State of Utah
GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF RADIATION CONTROL
Rusty Lundberg
Director

December 6, 2010

Terrance Reis, Deputy Director
Division of Materials Safety and State Agreements
Federal & State Materials & Environmental Management (FSME)
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Reis:

Enclosed is a copy of the proposed revision to the Utah Radiation Control Rule, R313-25-8, "License Requirements for Land Disposal of Radioactive Waste – Technical Analysis".

The proposed revision will be made available for comment on December 1, 2010, with public comment closing on January 4, 2011. The proposed regulations are identified by strikeout/underline text. The Division of Administrative Rules (DAR) has published the proposed rule in the Utah State Bulletin.

To access the Utah State Bulletin, go to http://www.rules.utah.gov/publicat/digests/d20101201.txt We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in STP Procedure SA-200. If you have any questions, please feel free to contact me or John Hultquist of my staff at (801) 536-4250 or by e-mail at rlundberg@utah.gov or jhultquist@utah.gov respectively.

Sincerely,

Rusty Lundberg

Rusty Lundberg, Executive Secretary
Utah Radiation Control Board

Enclosure:

cc: Kathleen Schneider, State Regulation Review Coordinator
Division of Materials Safety and State Agreements
Federal & State Materials & Environmental Management (FSME)
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.

R313-25-8. Technical Analyses.

(1) The licensee or applicant shall conduct a site-specific performance assessment and receive Executive Secretary approval prior to accepting any radioactive waste if:

(a) the waste is likely to result in greater than 10 percent of the dose limits in R313-25-19 during the time period at which peak dose would occur, or

(b) the waste will result in greater than 10 percent of the total site source term over the operational life of the facility, or

(c) the disposal of the waste would result in an unanalyzed condition not considered in the development of 10 CFR 61.55.

(2) A licensee that has a previously-approved site-specific performance assessment that addressed a radioactive waste for which a site-specific performance assessment would otherwise be required under R313-28-8(1) shall notify the Executive Secretary of the applicability of the previously-approved site-specific performance assessment at least 60 days prior to the anticipated acceptance of the radioactive waste.

(3) The licensee shall not accept radioactive waste until the Executive Secretary has approved the information submitted pursuant to R313-25-8(1) or (2).

([~~1~~]4) The [~~specific technical information~~]licensee or applicant shall also include in the specific technical information the following analyses needed to demonstrate that the performance objectives of R313-25 will be met:

(a) Analyses demonstrating that the general population will be protected from releases of radioactivity shall consider the pathways of air, soil, ground water, surface water, plant uptake, [and] exhumation by burrowing animals, and changing lake levels. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses shall clearly demonstrate a reasonable assurance that the exposures to humans from the release of radioactivity will not exceed the limits set forth in R313-25-19.

(b) Analyses of the protection of inadvertent intruders shall demonstrate a reasonable assurance that the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.

(c) Analysis of the protection of individuals during operations shall include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analysis shall provide reasonable assurance that exposures will be controlled to meet the requirements of R313-15.

(d) Analyses of the long-term stability of the disposal site shall be based upon analyses of active natural processes including erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, [~~and~~] surface drainage of the disposal

site, and the effects of changing lake levels. The analyses shall provide reasonable assurance that there will not be a need for ongoing active maintenance of the disposal site following closure.

([~~2~~]5)(a) Notwithstanding R313-25-8(1), [~~A~~]any facility that proposes to land dispose of significant quantities of concentrated depleted uranium (more than one metric ton in total accumulation) after June 1, 2010, shall submit for the Executive Secretary's review and approval a performance assessment that demonstrates that the performance standards specified in 10 CFR Part 61 and corresponding provisions of Utah rules will be met for the total quantities of concentrated depleted uranium and other wastes, including wastes already disposed of and the quantities of concentrated depleted uranium the facility now proposes to dispose. Any such performance assessment shall be revised as needed to reflect ongoing guidance and rulemaking from NRC. For purposes of this performance assessment, the compliance period shall be a minimum of 10,000 years. Additional simulations shall be performed for the period where peak dose occurs and the results shall be analyzed qualitatively.

(b) No facility may dispose of significant quantities of concentrated depleted uranium prior to the approval by the Executive Secretary of the performance assessment required in R313-25-8([~~2~~]5)(a).

(c) For purposes of this R313-25-8([~~2~~]5) only, "concentrated depleted uranium" means waste with depleted uranium concentrations greater than 5 percent by weight.

(a) that the institutional control requirements of R313-25-11(8) have been met;

(b) that additional requirements resulting from new information developed during the institutional control period have been met;

(c) that permanent monuments or markers warning against intrusion have been installed; and

(d) that records required by R313-25-33(4) and (5) have been sent to the party responsible for institutional control of the disposal site and a copy has been sent to the Executive Secretary immediately prior to license termination.

KEY: radiation, radioactive waste disposal, depleted uranium
Date of Enactment or Last Substantive Amendment: [June 2,]2010
Notice of Continuation: October 5, 2006
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Utah State Digest, Vol. 2010, No. 23 (December 1, 2010)

[NOTE: The Utah State Digest (Digest) is created from the eRules filing database used to create the Utah State Bulletin (Bulletin). While a discrepancy between the Digest and the Bulletin is highly unlikely, any discrepancies will be resolved in favor of the Bulletin. Please refer to the State Disclaimer (http://www.utah.gov/disclaimer.html) for more information.]

UTAH STATE DIGEST
Summary of the Contents of the Utah State Bulletin

For information filed November 2, 2010, 12:00 AM through November 15, 2010, 11:59 PM

Volume 2010, No. 23
December 1, 2010

Prepared by
Division of Administrative Rules
Department of Administrative Services

The Utah State Digest (Digest) is an official electronic publication of the State of Utah, Department of Administrative Services, Division of Administrative Rules. It is a summary of the information found in the Utah State Bulletin (Bulletin) of the same volume and issue number. Inquiries concerning the substance or applicability of an administrative rule that appear in the Digest should be addressed to the contact person for the rule. Questions about the Digest or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3218, FAX 801-359-0759. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: http://www.rules.utah.gov/ . The Digest is available free of charge online at http://www.rules.utah.gov/publicat/digest.htm and by E-mail Listserv.

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Division of Administrative Rules, Salt Lake City 84114

Utah state digest.
Semimonthly.

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1. EXECUTIVE DOCUMENTS

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

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

Governor's Proclamation 2010/2/S: Calling the Fifty-Eighth Legislature Into a Second Special Session
- Cherilyn Bradford by phone at 801-538-1505, by FAX at 801-538-1528, or by Internet E-mail at Cbradford@utah.gov
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/execdocs/2010/ExecDoc150407.htm

2. NOTICES OF PROPOSED RULES

A state agency may file a Proposed Rule when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between November 2, 2010, 12:00 a.m., and November 15, 2010, 11:59 p.m. are summarized in this, the December 1, 2010, issue of the Utah State Digest.

