UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at https://rules.utah.gov/. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

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

Office of Administrative Rules, Salt Lake City 84114

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NOTICES OF
PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between April 15, 2023, 12:00 a.m., and May 01, 2023, 11:59 p.m. are included in this, the May 15, 2023, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them ([~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (**. . . . . .**) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least June 14, 2023. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through September 12, 2023, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	**R58-28**	**Filing ID: 55375**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Amanda Price	801-386-4189	amandaprice@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R58-28. Veterinarian Education Loan Repayment Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

H.B. 184, Veterinarian Education Loan Repayment Program, passed during the 2023 General Session, creates a program under which the Department of Agriculture and Food (Department) can work with qualified veterinarians to register intent and then after five years of service, repay a portion of their educational loan balances. The bill gives the Department authority in Subsection 4-2-902(5) to write rules to administer the program.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This new rule sets the guidelines for the Department's newly created Veterinarian Education Loan repayment program, including definitions, the process under which veterinarians register intent to participate in the program, and the process under which the Department will make payments of up to $100,000 towards educational loan balances following five years of qualified veterinary service, consistent with the requirements set forth in statute.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There will be minimal costs to the Department due to the staff costs of drafting this rule, creating application forms, and collecting applications starting on July 1, 2023. The Department estimates these costs will be approximately $10,000 per year and can be absorbed with current resources.

B) Local governments:

Local governments will not be impacted because they are not veterinarians and will not administer the loan repayment program.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There should be no impact on small businesses for the first five years of the program. Loan payments will not be made until 2028.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There should be no impact on non-small businesses for the first five years of the program. Loan payments will not be made until 2028.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Other persons will not be impacted by this rule because they are not eligible for the program or involved in the management of the program.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$10,000	$10,000	$10,000
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$10,000**	**$10,000**	**$10,000**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$(10,000)**	**$(10,000)**	**$(10,000)**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-2-902		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	04/28/2023

R58. Agriculture and Food, Animal Industry.
R58-28. Veterinarian Education Loan Repayment Program.
R58-28-1. Purpose and Authority.

(1) This rule is promulgated under the authority of Section 4-2-902.

(2) This rule establishes:

(a) procedures for the application to receive payments toward a veterinarian's education loan balances in exchange for working in an underserved area of the state;

(b) qualification requirements for applicants; and

(c) designation of veterinary shortage areas.

R58-28-2. Definitions.

In addition to the definitions found in Section 4-2-901, the following terms are defined for this rule:

(1) "Applicant" means a licensed veterinarian who submits a completed application and meets the application requirements established by the department for loan repayment.

(2) "Animal shelter" means:

(a) a facility or program providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution researching animals, as defined in Section 26-26-1; or

(b) a private humane society or private animal welfare organization.

(3) "Employer" means a government entity, for-profit employer, or non-profit organization for which a qualified veterinarian practices.

(4) "Loan repayment assistance" means the payment of funds directly to a lender to defray educational loans in exchange for service for a specified period in a shortage area.

(5) "Non-profit animal shelter" means an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(6) "Practiced" or "practicing" means paid or volunteer employment averaging at least 32 hours per week where the applicant diagnoses, treats, corrects, changes, alleviates or prevents animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions in animals.

(7) "Qualified veterinarian" means a veterinarian who has practiced as a veterinarian for five or more consecutive years beginning on or after May 3, 2023:

(a) in an area of the state:

(i) designated by the United States Department of Agriculture as experiencing a veterinary shortage situation, pursuant to Section R58-28-4, during at least one of the five years; or

(ii) that is Indian country;

(b) in an animal shelter within the state-operated by:
(i) a county;
(ii) a municipality; or
(iii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
(c) in any area of the state as an employee of the department; or
(d) in any combination of the places described in Subsections (7)(a) through (c).
(8) "Qualifying educational loan" means a loan received for education at a domestic or foreign institution of higher education for school tuition, fees, books, laboratory expenses, and materials, or reasonable living expenses.
(9) "Recipient" means an applicant selected to receive loan repayment assistance under this rule.
(10) "Rural" means any area other than a city or town with a population of 50,000 inhabitants and the urbanized area contiguous and adjacent to the city or town.
(11) "Service obligation" means the required professional veterinary services provided in a shortage area for at least five years.
(12) "Shortage area" means an area where a qualified veterinarian practiced or is practicing pursuant to Subsection 4-2-901(8).

