles  
Published: 06/01/2017  
Effective: 07/10/2017

No. 41624 (AMD): R597-3-3. Courtroom Observation  
Published: 06/01/2017  
Effective: 07/10/2017

No. 41625 (AMD): R597-3-5. Public Comments  
Published: 06/01/2017  
Effective: 07/10/2017

Natural Resources

Wildlife Resources

No. 41585 (NEW): R657-29. Government Records Access Management Act  
Published: 06/01/2017  
Effective: 07/10/2017

Public Safety

Highway Patrol

No. 41359 (R&R): R714-162. Equipment Standards for Heavy Vehicle, Trailer and Bus Safety Inspections  
Published: 04/01/2017  
Effective: 07/18/2017

Public Service Commission

Administration

No. 41645 (AMD): R746-343-15. Surcharge  
Published: 06/01/2017  
Effective: 07/10/2017

Workforce Services

Housing and Community Development

No. 41611 (AMD): R990-101. Qualified Emergency Food Agencies Fund (QEFAF)  
Published: 06/01/2017  
Effective: 07/10/2017

Rehabilitation

No. 41616 (AMD): R993-300. Certification Requirements for Interpreters for the Hearing Impaired  
Published: 06/01/2017  
Effective: 07/10/2017

**End of the Notices of Rule Effective Dates Section**

**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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, 2017 through July 14, 2017. 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 the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	41374	NSC	04/10/2017	Not Printed
R21-1	Transfer of Collection Responsibility of State Agencies	41743	5YR	06/07/2017	2017-13/229
R21-2	Office of State Debt Collection Administrative Procedures	41376	5YR	03/17/2017	2017-8/59
R21-3	Debt Collection Through Administrative Offset	41377	5YR	03/17/2017	2017-8/59
<u>Facilities Construction and Management</u>					
R23-1	Procurement Rules with Numbering Related to the Procurement Code	41266	5YR	02/01/2017	2017-4/57
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting	40947	AMD	01/20/2017	2016-23/6
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	41578	AMD	07/12/2017	2017-11/6
R23-19	Facility Use Rules	41267	5YR	02/01/2017	2017-4/57
R23-20	Free Speech Activities	41268	5YR	02/01/2017	2017-4/58
R23-30	State Facility Energy Efficiency Fund	40946	AMD	01/20/2017	2016-23/11
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	41796	NSC	06/29/2017	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	41127	EMR	01/06/2017	2017-3/71
R25-7	Travel-Related Reimbursements for State Employees	41147	AMD	03/10/2017	2017-3/2
R25-7	Travel-Related Reimbursements for State Employees	41797	EMR	07/01/2017	2017-13/221
R25-14	Payment of Attorney's Fees in Death Penalty Cases	41124	5YR	01/06/2017	2017-3/79
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	41327	5YR	02/21/2017	2017-6/29
<u>Fleet Operations</u>					
R27-1	Definitions	41105	AMD	02/21/2017	2017-2/4
R27-3	Vehicle Use Standards	41106	AMD	02/21/2017	2017-2/6
R27-4	Vehicle Replacement and Expansion of State Fleet	41107	AMD	02/21/2017	2017-2/12
R27-7	Safety and Loss Prevention of State Vehicles	41609	AMD	07/11/2017	2017-11/11



Inspector General of Medicaid Services (Office of)

R30-1 Office of Inspector General of Medicaid Services 41487 5YR 04/21/2017 2017-10/163

Purchasing and General Services

R33-1 Utah Procurement Rule, General Procurement Provisions 41534 AMD 06/21/2017 2017-10/4

R33-4 Supplemental Procurement Procedures 41535 AMD 06/21/2017 2017-10/7

R33-4-101b Vendors with Exclusive Authorization to Bid 41292 NSC 03/06/2017 Not Printed

R33-5 Other Standard Procurement Processes 41536 AMD 06/21/2017 2017-10/10

R33-5 Other Standard Procurement Processes 41665 NSC 06/26/2017 Not Printed

R33-6 Bidding 41539 AMD 06/21/2017 2017-10/15

R33-7 Request for Proposals 41540 AMD 06/21/2017 2017-10/18

R33-8 Exceptions to Standard Procurement Process 41544 AMD 06/21/2017 2017-10/27

R33-8-102 Adding Additional Funds to a Contract 41023 AMD 02/02/2017 2016-24/4

R33-9 Cancellations, Rejections, and Debarment 41545 AMD 06/21/2017 2017-10/31

R33-11 Form of Bonds 41546 AMD 06/21/2017 2017-10/35

R33-12 Terms and Conditions, Contracts, Change Orders and Costs 41547 AMD 06/21/2017 2017-10/37