The law requires that an agency accept public comment on Proposed Rules published in the December 1, 2010, issue of the Utah State Bulletin until at least December 31, 2010 (the Bulletin is the parent publication of the Digest). The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the rule information published

below. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific Proposed Rule. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through March 31, 2011, the agency may notify the Division of Administrative Rules that it wants to make the Proposed Rule effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date in the Utah State Bulletin. Alternatively, the agency may file a Change in Proposed Rule in response to comments received. If the Division of Administrative Rules does not receive a Notice of Effective Date or a Change in Proposed Rule, the Proposed Rule lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on the Proposed Rules listed below. Comment may be directed to the contact person identified with each rule.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
No. 34215 (Amendment): R156-78B. Prelitigation Panel Review Rule.
SUMMARY OF THE RULE OR CHANGE: Section R156-78B-2 adds definitions for the following terms: "date of the panel’s opinion," "issuance of an opinion" and "issue an opinion"; "file," "filing", or "filed"; "findings", "conclusions", "determinations", or "results"; "HIPPA"; "panel opinion", or "opinion"; and "service". In addition, the definition of "pleadings” is modified. Subsection R156-78B-4(2) is changed to clarify that except as otherwise required by Title 78B, Chapter 3, the Division may permit a deviation from this rule when it finds compliance to be impractical or unnecessary. Subsection R156-78B-4(3) addressing the computation of time is changed to address the Division's four day work week. In Section R156-78B-5, added wording to this section which provides that "counsel" means active members of the Utah State Bar or active members of any other state bar and allows for counsel from a foreign licensing state. Subsections R156-78B-7(2) and (3) are changed to better address the provisions governing the process for service of pleadings. Subsection R156-78B-7(4) is added so there is a provision addressing date of service. In Section R156-78B-9, the word "shall" is changed to "may" in Subsections R156-78B-7(4)(c) and (5)(e) to provide the Division better flexibility in this circumstance. A new Subsection R156-78B-7(6) is added to address requests made by incarcerated persons. It provides that if a request, notice, or other documentation indicates that the alleged malpractice occurred while the petitioner was incarcerated and the alleged malpractice claim is against the State of Utah, its agencies or employees, the request shall be denied based upon Subsection 63G-7-301(5)(j). It further provides that subsequent requests or communication from an incarcerated petitioner whose request has been denied will not receive response unless the petitioner files an amended request and notice that demonstrates that the alleged malpractice did not occur while the petitioner was incarcerated, or that the alleged malpractice claim is not against the State of Utah, its agencies or employees. In Section R156-78B-11, a clarification is made to this very seldom used section to provide that

the Division may authorize a prehearing conference by exception and under the direction of a panel chair. Subsection R156-78B-12(1) is added to clarify that pre-litigation panel hearings are informal as provided by Subsection 78B-3-416(1)(c) and are not governed by Title 63G, Chapter 4, Utah Administrative Procedures Act, and they are closed to the public as provided by Subsection 78B-3-417(5)(a). Subsection R156-78B-12(2) is added to codify an existing standard into rule establishing the duration of a pre-litigation hearing. Subsection R156-78B-12(12) is changed to modify the title of the section from "Subpoenas and Fees" to "Subpoenas–Discovery and Perpetuation of Testimony". The title of Subsection R156-78B-12(12)(a) is modified from "Issuance of Subpoenas" to "Subpoenas for Medical Records Authorized – Discovery and Perpetuation of Testimony Prohibited". The body of Subsection R156-78B-12(12)(a) is modified to remove subpoena authority to compel the appearance of witnesses at pre-litigation panel hearings which appears to exceed our statutory authority set forth in Subsection 78B-3-417(2). The existing Subsection R156-78B-12(12)(b) governing payment of witness fees is removed consistent with the removal of the Division's authority to compel the appearance of witnesses at a pre-litigation panel hearing. A new Subsection R156-78B-12(12)(b) is added to address the requirements and process for issuance of subpoenas for medical records. The subsection specifies that the subpoena must be prepared in proper form by the person requesting the subpoena and must be accompanied by either a release from the individual who is the subject of medical records from the individual's guardian or conservator, or by an affidavit with the proscribed text set forth in Table IV. The affidavit incorporates the requirements of Subsection 78B-3-417(2), which is the current standard, and in addition addresses compliance with the requirements of HIPAA that HIPAA places upon the person seeking access to medical records pursuant to a subpoena issued under 45 CFR 164.512(e). Specifically, the person seeking access to medical records must certify that they will provide the specified satisfactory assurances to the covered entity from whom the medical records are sought. A new Subsection R156-78B-12(12)(b) also provides that if the covered entity fails or refuses to provide the medical records subject to the administrative subpoena that enforcement must be sought through a court of competent jurisdiction under Section 78B-6-313 of the Judicial Code. Subsections R156-78B-14(1) and (2) are changed, along with the accompanying definitions in Section R156-78B-2, to clarify the distinction between a panel determination and a panel opinion and the fact that a panel renders and files its determinations and opinions with the Division. Subsection R156-78B-14(3) clarifies and establishes that it is the panel's responsibility to render and file its determination and opinion and the Division's responsibility to issue the panel's determination and opinion. Subsection R156-78B-14(4) organizes and clarifies the circumstances and timing for the Division's issuance of a certificate of compliance. Subsection R156-78B-14(4) clarifies that a certificate of compliance issued by the Division shall be accompanied by the supporting documentation including the applicable panel determination or finding, supplemental memorandum opinion, determination on petitioner's affidavit of respondent's failure to reasonably cooperate in the scheduling of a pre-litigation hearing, required affidavits of merit, etc. Subsection R156-78B-14(4) clarifies that a certificate of compliance will not be issued to a person who fails to timely file a required affidavit of merit. Subsection R156-78B-15(1) clarifies the deadline for submitting an affidavit alleging failure to reasonably cooperate in scheduling a hearing. Subsection R156-78B-15(2) establishes that an affidavit alleging failure to reasonably cooperate in scheduling a hearing shall set forth a specific factual basis. Subsection R156-78B-15(3) provides what "failure to reasonably cooperate in scheduling a hearing" includes. Subsection R156-78B-15(4) establishes that