R58-28-3. Payment Eligibility-Payment Process.
(1) An applicant shall register intent to the department on a department form and provide the information required by the department for the administration of the program, including:
(a) name, address, and other contact information;
(b) employer and employer contact information;
(c) veterinary license number; and
(d) shortage area type.
(2) An applicant shall have a current license to practice veterinary medicine in Utah at the time of application and shall maintain that license during the service obligation period.
(3) Annually, the department shall evaluate each applicant to determine continuing eligibility for the program.
(a) As part of the evaluation, the department shall require an applicant to provide information regarding:
(i) commitment to the shortage area; and
(ii) continuing financial need, service obligation fulfillment, and other information reasonably necessary for the administration of the program.
(b) The department may also require the employer of the applicant to provide information regarding:
(i) service obligation fulfillment; and
(ii) other information reasonably necessary for the administration of the program.
(4) An applicant shall practice in a shortage area for a minimum of five years after the date of application.
(a) An applicant who fails to complete the five years of service in a shortage area is not eligible for loan repayment.
(b) The department may extend the service period if the applicant takes a one-time leave of absence for no more than six months for medical reasons or for other good cause, as determined by the department.
(5) Starting on July 1, 2028, the department shall, on a first-come, first-served basis, make payments directly to one or more of the qualified veterinarian's lenders toward a qualified veterinarian's education loan balances.
(a) The applicant is responsible for providing any information required for loan repayment to the department, including loan account numbers and balances.
(b) The department shall determine the total loan repayment amount up to a maximum of $100,000.
(c) The education loan balance includes charges for paying off the loan balance.
(d) The applicant is responsible for reporting loan repayment to the United States Internal Revenue Service and any potential tax liabilities resulting from the loan repayment.
(6) Loan repayment grants may be given only to repay bona fide loans taken by qualified veterinarians for educational expenses incurred while pursuing an education at an institute of higher education.
(7) The department shall not pay for an educational loan of an applicant who is in default at the time of application or during the service period.
(8) An applicant shall notify the department before changing employment or changing the area where the applicant fulfills the service obligation.

R58-28-4. Shortage Situation Designations.
(1) The USDA- designated veterinary shortage situation is determined by nominations provided for the Veterinary Medicine Loan Repayment Program.
(a) The department shall nominate up to six shortage situations each year in accordance with USDA nomination guidelines.
(b) Each veterinary shortage situation is designated for one fiscal year. Nominations not filled in the previous federal fiscal year may be carried over to the following year.
(c) A shortage situation for a private practice veterinarian may consist of one county or two contiguous counties.
(2) The shortage situations are prioritized by the department by:
(a) soliciting nominations via email from licensed veterinarians practicing on food animals;
(b) consulting with food animal producer associations, licensing boards, veterinary medical associations, and other officials and stakeholders;
(c) an open job announcement for a department field veterinarian position; and
(d) based on:
(i) a rural area with a high number of cattle and sheep;
(ii) the number of food animal veterinarians serving a rural area; and
(iii) the time elapsed since the previous nomination for a shortage area.

KEY: veterinarian, education, loan, repayment
Date of Last Change: 2023
Authorizing, and Implemented or Interpreted Law: 4-2-902

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R65-11**	**Filing ID: 55342**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Marketing and Development	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO BOX 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-425-5222	Ambermbrown@Utah.gov
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Caroline Hargraves	801-982-2353	Carolinehargraves@Utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R65-11. Utah Sheep Marketing Order

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Per the Attorney General's office, this rule needs to be updated to provide clarity and consistency regarding the Sheep Marketing Board's (Board) role and responsibilities and the appropriate level of the Department of Agriculture and Food involvement. This rule also needs formatting and other nonsubstantive changes to make the text consistent with the Utah Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Nonsubstantive changes have been made throughout the text to make it more consistent with the Utah Rulewriting Manual requirements. A requirement related to auditing Board records and specific procedures to be followed if the marketing order is terminated has been added, and additional clarifications related to the role and authority of the commissioner and the Department on the Board have been added.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There will be no impact on the state budget. The additional responsibilities placed on the Board will be paid by the assessments currently paid by the sheep industry producers.

B) Local governments:

There will be no impact on local governments because they are not sheep producers and do not pay the dues for the Board.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

Small businesses will not be impacted by the assessments sheep producers pay.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There will be no impact on non-small businesses because sheep producers' assessments remain the same.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There will be no impact on other persons because they are not sheep producers or participate in the sheep marketing board.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

Compliance costs for affected persons will not change because the assessments paid by sheep producers to the marketing Board will not change.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in the narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0

Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 4-2-103(1)(e)	Subsection 4-2-103(3)(b)(ii)(B)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	04/17/2023

R65. Agriculture and Food, Marketing and Development.
R65-11. Utah Sheep Marketing Order.
R65-11-1. Purpose and Authority.

[~~A.~~](1) Promulgated under the authority of Subsection 4-2-103(1)(e), which authorizes issuing marketing orders to promote orderly market conditions for agricultural products.

[~~B. The Commissioner of Agriculture and Food finds that it is in the public interest to establish a marketing order to improve conditions in the sheep producing industry. The commissioner finds that the issuance of this marketing order is approved and favored by at least 50 percent of the producers and handlers voting on the referendum. It is therefore ordered by the commissioner that this Order be established~~](2) This rule establishes a marketing order to assure an effective and coordinated program to maintain and expand the Utah sheep industry's market position, and that the producers shall be subject to the terms and provisions of the [~~O~~]order.

R65-11-2. Definition of Terms.