R33-13 General Construction Provisions 41548 AMD 06/21/2017 2017-10/43

R33-15 Procurement of Design Profession Services 41549 AMD 06/21/2017 2017-10/47

R33-16 Protests 40898 AMD 01/20/2017 2016-22/10

R33-16 Protests 41550 AMD 06/21/2017 2017-10/48

R33-17 Procurement Appeals Board 41551 AMD 06/21/2017 2017-10/51

R33-18 Appeals to Court and Court Proceedings 41552 AMD 06/21/2017 2017-10/54

R33-19-101 Encouraged to Obtain Legal Advice From Legal Counsel 41553 AMD 06/21/2017 2017-10/55

R33-21-201e Division May Charge Administrative Fees on State Cooperative Contracts - Prohibition Against Other Procurement Units Charging Fees on State Contracts 41554 AMD 06/21/2017 2017-10/56

R33-25 Executive Branch Insurance Procurement 41555 AMD 06/21/2017 2017-10/57

Records Committee

R35-1-2 Procedures for Appeal Hearings 41478 AMD 06/22/2017 2017-9/2

R35-2-2 Declining Requests for Hearings 41479 AMD 06/22/2017 2017-9/4

Risk Management

R37-1 Risk Management General Rules 41601 5YR 05/05/2017 2017-11/209

R37-2 Risk Management State Workers' Compensation Insurance Administration 41602 5YR 05/05/2017 2017-11/210

R37-3 Risk Management Adjudicative Proceedings 41603 5YR 05/05/2017 2017-11/210

R37-4 Adjusted Utah Governmental Immunity Act Limitations on Judgments 41604 5YR 05/05/2017 2017-11/211

AGRICULTURE AND FOOD

Administration

R51-2 Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food 41120 5YR 01/03/2017 2017-2/45

Animal Industry

R58-1 Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals 41168 5YR 01/12/2017 2017-3/79

R58-3 Brucellosis Vaccination Requirements 41164 5YR 01/12/2017 2017-3/80

R58-6 Poultry 41165 5YR 01/12/2017 2017-3/80

R58-11 Slaughter of Livestock and Poultry 40951 AMD 01/12/2017 2016-23/16

R58-11 Slaughter of Livestock and Poultry 41372 NSC 04/05/2017 Not Printed

R58-11 Slaughter of Livestock and Poultry 41467 NSC 05/15/2017 Not Printed

R58-18 Elk Farming 41162 5YR 01/12/2017 2017-3/81

R58-19 Compliance Procedures 41194 5YR 01/18/2017 2017-4/58

R58-21 Trichomoniasis 41471 AMD 06/14/2017 2017-9/5

R58-22 Equine Infectious Anemia (EIA) 41163 5YR 01/12/2017 2017-3/81

R58-23 Equine Viral Arteritis (EVA) 41167 5YR 01/12/2017 2017-3/82

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R52-7 Horse Racing 41102 AMD 03/06/2017 2017-1/4

Marketing and Development

R65-5 Utah Red Tart and Sour Cherry Marketing Order 41860 5YR 06/29/2017 2017-14/53  
 R65-11 Utah Sheep Marketing Order 41859 5YR 06/29/2017 2017-14/53

Plant Industry

R68-19 Compliance Procedures 41195 5YR 01/18/2017 2017-4/59

Regulatory Services

R70-101 Bedding, Upholstered Furniture and Quilted Clothing 40918 AMD 01/26/2017 2016-22/12  
 R70-101 Bedding, Upholstered Furniture and Quilted Clothing 41371 NSC 04/05/2017 Not Printed  
 R70-201 Compliance Procedures 41160 5YR 01/12/2017 2017-3/82  
 R70-320 Minimum Standards for Milk for Manufacturing Purposes, Its Production and Processing 41166 5YR 01/12/2017 2017-3/83  
 R70-350 Ice Cream and Frozen Dairy Food Standards 41159 5YR 01/12/2017 2017-3/83  
 R70-360 Procedure for Obtaining a License to Test Milk for Payment 41161 5YR 01/12/2017 2017-3/84  
 R70-520 Standard of Identity and Labeling Requirements for Honey 41861 5YR 06/29/2017 2017-14/54  
 R70-530 Food Protection 41344 5YR 03/06/2017 2017-7/81  
 R70-530 Food Protection 41370 NSC 04/05/2017 Not Printed  
 R70-550 Utah Inland Shellfish Safety Program 41158 5YR 01/12/2017 2017-3/84  
 R70-560 Inspection and Regulation of Cottage Food Production Operations 41157 5YR 01/12/2017 2017-3/85