an affidavit alleging failure to reasonably cooperate in scheduling a hearing must comply with Section R156-78B-6 governing pleadings and Section R156-78B-7 governing filing and service. Subsection R156-78B-15(5) establishes a right for a respondent to respond to an affidavit alleging failure to reasonably cooperate in scheduling a hearing within five days after the filing of the affidavit. The response must be in the form of a counter affidavit. Subsection R156-78B-15(6) establishes that the Division shall review petitioner's affidavit alleging failure to reasonably cooperate in scheduling a hearing and respondent's counter affidavit, if any, and determine whether respondent failed to reasonably cooperate in scheduling a hearing. If so then the Division is required to issue a certificate of compliance to petitioner in conjunction with its determination. If not, it is required to issue a notice to petitioner that the petitioner must timely file an affidavit of merit before the Division can issue a certificate of compliance. Subsection R156-78B-16a(1) clarifies that the required affidavit of merit consists of two or more affidavits, one executed by counsel or by a pro se claimant and one or more signed by an appropriate health care provider. Subsection R156-78B-16a(2) provides that required affidavits must comply with Section R156-78B-6 governing pleadings and Section R156-78B-7 governing filing and service. Section R156-78B-16b clarifies and specifies the content requirement, or its substantial equivalent, of an affidavit of merit by counsel or a by a pro se claimant. Subsection R156-78B-16c(1) clarifies and specifies the content requirement, or its substantial equivalent, of an affidavit of merit by a health care provider. Subsection R156-78B-16c(2) clarifies when a portion of the required content is waived. Section R156-78B-16d clarifies the type of health care provider or providers who are required to complete an affidavit of merit to support the issuance of a certificate of compliance. Subsection R156-78B-16e(1) clarifies and specifies the content requirement, or its substantial equivalent, of an affidavit for a 60-day extension to file an affidavit of merit. Subsection R156-78B-16e(2) establishes a right for a respondent to respond to an affidavit for a 60-day extension to file an affidavit of merit within 5 days after the filing of the affidavit. The response must be in the form of a counter affidavit. Technical changes were also made throughout the rule.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: In General: there will be a cost of approximately $50 to reprint and distribute this rule. The new program aspects of S.B. 145 implemented by this rule may increase the workload for the Pre-litigation Program, in particular the workload of administering the new: 1) affidavits alleging failures to reasonably cooperate in scheduling a hearing; 2) affidavits supporting requests for extension of time to file an affidavit of merit; and 3) affidavits of merit. The fiscal note for this bill was $8,500. During FY 2009, the Pre-litigation Program opened 338 cases, closed 361 cases, and scheduled 196 hearings. The breakout in outcome of the cases closed was as follows: No Merit – 144; Meritorious – 20; Stipulated – 72; Dismissed – 67; Split Decision - 29; and Jurisdiction – 29. It is estimated that more than one half of the no merit and jurisdiction cases will move forward to litigation. This is approximately 100 cases. In addition, it is estimated that virtually all of the stipulated and split decision cases will move forward to litigation. This is approximately 100 more cases, for a total of approximately 200 other than meritorious cases going forward to litigation. Specific analysis of the new workload by type of affidavit or activity is as follows. Affidavits submitted to Support the Issuance of an Administrative Subpoena for Medical Records: the current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The Division may reject and return many subpoenas as the parties to pre-litigation and/or their counsel work through a learning

curve. The cost of many of these workload modifications cannot be accurately predicted. Affidavits alleging Failure to Reasonably Cooperate in Scheduling a Hearing: the current process for jurisdiction cases involves simply issuing a certificate of compliance indicating the loss of jurisdiction once the 180-day jurisdictional timeframe has run, unless the parties have agreed to a longer time frame. Under the new requirements upon the timely filing of this type of affidavit by petitioner's counsel, the Division of Occupational and Professional Licensing (DOPL) will await the time period for the filing of a counter affidavit by respondent's counsel. DOPL will then evaluate the affidavits and either: 1) issue a determination agreeing with petitioner's counsel and issue a certificate of compliance; or 2) issue a determination disagreeing with petitioner's counsel and send a notice petitioner to submit an affidavit of merit within 30-days in order to receive a certificate of compliance. There will certainly be multiple filings in this category, perhaps as many as half of these cases or approximately 15 cases. This is a significant new workload. Affidavits of Merit: An affidavit of merit is required in the following situations: loss of jurisdiction cases in which an affidavit alleging failure to reasonably cooperate in scheduling a hearing is not submitted, or is submitted but is not supported; and cases that go to a pre-litigation hearing and receive a finding/opinion of no merit with regard to either the standard of care or damages, or both. As indicated this will be somewhere in the vicinity of 200 cases. Current process for loss of jurisdiction cases is as set forth above. Current process for non-meritorious cases is to simply send out a certificate of compliance together with the associated findings and opinion. The new process will turn a 1-step process into a 2-step process in which the opinion and findings will go out separately and the Division will then wait for 30 or 60 days, depending on the type of case, for the submittal of affidavits of merit, one from the petitioner or petitioner's counsel and one or more from health care providers. If an affidavit of merit is timely received, the Division will then send out the certificate of compliance. If not, it will close the case and send out a notice of case closure or dismissal. Affidavits requesting an Extension of Time to File Affidavit of Merit: Finally, an undetermined but significant number of petitioners will request a 60-day extension to file their required affidavit of merit. This is required to be done in the form of an affidavit. Respondent's counsel will be given an opportunity to respond by a counter affidavit. DOPL will then evaluate the affidavits and determine whether to grant the extension and issue the appropriate determination. Paper, Envelopes, and Postage: additional paper, envelope, and multiple mailings for each of the cases affected by the new affidavit requirements times multiple mailings per case are expected to increase by as many as 1,000 mailings per year or an increase in cost of $450. State Courts: there may be an impact to state courts in that they may see a decrease in the number of filings of cases due to the new affidavit requirements. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent’s attorney fees and court costs. The amount of this impact cannot be quantified. State-Owned Medical Facilities: there may be a cost savings from a decrease in the number of medical malpractice cases involving state government owned health care facilities and/or their employees due to the new affidavit requirements. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or

respondent's counsel being ordered to pay respondent's attorney fees and court costs. The amount of these cost savings cannot be quantified. The current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The changes and the underlying process it entails may increase the cost of those who are currently not in compliance with the requirements of HIPAA. The learning curve will likely result in many subpoenas initially being rejected and returned for reworking and resubmission. These cost increases cannot be quantified.

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

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

- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There may be a cost savings to health care providers from a decrease in the number of medical malpractice cases against them due to the new affidavit of merit requirements. This impact may be compounded by the potential impact to a petitioner or petitioner's counsel who submits an affidavit of merit that could be determined to be without reasonable cause and untrue at the time the affidavit or affidavits were submitted, and result in respondent or respondent's counsel being ordered to pay respondent’s attorney fees and court costs. The amount of these cost savings cannot be quantified. The current affidavit submitted to support the issuance of an administrative subpoena for medical records is changed substantially. The changes and the underlying process it entails may increase the cost of those who are currently not in compliance with the requirements of HIPAA. The

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

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- W. Ray Walker by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- 12/09/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 401 (fourth floor), Salt Lake City, UT

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

FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34215.htm

No. 34237 (Amendment): R156-83-306. Drugs Approved for Online Prescribing, Dispensing, and Facilitation.
SUMMARY OF THE RULE OR CHANGE: Section R156-83-306 is amended by adding a parenthetical limiting hormonal contraceptive methods. Specifically, injectable and implantable methods are excluded. Additionally, the drug varenicline (Chantix), a smoking-cessation drug, is added to the list of approved drugs for online prescribing, dispensing, and facilitation.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: The Division will incur minimal costs of approximately $50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- LOCAL GOVERNMENTS: This proposed amendment will not result in direct, measurable costs, and/or benefits for local governments.
- SMALL BUSINESSES: The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contractor pharmacies and internet facilitators. However, the aggregate impact of the proposed amendments cannot be quantified. It should be noted however that this is a new licensing act and no one has been licensed under the act to date.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contract pharmacies and internet facilitators. It should be noted however that this is a new licensing act and no one has been licensed under the act to date. The proposed amendments will also affect the method of delivery and potentially the cost to consumers. However, the aggregate impact of the proposed amendments cannot be quantified.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contract pharmacies and internet facilitators. It should be noted however that this is a new licensing act and no one has been licensed under the act to date. The proposed amendments will also affect the method of delivery and potentially the cost to consumers. However, the individual impact of the proposed amendments cannot be quantified.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to authority granted in statute, the Division amends the list of approved online prescriptions to exclude injectable and implantable hormonal based contraceptives and to add the drug cessation medication varenicline. The fiscal impact to businesses from this amendments is difficult to ascertain as there are yet no licensees under this new law.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov
INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
- 12/07/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:

http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34237.htm

REAL ESTATE
No. 34223 (New Rule): R162-2a. Utah Housing Opportunity Restricted Account.
SUMMARY OF THE RULE OR CHANGE: Procedures are outlined by which a qualified applicant may apply to receive money from the Utah Housing Opportunity Restricted Account.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to the state budget is anticipated.
- LOCAL GOVERNMENTS: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to local governments is anticipated.
- SMALL BUSINESSES: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to small businesses is anticipated.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Where the substantive provisions of this rule are already in place pursuant to Rule R162-12, no fiscal impact to affected persons is anticipated.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no fees or costs to submit an application to receive money from the Utah Housing Opportunity Restricted Account. There are no compliance costs.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing renumbers the Division rules to mirror the statutory numbering scheme and removes duplicative provisions. As indicated in the rule summary, there will be no impact to businesses as the rule filing contains the same substance as the old rule.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34223.htm