(1) "Board" means the Sheep Marketing Board. The board ensures that proceeds from any assessments and any other funds directed to the board by the commissioner are placed in an account in the board's name in a depository institution, disburses the funds to promote the marketing of Utah sheep, and ensures that the account is annually audited by an independent auditor approved by the commissioner.

[~~A.~~](2) "Commissioner" means the [~~C~~]commissioner of the Utah Department of Agriculture and Food or the commissioner's designee.

(3) "Department" means the Utah Department of Agriculture and Food.

(4) "Handler" means an individual or an organization engaged in the merchandising of sheep or sheep products.

(5) "Independent auditor" means a certified public accountant or chartered accountant who examines an organization's financial records and business transactions with which they are not affiliated. An independent auditor shall not be a person employed by the department.

(6) "Order" or "marketing order" means the mechanism by which the assessment is levied.

[~~B.~~](7) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, legal representative, or any other entity.

(8) "Producer" means a person owning at least 100 rams, ewes, or lambs.

[~~C. "Sheep" means rams, ewes, or lambs.~~

~~D. "Producer" means a person owning at least 100 rams, ewes, or lambs.~~]

[~~E.~~](9) "Registered producers" means producers who have indicated that they want to be included in the marketing order voting process by registering to vote in the referendum. Registration forms may be mailed out with the ballots.

(10) "Sheep" means rams, ewes, or lambs.

[~~F. "Handler" means an individual or an organization engaged in the merchandising of sheep or sheep products.~~]

R65-11-3. Board.

[~~A.~~](1) The [~~Utah Sheep Board is hereby established~~]board shall consist[~~ing~~] of five members of the sheep industry, [~~plus ex-officio non-voting members from BYU and USU and the Utah Department of Agriculture and Food~~]the commissioner, and a non-voting member representing higher education.

[~~B.~~](2) The original members of the [~~B~~]board shall be selected by the commissioner from a list submitted by the industry.

[~~C.~~](3) Successors to original members shall be appointed by the commissioner from names submitted by the industry.

(a) Two members shall be appointed for [~~a period of~~]three years.

(b) Three members shall be appointed for [~~a period of~~]four years.

(c) After the first three years, each appointed member shall serve for [~~a period of~~]four years.

(d) This rotation shall be in effect for the term of the marketing order.

(e) In the event of a vacancy, the commissioner shall appoint a new member from names submitted by the [~~B~~]board.

[~~D.~~](4) Members of the [~~B~~]board shall only succeed themselves once and not serve on the [~~B~~]board for more [~~that~~]than eight consecutive years.

[~~E.~~](5) [~~The officers of the Board shall be selected from the five Board members at their first meeting after organization. The officers shall consist of a Chairman and a Vice Chairman, to be elected yearly by the members of the Board. In the event of a vacancy or unfilled office, it shall be filled through an election as soon as practical and shall be for the remainder of the unexpired term.~~]The commissioner shall serve as chair of the board.

[~~F. The Board shall exercise the following functions, powers and duties:~~

~~1. to receive and expend funds collected for the benefit of the Utah sheep producers,~~

~~2. to cooperate with any local, state or national organization engaged in activities similar to those of the Sheep Marketing Board,~~

~~3. to conduct educational programs and advertizing to promote sheep and sheep products.~~

~~4. to conduct research projects to improve the profitability of the Utah Sheep Industry,~~

~~5. to engage in any activity to promote the Utah sheep industry.~~]

[~~G.~~](6) [~~Attendance of three members at a duly called meeting shall constitute a quorum for the transaction of official business. The Board shall meet at least quarterly.~~]A majority of the board members, plus the chair, shall constitute a quorum. Each decision of the board shall be by majority vote.

[~~H.~~](7) Each member of the [~~B~~]board [~~is entitled to~~]may receive a per diem and expenses in accordance with Sections 63A-3-106 and 63A-3-107. No member of the board shall receive a salary.

[~~I. A financial report will be made available annually for the Board and members of the industry by the Utah Department of Agriculture and Food.~~]

(8) With the commissioner's approval, the board may establish policies necessary and incidental to the administration of this rule.

(9) The board shall meet at least quarterly.

R65-11-4. [~~Provisions of the Order~~]Duties of the Board.

[~~A. This order provides for:~~

~~1. Uniform grading and inspection of sheep products sold or offered for sale by producers or handlers and for the establishment of grading standards of quality, conditions, and size. Such grading standards shall not be established below any minimum standards now prescribed by law for the State.~~

~~2. Advertising and sales promotion to create new or larger markets for sheep products produced in Utah, provided that any such plan shall be directed towards increasing the sale of such commodity without reference to particular brand or trade name.~~

~~3. The labeling, marketing, or branding of sheep products in conformity with the regulations of the commissioner or the laws of the State of Utah already in existence and written in the Utah Code.~~

~~4. Research projects and experiments for the purpose of improving the general condition of the Sheep Industry and for the purpose of protecting the health of the people of Utah.~~

~~5. The Board may cooperate with any other state or federal agency whose activities may be deemed beneficial to the purpose of this Order.~~]

(1) The board shall:

(a) receive and spend funds collected for the benefit of Utah sheep producers;

(b) cooperate with any local, state, or national organization engaged in activities like those of the board;

(c) conduct educational programs and advertising to promote sheep and sheep products. Advertising and sales promotions to create new or larger markets for sheep and sheep products produced in Utah shall be directed toward increasing the sale of sheep and sheep products without reference to a brand or trade name; and

(e) engage in activities to promote the Utah sheep industry.