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-3-14 Type 5 Package Agencies 40922 AMD 01/03/2017 2016-22/16  
 R81-4 Retail Licenses 40924 NEW 01/03/2017 2016-22/17  
 R81-8 Manufacturer Licenses (Distillery, Winery, Brewery) 40923 AMD 01/03/2017 2016-22/19

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Administration

R105-1 Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services 40950 AMD 01/20/2017 2016-23/19  
 R105-1 Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services 41466 5YR 04/10/2017 2017-9/41  
 R105-1-6 Small Purchases 41295 NSC 03/06/2017 Not Printed

AUDITOR

Administration

R123-3 State Auditor Adjudicative Proceedings 41764 5YR 06/07/2017 2017-13/230  
 R123-4 Public Petitions for Declaratory Orders 41765 5YR 06/07/2017 2017-13/230  
 R123-5 Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations 41766 5YR 06/07/2017 2017-13/231

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-3 Use of Magnetometers on Capitol Hill 41573 5YR 05/02/2017 2017-11/211

COMMERCE

Consumer Protection

R152-6 Utah Administrative Procedures Act Rules 40920 AMD 01/09/2017 2016-22/21  
 R152-34 Postsecondary Proprietary School Act Rules 41610 5YR 05/08/2017 2017-11/212

Occupational and Professional Licensing

R156-1	General Rule of the Division of Occupational and Professional Licensing	41299	AMD	04/11/2017	2017-5/8
R156-5a	Podiatric Physician Licensing Act Rule	41047	AMD	02/07/2017	2017-1/11
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	41198	5YR	01/19/2017	2017-4/59
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	41260	AMD	03/27/2017	2017-4/4
R156-16a	Optometry Practice Act Rule	41275	5YR	02/02/2017	2017-5/61
R156-16a-304	Continuing Education	41110	AMD	02/21/2017	2017-2/18
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	41706	5YR	05/30/2017	2017-12/35
R156-22-302c	Qualifications for Licensure - Experience Requirements	41286	NSC	03/06/2017	Not Printed
R156-24b-102	Definitions	41474	AMD	06/08/2017	2017-9/8
R156-31b-502	Unprofessional Conduct	41308	NSC	03/06/2017	Not Printed
R156-31b-703b	Scope of Nursing Practice Implementation	41113	NSC	01/18/2017	Not Printed
R156-37	Utah Controlled Substances Act Rule	41289	5YR	02/06/2017	2017-5/61
R156-37f-301	Access to Database Information	41339	NSC	04/05/2017	Not Printed
R156-37f-303	Access to Opioid Prescription Information Via an Electronic Data System	41265	NSC	02/23/2017	Not Printed
R156-38b	State Construction Registry Rule	41349	AMD	05/08/2017	2017-7/4
R156-42a-304	Continuing Education	41473	AMD	06/08/2017	2017-9/9
R156-44a-601	Delegation of Nursing Tasks	41340	NSC	04/05/2017	Not Printed
R156-46b-202	Informal Adjudicative Proceedings	41169	AMD	03/13/2017	2017-3/8
R156-46b-202	Informal Adjudicative Proceedings	41354	NSC	04/05/2017	Not Printed
R156-47b	Massage Therapy Practice Act Rule	41436	5YR	04/04/2017	2017-9/41
R156-55a	Utah Construction Trades Licensing Act Rule	41348	AMD	05/08/2017	2017-7/6
R156-55b-102	Definitions	41261	AMD	03/27/2017	2017-4/5
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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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physical therapist

Commerce, Occupational and Professional Licensing	41474	R156-24b-102	AMD	06/08/2017	2017-9/8
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physical therapist assistant

Commerce, Occupational and Professional Licensing	41474	R156-24b-102	AMD	06/08/2017	2017-9/8
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physical therapy

Commerce, Occupational and Professional Licensing	41474	R156-24b-102	AMD	06/08/2017	2017-9/8
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Workforce Services, Unemployment Insurance	41686	R994-404	5YR	05/19/2017	2017-12/42	
<u>Workforce Innovation and Opportunity Act</u>						
Workforce Services, Employment Development	41336	R986-600	AMD	05/01/2017	2017-6/18	
<u>Workforce Innovation and Opportunity Act (WIOA)</u>						
Workforce Services, Employment Development	41599	R986-600	NSC	05/23/2017	Not Printed	
<u>world languages</u>						
Education, Administration	41004	R277-499	NEW	01/10/2017	2016-23/30	
<u>x-rays</u>						
Environmental Quality, Waste Management and Radiation Control, Radiation	41180	R313-30	5YR	01/17/2017	2017-3/90	
	41183	R313-35	5YR	01/17/2017	2017-3/91	