No. 34225 (Amendment): R162-2c-201. Licensing and Registration Procedures.
SUMMARY OF THE RULE OR CHANGE: The changes are: 1) a licensee who allows the license to expire and thereafter applies for a new license will not be required to re-take the 20-hour national pre-licensing course, but will be required to complete certain continuing education; 2) all individuals applying for licensure shall complete, sign, and submit to the division a social security verification form; and 3) mortgage entities are prohibited from operating under a business name that closely resembles the name of another licensed entity or that is otherwise confusing or misleading.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: The state budget currently in place for processing license applications will not be affected by these amendments, which simply change some of the criteria that staff will consider in determining whether an applicant qualifies for licensure.
- LOCAL GOVERNMENTS: Local governments do not license with the division, nor do they enforce licensing rules. No fiscal impact to local governments is anticipated.
- SMALL BUSINESSES: A small business that pays licensing costs for its

employees will experience a savings from this amendment in that it will not have to pay the costs of the 20-hour national pre-licensing course, which is not required under the nationwide rules for an employee who allows a license to expire and is therefore required to reapply as a new applicant. The provision regarding the social security verification form does not apply to small businesses and, therefore, poses no costs. The provision regarding business names will require a small business to choose a name that is unique and not misleading or confusing, but it is not anticipated that this requirement will pose a financial burden to small businesses.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: A person who allows a license to expire and thereafter reapplies as a new applicant will experience a savings from this amendment in that the person will not have to pay the costs of the 20-hour national pre-licensing course. The provision regarding the social security verification form does not affect the costs of obtaining a license. The provision regarding business names is not applicable to persons other than small businesses or businesses.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs of obtaining a license remain the same under these amendments. No change in compliance costs are anticipated for affected persons.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing is a cost savings to those who reapply as a new licensee after allowing their license to expire; they will not be required to complete the 20-hour national pre-licensing course. No appreciable financial impact to businesses is expected from the requirement to file a social security verification form or from the prohibition against using a confusing or misleading business name.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34225.htm

No. 34226 (Amendment): R162-2c-203. Utah-Specific Education Certification.
SUMMARY OF THE RULE OR CHANGE: This amendment extends the expiration date of Division-approved continuing education courses from 12/31/2010 to 02/28/2011.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: The state budget for reviewing and processing reinstatement applications is in place and will be unaffected by this change. No impact to the state budget is anticipated.
- LOCAL GOVERNMENTS: Local governments do not license with the Division, nor do they oversee or enforce the licensing rules. Therefore, no fiscal impact to local governments is anticipated.
- SMALL BUSINESSES: As to small business that provide continuing education, the Division does not propose to charge a fee to extend the expiration date of any courses they offer. As to small mortgage businesses, the requirement to have licensees take continuing education remains unchanged, as does the costs of paying for the courses. Therefore, no fiscal impact to small businesses is anticipated.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Affected persons will continue to pay the costs of registering for continuing education classes. These costs are unchanged. Therefore, no fiscal impact to affected person is anticipated.
COMPLIANCE COSTS FOR AFFECTED PERSONS: To comply, affected persons must take

continuing education as required for reinstatement. This rule has long been in place, and the costs for the education vary, depending on which courses an individual chooses to take. However, this rule imposes no new compliance costs for affected persons.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In order to better coordinate with the federal law for mortgage licensees and the nationwide database, this rule filing amends the expiration date of prelicensing education course certifications. As discussed in the rule summary, no fiscal impact to businesses is anticipated.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34226.htm

No. 34227 (Amendment): R162-2c-204. License Renewal.
SUMMARY OF THE RULE OR CHANGE: An individual who completes pre-licensing education and obtains the associated license within a calendar year is not required to complete additional continuing education to renew the license in the same calendar year.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: The state budget for processing license renewals currently in place will not be affected by this amendment, which simply changes the criteria that staff will look at in determining whether certain applicants qualify for renewal.
- LOCAL GOVERNMENTS: Local governments do not license with the division, nor do they enforce the licensing rules. No fiscal impact to local governments is anticipated.
- SMALL BUSINESSES: A small business that pays educational costs for licensees will experience a savings from this amendment in that they will not have to pay for continuing education in the same calendar year in which they pay for pre-licensing education.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Affected persons will experience a savings from this amendment in that they will not have to pay for continuing education in the same calendar year in which they pay for pre-licensing education.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for renewing a license remain the same as currently in effect, except that a person will not have to pay for continuing education courses in the same year that the person completes pre-licensing education.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing is intended to bring the Division's license renewal procedures in line with the national standard of relieving new licensees from the continuing education requirement if they completed pre-licensing education in the same calendar year. As indicated in the rule summary, licensees will experience a cost savings as a result of this filing.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34227.htm

No. 34224 (Repeal): R162-12. Utah Housing Opportunity Restricted Account.
SUMMARY OF THE RULE OR CHANGE: The rule is repealed in its entirety.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to the state budget is anticipated from this filing.
- LOCAL GOVERNMENTS: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to local governments is anticipated from this filing.
- SMALL BUSINESSES: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to small businesses is anticipated from this filing.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Where the substantive provisions of this rule are incorporated into proposed Rule R162-2a, no fiscal impact to affected persons is anticipated from this filing.
COMPLIANCE COSTS FOR AFFECTED PERSONS: In repealing this rule, the division and commission relieve affected persons of any obligation to comply with it. There are no compliance costs.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule repeal as a substitute new rule containing the substance of these provisions is also proposed by the Division
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34224.htm

EDUCATION
ADMINISTRATION
No. 34230 (Amendment): R277-419. Pupil Accounting.
SUMMARY OF THE RULE OR CHANGE: The amendments provide new or amended language to definitions, official records information, student membership information, and high school completion status information.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The amendments provide changes to the manner in which data are reported to ensure compliance and continuity of information, policy and practices. The amendments do not increase costs to the state.
- LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The amendments provide changes to the manner in which data are reported to ensure compliance and continuity of information, policy and practices. There are no increased costs to school districts or charter schools as a result of this reporting.
- SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule and the amendments to this rule apply to public education and do not affect small businesses.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. This rule and

the amendments provide changes to the manner in which data are reported and do not affect individuals.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments only change the way in which data is reported which does not result in any costs.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34230.htm

No. 34231 (Amendment): R277-733. Adult Education Programs.
SUMMARY OF THE RULE OR CHANGE: The amendments provide a change to program standards; adult education program student eligibility; program, curriculum, outcomes and student mastery; allocation of adult education funds; and provides a new section on oversight, monitoring, evaluation, and reports.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes just update language and processes for the adult education program which does not result in any costs.
- LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes just update language and processes for the adult education program which does not result in any costs.
- SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule and the amendments to the rule apply to public education funding and distribution and do not affect small businesses.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, or local government entities. The changes just update language and processes for the adult education program and do not affect individuals.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes just update language and processes for the adult education program which does not result in any costs.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34231.htm

ENVIRONMENTAL QUALITY
DRINKING WATER
No. 34243 (Amendment): R309-110-4. Definitions.