(2) The board may:

(a) establish uniform grading and inspection of sheep products sold or offered for sale by producers or handlers and the establishment of grading standards of quality, conditions, and size;

(b) establish grading standards of quality, conditions, and size that are not below any minimum standards prescribed by law for the state; and

(c) conduct research projects to improve the profitability and general condition of the Utah sheep industry and to protect the health of the people of Utah.

(3) Labeling, marketing, or branding sheep products shall not conflict with any department or state law rules.

R65-11-5. Expenses -- Assessments - Collection and Disbursement.

[~~B. Expenses - Assessments - Collection and Disbursement.~~]

[~~1.~~](1) Pursuant to Subsection 4-23-109(1) Each producer subject to this [~~Order~~]rule [~~shall~~]may pay to the board [~~his or her~~]a pro rata share of [~~such~~]expenses as the commissioner may find necessary to be incurred by the [~~B~~]board for the functioning of [~~said M~~]the marketing [~~O~~]order. [~~Each producer shall pay up to 5 cents per pound of wool shorn to the Board annually. The discretionary assessment shall be set by majority vote of the Board, and approved by the commissioner. The initial assessment shall be 2 cents per pound.~~]This assessment [~~levied in the specified amount~~]shall constitute a personal debt of every person so assessed and shall be due and payable upon the sale of wool.

(2) The pro rata shares of the expenses payable by a cooperative association of producers shall be computed [~~on the basis of~~]based on the quantity of the product covered by the [~~O~~]order which is distributed, sold, or shipped in commerce by [~~such~~]a cooperative association of producers.

[~~2.~~](3) When levied, [~~T~~]the assessment of each producer shall be deducted from the producer's gross receipt by the wool purchaser or handler.

(a) [~~All~~]Any proceeds the purchaser or handler receives from the deducted portion shall be paid at least quarterly to the [~~Sheep Board~~]board.

(b) Sheep spending part of the year in Utah shall be assessed pro rata based on the time spent in Utah.

[~~3. The Board shall retain records of the receipt of the assessment. The records shall be audited annually by an auditor approved by the commissioner. Copies of the audit shall be available to any contributor upon request.~~]

(4) The [~~B~~]board [~~is required to~~]shall reimburse the commissioner for any funds [~~as~~]that are expended by the commissioner in performing [~~his~~]their duties, as provided in [~~this Order~~]Section R65-11-4. [~~Such r~~]Reimbursement [~~to~~]includes only funds[~~ actually~~] expended in connection with this [~~Order~~]rule.

(5) The [~~B~~]board [~~is authorized to~~]may incur [~~such~~]expenses as are necessary to carry out its functions subject to the approval of the commissioner. The [~~B~~]board shall receive and disburse [~~all~~]any funds received by it pursuant to Section R65-[~~6-5~~]11-5.[~~ Any funds remaining at the end of any year over and above the necessary expenses of said Board may be divided among all persons from whom such funds were collected. At the discretion of the Board, such amounts may be applied to the necessary expenses of the Board for the continuation of its program during the next succeeding year.~~]

(6) Any producer who wishes a refund of their paid assessment may request [~~such~~]the refund by notifying the [~~B~~]board in writing within [~~thirty~~]30 days of payment of the assessment[~~ subject to approval of the Board~~].

(a) Each claim for a refund shall be approved by the board and paid from the board's account.

(b) A claim for a refund is not allowed if it is filed more than 30 days after the date the assessment is collected.

(c) The board shall notify the department each time a refund is requested and paid.

[~~7. The Order shall become operational only if it is approved by at least 50 percent of the producers and handlers voting in the referendum or by producers and handlers who account for at least two-thirds of the production represented by persons voting in the referendum.~~]

(7) Assessments made and monies collected under this rule shall be divided into:

(a) assessments and funds for administrative purposes;

(b) educational purposes;

(c) advertising and promotional purposes; and

(d) research purposes.

(i) Assessments and funds shall be used solely for the purposes for which they are collected.

(ii) No funds shall be used for political or lobbying activities.

(8) At the end of a fiscal year, if the funds collected are more than the expenses incurred, the board may carry over any excess portion into subsequent years as a reserve with the commissioner's approval.

(a) Reserve funds may be used to cover any expenses authorized by this rule and necessary expenses of liquidation if the order is terminated or the board is dissolved.

(b) Any excess not kept in reserve shall be refunded proportionately to the purchaser, handler, or producer from whom the excess was collected.

(c) Without an additional reserve level approved by the commissioner, the amount held in reserve may not exceed one year's operational expenses.

(9) The board shall have its financial records audited by an independent auditor at least once each fiscal year and at any time the commissioner requests. The annual audit shall be completed and provided to the department's Administrative Services Division within 180 days of the end of each fiscal year.

(a) The audit shall include an examination of the receipt of funds, the disbursement of funds, and any reimbursements, as well as a review of the board's financial documents, including bank statements, bank account reconciliations, and board meeting minutes.

(b) The board shall make copies of the audits and financial statements after removing any confidential individual producer or processor information that may be contained in them, available to producers and processors for examination.

[~~**R65-11-5. Division of Funds.**~~

~~Assessments made and monies collected under provisions of this order shall be divided into assessments and funds for:~~

~~A. administrative purposes,~~

~~B. educational purposes, advertising and promotional purposes, and~~

~~C. research purposes. Such assessments and funds shall be used solely for the purposes for which they are collected; provided, that funds remaining at the end of any year may be used in the succeeding year and provided, that no funds be used for political or lobbying activities.~~

]

R65-11-6. Board - Member's Liability.

(1) No member of the [~~B~~]board, nor any employee of the [~~B~~]board, shall be deemed responsible individually in any way [~~whatsoever~~]to any producer, distributor, handler, processor, or any other person, for errors of judgment, mistakes, or other acts, either of commission or omission of principal, agent, person, or employee, except for [~~his own~~]individual acts of dishonesty or crime.

(2) No [~~such~~]person or employee shall be held responsible individually for any act or omission of any other member of the [~~B~~]board. The liability of the members of [~~such~~]the [~~B~~]board shall be several and not joint, and no member shall be liable for the default of any other member.

R65-11-7. Complaints for Violations - Producer.

Complaints for violations of this rule shall be handled by the responsible legal agencies and shall be enforced in the civil courts of the state.

R65-11-8. Termination of Order[~~.~~]- Proceeds After Termination.

(1) The commissioner may terminate the [~~Marketing O~~]order at [~~such~~]any time as [~~he~~]may be determined there is no longer an industry need for [~~such~~]the order.[~~ A referendum vote may be called at the request of the producers through a petition of 40 percent of the producers.~~]

(2) Upon the termination of the order, the then functioning members of the board shall, to liquidate the affairs of the board, continue as trustees of the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at termination.

(3) The trustees shall:

(a) continue in their capacity until discharged by the commissioner upon dissolution of the board;

(b) liquidate any property then it its possession;

(c) dispose of funds in a manner as the commissioner may determine to be appropriate; and

(d) to the extent practicable, proportionally return funds to the persons from whom the funds were collected.

R65-11-9. Rights of the Commissioner.

(1) Members of the board, and any agents, employees, or representatives of the board, shall be subject to removal or suspension by the commissioner at any time.

(2) Each rule, decision, determination, or other act of the board shall be subject to the commissioner's veto at any time. Upon veto, the vetoed action of the board is considered void, except for acts done before the veto by the commissioner.

[

~~**R65-11-9. Quarterly Meeting.**~~

~~The Board shall meet at least quarterly.~~]

KEY: promotions
Date of Last Change: [~~March 19, 1998~~]2023
Notice of Continuation: March 23, 2022
Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(e)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R68-8**	**Filing ID: 55315**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO BOX 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Kelly Pehrson	801-982-2200	kwpehrson@Utah.gov
Amber Brown	385-245-5222	ambermbrown@Utah.gov
Robert Hougaard	801-538-7180	rhougaard@Utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R68-8. Utah Seed Law

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This rule needs to be updated to reflect current industry practices and reorganized so it can be referenced easily. The Department of Agriculture and Food (Department) is adopting definitions from the Association of American Seed Control Officials (AASCO) and the Association of Official Seed Analysts (AOSA). The updated text will provide clarity and align with the Utah Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The revised rule adds a section for unlawful acts not included in the original rule. The Department is adopting definitions from AASCO and AOSA and providing updated information in the noxious weed list and the seed table. Additionally, text that is already in the statute is removed. Finally, changes are made to make the rule text more consistent with the requirements of the Utah Rulewriting Manual and provide clarity through the reorganizing so that it can be easily referenced.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The state's budget is not impacted because the program's procedures are not changing, and changes are to clarify and reorganize the text.

B) Local governments:

The program's administration is not changing and will not affect the local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The administration of the program is not changing and will not affect small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The administration of the program is not changing and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The administration of the program is not changing and will not affect other persons.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not changing because the text provides clarity and alignment with the Utah Rulewriting Manual.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in the narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Commissioner of the Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-2-103	Section 4-16-103	Section 4-17-103
Subsection 4-16-202(1)(c)		

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Association of American Seed Control Officials, Official Definitions
Publisher	Association of American Seed Control Officials
Issue Date	March 1, 2023
Issue or Version	March 2023 version

B) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Association of American Seed Control Officials, Policy Statements
Publisher	Association of American Seed Control Officials
Issue Date	March 1, 2023
Issue or Version	March 2023

C) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	The Federal Seed Act
Publisher	United States Department of Agriculture, Marketing and Regulatory Programs Agricultural Marketing Service Livestock and Seed Program Seed Regulatory and Testing Branch
Issue Date	March 1940
Issue or Version	April 1998 version

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	04/05/2023

R68. Agriculture and Food, Plant Industry.
R68-8. Utah Seed [~~Law~~]Rule.
R68-8-1. Authority.