SUMMARY OF THE RULE OR CHANGE: This rule changes adds definitions for: 1) dose-monitoring strategy; 2) duty UV sensors; 3) inactivation; 4) off-specification; 5) reference UV sensors; 6) required Dose; 7) target log inactivation; 8) UV dose; 9) UV facility; 10) UV Intensity; 11) UV reactor; 12) UV reactor validation; 13) UV transmittance; 14) validation factor; and 15) validated operating conditions.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There should be no significant cost or savings from this rule change to the state budget. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement. The amendment itself carries no cost or savings.
- LOCAL GOVERNMENTS: There should be no significant cost or savings from this rule change to local government. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement. The amendment itself carries no cost or savings.
- SMALL BUSINESSES: There should be no significant cost or savings from this rule change to small businesses. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement. The amendment itself carries no cost or savings.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There should be no significant cost or savings from this rule change to other entities. This is because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement. The amendment itself carries no cost or savings.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no significant cost or savings from this rule change to public drinking water systems. This rule change assists systems seeking to modify or revise their disinfection practices. Because this amendment adds definitions associated with optional disinfection procedures that water systems may choose to implement, the amendment itself carries no cost or savings.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change, adding new definitions, should assist drinking water systems who wish to revise or update their disinfection practices to one of the emerging disinfection treatment technologies.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov
- Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34243.htm

RADIATION CONTROL
No. 34240 (Amendment): R313-25-8. Technical Analyses.
SUMMARY OF THE RULE OR CHANGE: The Utah Radiation Control Board at its 11/10/2010 meeting, voted to amend Section R313-25-8 that requires EnergySolutions or any facility that land disposes of radioactive waste to complete and submit for review and approval a site-specific performance assessment prior to acceptance of radioactive waste that results in greater than 10 percent of the dose limit in Section R313-25-19 during the time

period of peak dose or will result in greater than 10 percent of the total site source term over the operational life of the facility or the waste represents an unanalyzed condition not considered in the development of 10 CFR Part 61: Licensing Requirements for Land Disposal of Radioactive Waste.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: The State of Utah receives fees from licensees that dispose of radioactive waste under Section 19-3-106. Currently, EnergySolutions, LLC is the only radioactive waste disposal facility that accepts and disposes of radioactive waste. If this rule is promulgated, certain wastes may not be accepted at the facility until it has completed a site-specific performance assessment and it is approved by the Executive Secretary. The financial impacts on waste fees received by the State of Utah are difficult to specify because the impact depends on the following information that is not known at this time: when a site-specific performance assessment will be submitted and when it will be approved; when the rule takes effect it may cause waste receipts to be delayed; or whether there are competitors for the waste such that EnergySolutions could lose receipts altogether.
- LOCAL GOVERNMENTS: Tooele County collects impact fees from waste facilities, including EnergySolutions. Tooele County's budget is therefore likely to be affected. Because of the reasons described above, the specific impact cannot be known at this time.
- SMALL BUSINESSES: No small business in Utah will be directly impacted. This amendment changes a rule that is specific to companies or licensees that dispose of radioactive waste. As a result of this narrow scope, there should be no direct impact on small businesses.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Board is not aware of any direct impact on other entities. This amendment changes a rule that is specific to companies or licensees that dispose of radioactive waste. As a result of this narrow scope, there should be no direct impact on other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A radioactive waste disposal facility may have to incur the cost of preparing a site-specific performance assessment under this rule, and may also bear the cost of the Division of Radiation Control's review of that performance assessment. The cost of a performance assessment is likely to be over $1,000,000 initially, however, the licensee has initiated a performance assessment prior to this rule change and therefore, depending on the waste stream, may only have to modify a previous performance assessment and therefore, costs could be substantially lower.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: If the rule is promulgated, one Utah business - EnergySolutions, LLC - may be unable to accept certain wastes until it has submitted a site-specific performance assessment and the performance assessment has been approved. The impact of this rule is hard to ascertain, because the Board does not know when EnergySolutions will submit a performance assessment and when it will be approved; when EnergySolutions would otherwise have received certain wastes that would require them to prepare and submit a performance assessment, and whether or not future waste shipments will require a site-specific performance assessment prior to receipt. However, if a performance assessment is required, EnergySolutions will bear the cost of carrying out, preparing, and submitting the performance assessment which could be substantial.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/04/2011
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Rusty Lundberg by phone at 801-536-4257, by FAX at 801-533-4097, or by

Internet E-mail at rlundberg@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/13/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34240.htm

HEALTH
HEALTH CARE FINANCING, COVERAGE AND REIMBURSEMENT POLICY
No. 34228 (Amendment): R414-1. Utah Medicaid Program.
SUMMARY OF THE RULE OR CHANGE: This change updates and clarifies the sections in the text on utilization review and utilization control. It also adds definitions to the text, clarifies overpayment and prior authorization procedures, and makes other clarifications.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: The Department does not anticipate any impact to the state budget because this change only clarifies and updates certain sections of the rule text.
- LOCAL GOVERNMENTS: This change does not impact local governments because they do not fund or provide services for the Medicaid program.
- SMALL BUSINESSES: The Department does not anticipate any impact to small businesses because this change only clarifies and updates certain sections of the rule text.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate any impact to Medicaid clients and to Medicaid providers because this change only clarifies and updates certain sections of the rule text.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid client or to a Medicaid provider because this change only clarifies and updates certain sections of the rule text.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on businesses that interact with Medicaid is expected as a result of the updating of the text of this rule.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
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
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34228.htm

No. 34229 (Amendment): R414-303-11. Prenatal and Newborn Medicaid.
SUMMARY OF THE RULE OR CHANGE: This change clarifies that a provider must determine that a woman is pregnant for her to be eligible for coverage during a period of presumptive eligibility.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There is no impact to the state budget because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services to Medicaid clients and does not change eligibility criteria.
- LOCAL GOVERNMENTS: There is no impact to local governments because they do not fund or provide Medicaid services to Medicaid clients.
- SMALL BUSINESSES: There is no impact to small businesses because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services to Medicaid clients and does not change eligibility criteria.

- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to Medicaid clients and to Medicaid providers because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services and does not change eligibility criteria.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid client or to a Medicaid provider because this change only clarifies presumptive eligibility requirements for a pregnant woman. It neither increases nor decreases services and does not change eligibility criteria.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Requiring verification of pregnancy before presumptive eligibility is appropriate to guard against inappropriate use of this program. Minor costs are justified.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
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
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34229.htm

HEALTH SYSTEMS IMPROVEMENT, EMERGENCY MEDICAL SERVICES
No. 34214 (Amendment): R426-16. Emergency Medical Services Ambulance Rates and Charges.
SUMMARY OF THE RULE OR CHANGE: This rule change will end confusion as the published ambulance rates do not match with the current ambulance rates in Rule R426-16. Rates were adjusted annually based on factors set forth in the rule, but the new rates were not published as a rule. Going forward all rate changes will be placed in rule. Ambulance agencies no longer charge for Treat and Release, Emergency Response, and Night surcharges. Rule R426-16 needs to be amended to reflect these changes. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 34213 in this issue, December 1, 2010, of the Bulletin and is effective as of 11/02/2010.)
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: State budget will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule.
- LOCAL GOVERNMENTS: Local government budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
- SMALL BUSINESSES: Emergency Medical Service (EMS) budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: EMS budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: EMS agencies are allowed to bill the rates listed in the proposed rule and there are no costs to the agency for

compliance.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rate has been annually increased by inflation factors listed in the rule and published in an order. The rule is hereby updated and will be kept current in the future. No direct fiscal impact expected.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Allan Liu by phone at 801-273-6664, by FAX at 801-273-4165, or by Internet E-mail at aliu@utah.gov
INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
- 12/21/2010 01:30 PM, Highland Health Bldg, 3760 S Highland Dr, Third Floor Auditorium, Salt Lake City, UT
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34214.htm

INSURANCE
ADMINISTRATION
No. 34236 (Amendment): R590-152. Health Discount Programs and Value Added Benefit Rule.
SUMMARY OF THE RULE OR CHANGE: Section R590-152-5 does away with the licensing exemption given to health discount marketers who have a contract with only one health discount operator. Subsection R590-152-7(4) extends the requirement to update information on websites to marketers, as well as operators, and requires them to update their sites no later than 30 days from the date of the revision. Subsection R590-152-10(4) adds websites to the rule's advertisement restrictions. The restrictions of this section are to be extended to marketers contracted with one operator.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: The department does not have information as to the number of marketers contracted with each of the 31 licensed operators. Currently, there are approximately 26 licensed marketers. This will not require hiring additional employees.
- LOCAL GOVERNMENTS: The changes to this rule will have no effect on local government since it deals solely with the relationship between the department and its licensees.
- SMALL BUSINESSES: The department is not aware of the number of employees operators have. This is due to the fact that health discount plan operators and marketers do not have to designate employees. All marketers who are currently exempt from licensing under the rule will be required to be licensed and pay an annual fee of $452.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: All marketers who are currently exempt from licensing under the rule will be required to be licensed and pay an annual fee of $452. The cost of the license could be passed on to the consumer.
COMPLIANCE COSTS FOR AFFECTED PERSONS: All marketers who are currently exempt from licensing under the rule will be required to be licensed and pay an annual fee of $452. The cost of the license could be passed on to the consumer.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Health discount plan marketers not currently licensed will need to be licensed and pay a $452 annual fee.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010

DIRECT QUESTIONS REGARDING THIS RULE TO:
- Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34236.htm

PUBLIC SAFETY
FIRE MARSHAL
No. 34242 (Amendment): R710-9. Rules Pursuant to the Utah Fire Prevention Law.
SUMMARY OF THE RULE OR CHANGE: The summary of the rule amendments are as follow: 1) in Subsection R710-9-1(1.4), the Board proposes to adopt as an incorporated reference the 2009 International Fire Code as adopted and amended by the Utah State Legislature; 2) in Subsection R710-9-2(2.4), the Board proposes to adopt the definition of Dwelling Unit to assist in defining what a dwelling consists of; 3) in Subsections R710-9-10(10.1) through (10.3), the Board proposes to allow up to 20 antifreeze fire sprinkler heads in the dwelling unit portion of systems built under NFPA 13, NFPA 13 R, and NFPA 13D, and allow the authority having jurisdiction (AHJ) the ability to increase the number of heads, and allow the AHJ the ability to increase the percentages of antifreeze in the system for temperature needs; and 4) in Subsection R710-9-10(10.4), the Board proposes to require that existing antifreeze sprinkler systems that are drained be refilled with certain percentages of antifreeze, except that the AHJ can increase the percentages for temperature concerns. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 34238 in this issue, December 1, 2010, of the Bulletin and was effective as of 11/15/2010.)
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There would be no aggregate anticipated cost or savings to the state budget because these amendments do not affect the activities of the state.
- LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because these amendments do not affect the activities of local government.
- SMALL BUSINESSES: There would be an aggregate anticipated cost to small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in dwellings and residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is greatly reduced or a dry or preaction system would be installed. A total aggregate amount of increase for an average home would be approximately $1,000.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There would be an aggregate anticipated cost to persons other than small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is restricted to 20 heads or a dry or preaction system would be installed in the areas of the residence where it would freeze. A total aggregate amount of increase for an average home would be approximately $1,000 on a fire sprinkler system that usually would have approximately 20 heads.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would be an approximate $50 increase per fire sprinkler head to redesign the automatic fire sprinkler system that would limit the usage of antifreeze to 20 heads and prevent freezing of the lines which would increase

the cost to install an automatic fire sprinkler system about 25% more than it currently costs.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be an approximate increase of 25% in the installation of automatic fire sprinkler systems in the State of Utah. The continued use of large unlimited antifreeze systems in automatic fire sprinkler systems has now proven to be a life threatening hazard to the occupants of the dwelling. Under specific conditions, when the automatic fire sprinkler system opens, the fire can ignite the antifreeze and cause a spraying type fire for a very short period of time. Even with the 25% increase in installation costs, and now limiting the antifreeze heads to 20, this amendment needs to be enacted to prevent the burning injuries or death caused in this very rare situation.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34242.htm

CRIMINAL INVESTIGATIONS AND TECHNICAL SERVICES, CRIMINAL IDENTIFICATION
No. 34222 (Amendment): R722-300-3. Definitions.
SUMMARY OF THE RULE OR CHANGE: The reason for this amendment is that the term "unlawful sexual conduct" is not used in the statute and the inclusion of this definition in the rule seems to be an oversight. The second amendment would add a reference to Section 41-6a-526 to Subsection R722-300-3(2)(m), thereby including the offense of "open container" as an offense involving the use of alcohol.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: No aggregate anticipated cost or savings to the state budget. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. The removal of Subsection R722-300-3(l) will not change the process our office follows to issue a permit.
- LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. Local governments are not involved in the evaluation of permit applications or the issuance of permits.
- SMALL BUSINESSES: No aggregate anticipated cost or savings to small business. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. Small businesses are not involved in the evaluation of permit applications or the issuance of permits.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The deletion of Subsection R722-300-3(2)(l) and the addition of a reference to Section 41-6a-526 to Subsection R722-300(2)(m) will not cause any cost or savings. Persons other than small businesses, businesses, or local government entities are not involved in the evaluation of permit applications or the issuance of permits.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs. The deletion and the addition to this rule will not create any anticipated compliance costs. Because the removal of Subsection R722-300-3(l) will not change the

process our office follows to issue a permit there will be no compliance costs for the state budget. Because of local government, small businesses, and persons other than small businesses, businesses, or local government entities above are not involved in the evaluation of permit applications or the issuance of permits, there will be no compliance costs associated with this change.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact to business if this rule is changed.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34222.htm