(1) This rule is [~~P~~]promulgated under the authority of Sections 4-2-[~~2~~]103, 4-16-103, [~~and~~]4-17-103, and Subsection 4-16-202(1)(c).

(2) This rule incorporates by reference the March 1, 2023, list of official definitions and policy statements adopted and published by the Association of American Seed Control Officials (AASCO).

R68-8-2. Prohibited Noxious Weed Seeds and Restricted Weed Seeds[~~ Restrictions~~].

(1) It [~~shall be~~]is unlawful for any person, firm, or corporation to sell, offer, or expose for sale, or distribute in [~~the State of~~]Utah any agricultural, vegetable, flower, tree, and shrub seeds, or seeds for sprouting for seeding purposes [~~which~~]that:

[~~A.~~](a) [~~C~~]contain, either in part or in whole, any prohibited noxious weed seeds:[~~.~~]

[~~1.~~](i) [~~"P~~]prohibited[~~"~~] noxious weed seeds are the seeds of any plant determined by[~~ Utah Commissioner of~~] the department [~~Agriculture and Food~~]to be injurious to public health, crops, livestock, land, or other property and [~~which~~]that [~~is~~]are especially troublesome and difficult to control[~~.~~]; and

[~~2.~~](ii) Utah prohibited noxious weed seeds are [~~as follows~~]indicated in Table 1[~~:~~]; or

[~~TABLE~~

~~Bermudagrass (Except in Washington County) Cynodon dactylon (L.) Pers.~~
~~Bindweed (Wild Morning-glory) Convolvulus spp.~~
~~Black henbane Hyoscyamus niger (L.)~~
~~Broad-leaved Peppergrass (Tall Whitetop) Lepidium latifolium L.~~
~~Canada Thistle Cirsium arvense (L.) Scop.~~
~~Dalmation Toadflax Linaria dalmatica (L.) Miller~~
~~Diffuse Knapweed Centaurea diffusa (Lam.)~~
~~Hoary cress Cardadia spp.~~
~~Houndstongue Cynoglossum officinale (L.)~~
~~Dyers Woad Isatis Tinctoria L.~~
~~Oxeye daisy Chrysanthemum leucanthemum (L.)~~
~~Perennial Sorghum spp. including but not limited to Johnson Grass (Sorghum halepense (L.) Pers.) and Sorghum Almum (Sorghum almum, Parodi).~~
~~Poison Hemlock Conium maculatum (L.)~~
~~Leafy Spurge Euphorbia esula L.~~
~~Medusahead Taeniatherum caput-medusae (L.) Nevski)~~
~~Musk Thistle Carduus nutans L.~~
~~Purple Loosestrife Lythrum salicaria L.~~
~~Quackgrass Agropyron repens (L.) Beauv.~~
~~Russian Knapweed Centaurea repens L.~~
~~SaltCedar (Tamarix) Tamarix ramosissima Ledeb.~~
~~Scotch Thistle (Cotton Thistle) Onopordum acanthium L.~~
~~Spotted Knapweed Centaurea maculosa Lam.~~
~~Squarrose Knapweed Centaurea virgata Lam. Ssp squarrosa Gugle.~~
~~St. Johnswort, common Hypericum perforatum (L.)~~
~~Sulfur cinquefoil potentilla recta L.~~

~~Yellow Starthistle Centaurea solstitialis L.~~
~~Yellow toadflax Linaria vulgaris (Mill.)~~]

TABLE 1
PROHIBITED WEED SEEDS

COMMON NAME	SCIENTIFIC NAME
bermudagrass*	Cynodon Dactylon*
beancaper, syrian	Zygophyllum Fabago
bindweed or wild morning-glory	Convolvulus spp.
blueweed or vipers bugloss	Echium Vulgare
broom, scotch	Cytisus Scoparis
bugloss, small	Anchusa Arvensis
camelthorn	Alhagi Maurorum
cinquefoil, sulfur	Potentilla Recta
cogongrass	Imperata Cylindrica
crupina, common	Crupina Vulgaris
daisy, ox-eye	Chrysanthemum Leucanthemum
goatgrass, jointed	Aegilops Cylindrica
goats rue	Galega Officinalis
hemlock, poison	Conium Maculatum
henbane, black	Hyoscyamus Niger
hoary cress, globe-podded	Lepidium Draba (Cardaria Draba)