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
No. 34241 (Amendment): R920-50. Ropeway Operation Safety Rules.
SUMMARY OF THE RULE OR CHANGE: The proposed amendment would exclude private residence passenger ropeways from the requirements of the rule and make other grammatical and stylistic changes.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There are no anticipated costs or savings to the state budget because regulation of ropeways is funded from registration fees. Excluding a small category of ropeways from registration and regulation is revenue neutral.
- LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government because the changes only involve private residence passenger ropeways.
- SMALL BUSINESSES: There are no anticipated costs or savings to small businesses because the changes only involve private residence passenger ropeways.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Owners of private residence passenger ropeways will save the registration fee and not have to incur the expense of bringing their ropeway into compliance with this rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for persons affected because the changes will exclude private passenger ropeways from state regulation.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses because the changes only affect private residence passenger ropeways.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Linda Barrow by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at lindabarrow@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34241.htm

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
No. 34239 (Amendment): R986-200-246. Transitional Cash Assistance.
SUMMARY OF THE RULE OR CHANGE: The Department had originally intended to only count earned income but computer changes make that too difficult at this time so unearned income will also be counted making more clients eligible for the program. Another change is being made to reflect a change to the sanctions previously filed.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: This applies to federally-funded programs so there are no costs or savings to the state budget.
- LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to the local government.
- SMALL BUSINESSES: There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2010
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov
THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2011
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34239.htm

3. NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-Day (Emergency) Rule when it finds that the regular rulemaking procedures would:
(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

A 120-Day Rule is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-Day Rule is effective for 120 days or until it is superseded by a permanent rule.

Because 120-Day Rules are effective immediately, the law does not require a public comment period. However, when an agency files a 120-Day Rule, it

usually files a Proposed Rule at the same time, to make the requirements permanent. Comment may be made on the Proposed Rule.

Emergency or 120-Day Rules are governed by Section 63G-3-304; and Section R15-4-8.

HEALTH
HEALTH SYSTEMS IMPROVEMENT, EMERGENCY MEDICAL SERVICES
No. 34213 (Emergency Rule): R426-16. Emergency Medical Services Ambulance Rates and Charges.
SUMMARY OF THE RULE OR CHANGE: This rule change will end confusion as the published ambulance rates do not match with the current ambulance rates in Rule R426-16. Rates were adjusted annually based on factors set forth in the rule, but the new rates were not published as a rule. Going forward all rate changes will be placed in rule. Ambulance agencies no longer charge for Treat and Release, Emergency Response, and Night surcharges. Rule R426-16 needs to be amended to reflect these changes. (DAR NOTE: A corresponding proposed amendment is under DAR No. 34214 in this issue, December 1, 2010, of the Bulletin.)
EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements; and place the agency in violation of federal or state law.
JUSTIFICATION: Rule R426-16 needs to be amended to match current Ambulance Rates as listed by the 07/01/2010 Order as issued by the Department of Health, Bureau of Emergency Medical Services (EMS).
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: State budget will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule.
- LOCAL GOVERNMENTS: Local government budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
- SMALL BUSINESSES: EMS budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: EMS budgets will not be impacted, as the current rate that went into effect in July 2010 will not change by this rule. The rates listed in the rule are increased significantly, but no change in current rates will occur as the rate in the rule had been inflated annually based on factors in the rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: EMS agencies are allowed to bill the rates listed in the proposed rule and there are no costs to the agency for compliance.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rate has been annually increased by inflation factors listed in the rule and published in an order. The rule is hereby updated and will be kept current in the future. No direct fiscal impact expected.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Allan Liu by phone at 801-273-6664, by FAX at 801-273-4165, or by Internet E-mail at aliu@utah.gov
EFFECTIVE: 11/02/2010

FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34213.htm

PUBLIC SAFETY
FIRE MARSHAL
No. 34238 (Emergency Rule): R710-9. Rules Pursuant to the Utah Fire Prevention Law.
SUMMARY OF THE RULE OR CHANGE: The summary of the rule amendments are as follow: 1) in Subsection R710-9-1(1.4), the Board proposes to adopt as an incorporated reference the 2009 International Fire Code as adopted and amended by the Utah State Legislature; 2) in Subsection R710-9-2(2.4), the Board proposes to adopt the definition of Dwelling Unit to assist in defining what a dwelling consists of; 3) in Subsections R710-9-10(10.1) through (10.3), the Board proposes to allow up to 20 antifreeze fire sprinkler heads in the dwelling unit portion of systems built under NFPA 13, NFPA 13 R, and NFPA 13D, and allow the authority having jurisdiction (AHJ) the ability to increase the number of heads, and allow the AHJ the ability to increase the percentages of antifreeze in the system for temperature needs; and 4) in Subsection R710-9-10(10.4), the Board proposes to require that existing antifreeze sprinkler systems that are drained be refilled with certain percentages of antifreeze, except that the AHJ can increase the percentages for temperature concerns. (DAR NOTES: This 120-day (emergency) rule supersedes the 120-day emergency rule under DAR No. 34128 published in the October 15, 2010, Bulletin that was effective 10/01/2010. A corresponding proposed amendment is under DAR No. 34242 in this issue, December 1, 2010, of the Bulletin.)
EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.
JUSTIFICATION: There have been two cases of ignition of the antifreeze used in the fire sprinkler system when a fire occurred and the sprinkler head fused. Both fires caused injury and death to the occupants. The latest fire occurred in Herriman, Utah, badly burning a mother and small son. The occurrence is small and rare but under certain specific conditions, you can have spraying fire when the fire sprinkler fuses with antifreeze. The fire ignites the alcohol in the antifreeze and creates methane which burns the occupants. The length of the fire is quite short before the continued spray extinguishes the fire, but damage to human skin and other key elements such as lungs is disastrous.
ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There would be no aggregate anticipated cost or savings to the state budget because these amendments do not affect the activities of the state.
- LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because these amendments do not affect the activities of local government.
- SMALL BUSINESSES: There would be an aggregate anticipated cost to small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in dwellings and residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is greatly reduced or a dry or preaction system would be installed. A total aggregate amount of increase for an average home would be approximately $1,000.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There would be an aggregate anticipated cost to persons other than

small businesses of approximately $50 per fire sprinkler head to install fire sprinkler systems in residences. The 25% increase per head would be to redesign the fire sprinkler system so that the usage of antifreeze is restricted to 20 heads or a dry or preaction system would be installed in the areas of the residence where it would freeze. A total aggregate amount of increase for an average home would be approximately $1,000 on a fire sprinkler system that usually would have approximately 20 heads.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would be an approximate $50 increase per fire sprinkler head to redesign the automatic fire sprinkler system that would limit the usage of antifreeze to 20 heads and prevent freezing of the lines which would increase the cost to install an automatic fire sprinkler system about 25% more than it currently costs.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be an approximate increase of 25% in the installation of automatic fire sprinkler systems in the State of Utah. The continued use of large unlimited antifreeze systems in automatic fire sprinkler systems has now proven to be a life threatening hazard to the occupants of the dwelling. Under specific conditions, when the automatic fire sprinkler system opens, the fire can ignite the antifreeze and cause a spraying type fire for a very short period of time. Even with the 25% increase in installation costs, and now limiting the antifreeze heads to 20, this amendment needs to be enacted to prevent the burning injuries or death caused in this very rare situation.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov
EFFECTIVE: 11/15/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34238.htm

4. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to remove obsolete rules from the Utah Administrative Code. Upon reviewing a rule, an agency may: repeal the rule by filing a Proposed Rule; continue the rule as it is by filing a Notice of Review and Statement of Continuation (Notice); or amend the rule by filing a Proposed Rule and by filing a Notice. By filing a Notice, the agency indicates that the rule is still necessary.