hoary cress, heart-podded	Lepidium Chalepense (Cardaria Chalepensis)
hoary cress, lens-podded	Lepidium Appelianum (Cardaria Pubescens)
houndstongue	Cynoglossum Officinale
knapweed, diffuse	Centaurea Diffusa
knapweed, Russian	Centaurea Repens
knapweed, spotted	Centaurea Maculosa
knapweed, squarrose	Centaurea Virgata Subsp. Squarrosa
knotweed, Japanese	Polygonum Cuspidatum
loosestrife, purple	Lythrum Salicaria
medusahead	Taeniatherum Caput-medusae
millet, spring	Milium Vernale
mustard, African	Brassica Tournefortii
mustard, elongated	Brassica Elongata
mustard, garlic	Alliaria Petiolata
pepperweed, perennial or tall whitetop	Lepidium Latifolium
phragmites or common reed	Phragmites Australis ssp.
puncturevine or goathead	Tribulus Terrestris
olive, Russian	Elaeagnus angustifolia
quackgrass	Elymus Repens
reed, giant	Arundo Donax
rocket, dames	Hesperis Matronalis
rue, African	Peganum Harmala
sage, Mediterranean	Salvia Aethiopis
saltcedar or tamarisk	Tamarix Ramosissima
skeleton weed, rush	Chondrilla Juncea
sorghum spp., perennial including johnsongrass and sorghum almum	Sorghum spp., Sorghum Halepense, Sorghum Almum
spurge, leafy	Euphorbia Esula
spurge, myrtle	Euphorbia Myrsinites
starthistle, malta	Centaurea Melitensis
starthistle, purple	Centaurea Calcitrapa
starthistle, yellow	Centaurea Solstitialis
st. johnswort	Hypericum Perforatum
thistle, Canada	Circium Arvense
thistle, scotch, or cotton	Onopordum Acanthium
thistle, musk	Carduus Nutans
thistle, plumeless	Carduus Acanthoides
toadflax, dalmatian	Linaria Dalmatica
toadflax, yellow	Linaria Vulgaris
ventenata or North African grass	Ventenata Dubai
vipergrass, cut leaf	Scorzonera Laciniata
woad, dyers	Isatis Tinctoria
* except for Washington country	

[~~B.~~](b) [~~C~~]contain [~~any~~]restricted weed seeds [~~in excess of~~]in more than allowable amounts[~~:~~]:

[~~1.~~](i) [~~The following~~]restricted weed seeds listed in Table 2 shall be allowed in [~~all~~]crop seed[~~,~~]; [~~but~~]and

(ii) shall [~~be restricted~~]not[~~ to~~] exceed a maximum of 27[~~such~~] seeds per pound, either as a single species or in combination[~~:~~].

[~~TABLE~~

~~Dodder Cuscuta app.~~
~~Halogeton Halogeton glomeratus (M. Bieb.)~~
~~Jointed goatgrass Aegilops cylindrica (Host.)~~
~~Poverty Weed Iva axillaris Pursh.~~
~~Wild Oats Avena fatua L.~~]

TABLE 2 RESTRICTED WEED SEEDS	
COMMON NAME	SCIENTIFIC NAME
dodder	Cuscuta spp.
halogeton	Halogeton Glomeratus
oat, wild	Avena Fatua
poverty weed	Iva Axillaris
**restricted to 27 seeds per pound.	

(2)[~~.~~] The [~~following~~]maximum percentage of weed seeds by weight [~~shall be allowed:~~]are listed in Table 3.

[~~a. Two percent (2.0%) of Cheat (Bromus secalinus), Chess (Bromus brizaformis), (B. commutatus), (B. mollis), Japanese Brome (Bromus japonicus) and Downy Brome (Bromus tectorum) either as a single species or in combination in grass seeds.~~

~~b. One percent (1.0%) of any weed seeds not listed in 2.a. above in grass, flower, tree and shrub seeds.~~

~~c. One half of one percent (0.50%) in all other kinds or types of seeds.~~]

TABLE 3	
WEED SEEDS BY WEIGHT	MAX PERCENT
cheat (Bromus Secalinus)*	2%
chess (Bromus Brizaformis)*	2%
Japanese brome (Bromus Japonicus)*	2%
red brome (Bromus Rubens)*	2%
downy brome (Bromus Tectorum)*	2%

*either as a single species or in combination in grass seeds.	

(3) For any weed seed not listed in Tables 1-3 in grass, flower, or tree and shrub seeds, the maximum percentage by weight allowed is 1%. For other kinds or types of weed seeds, the maximum permitted weight is .50%.

R68-8-3. [~~Special Labeling Provisions~~]Weed Seeds.

[~~A. Prepackaged containers must be labeled in accordance with requirements applying to the specific kind(s) of seed in said prepackaged container as provided by Section 4-16-4.~~

~~B. Seed weighed from bulk containers, including jars, cans, bins, etc., in the presence of the customer and sold in quantities of five pounds or less will be exempt from the full labeling provisions; provided, that the container from which the seed is taken is fully and properly labeled in accordance with the provisions of the law and regulations thereunder. Labels on such seed containers must be attached thereto and must be kept in a conspicuous place. The name and address of the supplier or vendor must be plainly printed on all lots of seed sold from bulk containers along with the required labeling and name of substance used in treatment, if any. If the seed was treated, the appropriate treatment labeling must be on both the master container from which the seed is weighed and on each receiving container. The vendor must also mark on any receiving container, when requested by the purchaser, any additional labeling information required by the laws and regulations thereunder.~~