The rule text that is being continued may be found in the most recent edition of the Utah Administrative Code. The rule text may also be inspected at the agency or the Division of Administrative Rules. Notices are effective upon filing.

Notices are governed by Section 63G-3-305.

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
No. 34216 (5-year Review): R81-4B. Airport Lounges.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS

WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments licensed as airport lounges. It prohibits transfers of airport lounge licenses without approval; sets procedures for applying for airport lounge licenses; requires licensees to maintain bonds; sets procedures for placing liquor orders with the DABC; allows licensees to open liquor storage areas during non-sales hours to take inventory, restock, repair and clean; allows customers to run a tab; explains what can be kept in liquor storage areas; sets parameters for use of liquor flavorings; regulates use of price lists to ensure accuracy; and requires employees to have an ID badge to help law enforcement officers identify employees. All of the regulations set forth in this rule remain important and applicable to the operations of airport lounges. Therefore, this rule should be continued.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov
EFFECTIVE: 11/03/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34216.htm

No. 34217 (5-year Review): R81-10A. On-Premise Beer Retailer Licenses.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments licensed to sell beer for on-premise consumption. It prohibits the transfer of the license to another without approval; requires licensees to obtain a separate on-premise beer license and restaurant or limited restaurant liquor license to operate the same premises differently at different times of the day; sets procedures for applying for a license; requires maintenance of a bond and insurance; allows storage areas to be opened during non-sales hours to take inventory, restock, repair and clean; requires employees to wear an ID badge to help law enforcement officers identify them; and sets parameters for the service of draft beer. All of the regulations set forth in this rule remain important and applicable to the operations of an on-premise beer retailer. Therefore, this rule should be continued.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov
EFFECTIVE: 11/03/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34217.htm

EDUCATION
ADMINISTRATION
No. 34232 (5-year Review): R277-100. Rulemaking Policy.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State law continues to require that the State Board of Education make rules and Rule R277-100 provides procedures for the rulemaking process. Therefore, this rule should be continued.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov
EFFECTIVE: 11/10/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:

http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34232.htm

No. 34233 (5-year Review): R277-477. Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State law continues to allow the Utah State Board of Education to make rules regarding the time and manner in which the student count shall be made which is a necessary process for the allocation of school trust land funds. Therefore, this rule should be continued.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov
EFFECTIVE: 11/10/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34233.htm

No. 34234 (5-year Review): R277-616. Education for Homeless and Emancipated Students and State Funding for Homeless and Disadvantaged Minority Students.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State law continues to require that the Utah State Board of Education have a rule for school districts and charter schools regarding spending monies for homeless and disadvantaged minority students which provides necessary procedures and criteria. Therefore, this rule should be continued.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov
EFFECTIVE: 11/10/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34234.htm

No. 34235 (5-year Review): R277-711. Education Programs for Gifted and Talented Students.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State law continues to require that the Utah State Board of Education have rules for the expenditure of funds for accelerated learning programs. This rule provides necessary standards for gifted and talented programs. Therefore, this rule should be continued.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov
EFFECTIVE: 11/10/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34235.htm

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
No. 34219 (5-year Review): R612-10. HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Emergency Medical Services providers frequently deal with the conditions

addressed in the rule, including exposure to and the contracting of diseases. Therefore, this rule should be continued.
DIRECT QUESTIONS REGARDING THIS RULE TO:
- Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov
EFFECTIVE: 11/04/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34219.htm

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
No. 34220 (5-year Review): R628-13. Collateralization of Public Funds.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:
This rule needs to be continued to allow the Council to receive collateral so that public funds are covered and protected from possible loss in the event that a qualified depository's uninsured public funds held allotment is dropped or there are financial issues with a qualified depository.
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
EFFECTIVE: 11/07/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34220.htm

No. 34218 (5-year Review): R628-16. Certification as a Dealer.
REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:
This rule needs to be in place to allow any public treasurer in the state that may want to purchase allowable securities to have access to Certified Dealers that have met minimum requirements to work with a public treasurer and have signed that they have read the Act and agree to abide by it. Without the rule to set up these minimum requirements, public treasurers would not be able to purchase securities. Therefore, this rule should be continued.
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
EFFECTIVE: 11/03/2010
FOR THE FULL TEXT OF THIS DOCUMENT, VISIT:
http://www.rules.utah.gov/publicat/bulletin/2010/20101201/34218.htm

5. NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective

Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
No. 34074 (REP): R131-5. Board Review, Compensation and Incentive Award Process
Published: 10/01/2010
Effective: 11/08/2010

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
No. 34073 (AMD): R156-1-305. Inactive Licensure
Published: 10/01/2010
Effective: 11/08/2010

No. 34072 (AMD): R156-3a. Architect Licensing Act Rule
Published: 10/01/2010
Effective: 11/08/2010

No. 34071 (NEW): R156-55e. Elevator Mechanics Licensing Rule
Published: 10/01/2010
Effective: 11/08/2010

REAL ESTATE
No. 33923 (NEW): R162-2e. Appraisal Management Company Administrative Rules
Published: 09/01/2010
Effective: 11/10/2010

No. 34056 (NEW): R162-57a. Timeshare and Camp Resort Rules
Published: 10/01/2010
Effective: 11/08/2010

No. 33922 (REP): R162-150. Appraisal Management Companies
Published: 09/01/2010
Effective: 11/10/2010

EDUCATION
ADMINISTRATION
No. 34087 (AMD): R277-503. Licensing Routes
Published: 10/01/2010
Effective: 11/08/2010

No. 34088 (NEW): R277-611. Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools
Published: 10/01/2010
Effective: 11/08/2010

No. 34089 (AMD): R277-700. The Elementary and Secondary School Core Curriculum
Published: 10/01/2010
Effective: 11/08/2010

HEALTH
HEALTH CARE FINANCING, COVERAGE AND REIMBURSEMENT POLICY
No. 34084 (AMD): R414-1-5. Incorporations by Reference
Published: 10/01/2010
Effective: 11/15/2010

No. 34085 (AMD): R414-54-3. Services
Published: 10/01/2010
Effective: 11/15/2010

No. 34086 (AMD): R414-59-4. Client Eligibility Requirements
Published: 10/01/2010
Effective: 11/15/2010

Insurance
Administration
No. 33821 (AMD): R590-244. Individual and Agency Licensing Requirements
Published: 08/01/2010
Effective: 11/09/2010

No. 33821 (CPR): R590-244. Individual and Agency Licensing Requirements
Published: 10/01/2010
Effective: 11/09/2010

No. 34075 (REP): R590-253. Utah Mini-COBRA Notification Rule
Published: 10/01/2010
Effective: 11/09/2010

Workforce Services
Employment Development
No. 34095 (AMD): R986-200-247. Utah Back to Work Pilot Program (BWP)
Published: 10/01/2010
Effective: 11/15/2010

6. RULES INDEX

The Rules Index is a cumulative index that reflects all effective Utah administrative rules. The Rules Index is not included Digest. However, a copy of the current Rules Index is available http://www.rules.utah.gov/research.htm .

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