~~C. If responsibility is accepted therefore, it shall be permissible under the law for the local merchant or distributor of seed in this State to adopt and use the analysis furnished by the original seller to remain attached to the proper container of such seed for a period not to exceed nine calendar months for vegetable, flower, tree, and shrub seeds and eighteen calendar months for agricultural seeds or in the case of hermetically sealed seed, thirty-six calendar months, after which time said local dealer or distributor must retest or have retested any remaining seed in his possession, remove the original analysis label and attach a new analysis label or place an appropriately printed permanently adhering sticker on the original label bearing the lot number, percent of germination and date of test.~~

~~D. Any vegetable or flower seeds in packets or containers of one pound or less and preplanted containers offered, exposed for sale, or distributed in the State of Utah, must be labeled with the date of test or the current calendar year for which the seed is packed.~~]

(1) The department shall quarantine any lots of seeds that contain prohibited or restricted weed seeds in violation of this rule.

(2) The seed lot may be:

(a) recleaned with the approval of the department and, if found to be free from noxious weed seeds, released for sale or distribution;

(b) shipped to another state where that weed seed is not noxious;

(c) processed in a manner as to destroy the viability of the weed seeds; or

(d) disposed of in a manner approved by the department.

R68-8-4. [~~Treated Seed - Use of Highly Toxic, Moderately Toxic, and Low Toxicity Substances and Labeling of Containers~~]Seed Screenings.

[~~Any agricultural, vegetable, flower, or tree and shrub seed or mixture thereof that has been treated, shall be labeled in type no smaller than eight point to indicate that such seed has been treated and to show the name of any substance or a description of any process (other than application of a substance) used to treat such seed. The label shall contain the required information in any form that is clearly legible and complies with Section 4-16-5, Federal Laws which apply, and the following paragraphs of this regulation which are subsequently applicable. The information may be on the seed analysis tag, on a separate tag, or printed on each container in a conspicuous manner.~~

~~A. Names of Substances.~~

~~1. The required name of the substance used in treatment shall be the commonly accepted coined, chemical (generic), or abbreviated chemical name. Commonly accepted coined names are not private trademarks and are available for use by the public and are commonly recognized as names of particular substances.~~

~~2. Examples of commonly accepted chemical (generic) names are: blue-stone, calcium carbonate, cuprous oxide, zinc hydroxide, hexachlorobenzene and ethyl mercury acetate. The terms "mercury" or "mercurial" may be used to represent all types of mercurial compounds. Examples of commonly accepted abbreviated chemical names are BHC (1,2,3,4,5,6, Hexachloroclohexane) and DDT (Dichloro diphenyl trichloroethane).~~

~~B. Treatment Coloring.~~

~~Any substance which is toxic in nature used in the treatment of seed shall be distinctly colored so as to be readily discernible.~~

~~C. Labeling.~~

~~Containers of treated seed shall, in addition to the name of the treatment substance used be labeled in accordance with Subsection R68-8-4(C), and shall bear appropriate signal words and warning statements required according to the relative toxicity of the chemical(s) applied. In addition, all seed treated with a chemical seed treatment shall bear the statement, "Keep out of Reach of Children."~~

~~1. Labeling Seed Treated with Highly Toxic Substances.~~

~~a. Seed treated with a chemical substance, designated by the Environmental Protection Agency or the Commissioner as a highly toxic substance, shall be labeled to conspicuously show the words, "TREATED SEED," together with the name of the substance. Example: "THIS SEED TREATED WITH (name of substance)," or "(name of substance) TREATED". The labeling shall also bear in red coloring the signal words, "DANGER-POISON," and a representation of a skull and crossbones at least twice the size of the type used for the name of the substance. The label shall also include in red letters additional precautionary statements stating hazards to humans and other vertebrate animals, special steps or procedures which should be taken to avoid poisoning, and wording to inform physicians of proper treatment for poisoning.~~

~~b. All bags, sacks, or other containers of seed which have been or are being used to contain seeds treated with "highly toxic" substances, shall be identified with the words "DANGER-POISON," and a representation of a skull and crossbones. The printing shall be directly printed or impregnated on or into the containers, or applied by other means approved by the department, as to be permanent. Any such container in which seed treated with highly toxic substances has been contained, except for future similar use for seed, shall not again be used to contain any food, feed, or agricultural products, without the prior written approval of the department.~~

~~2. Labeling Seed Treated with Moderately Toxic Substances.~~

~~Seed treated with a chemical substance designated as moderately toxic, shall be labeled with the words, "TREATED SEED," together with the name of the substance. Examples: "THIS SEED TREATED WITH (name of substance)" or "(name of substance) TREATED." The label shall also bear the signal word,~~

~~"WARNING". Additional precautionary statements describing hazards to humans and other vertebrate animals, and special handling procedures to avoid poisoning shall also appear in the labeling.~~

~~3. Labeling Seed Treated with Low Toxicity Substances.~~

~~Seed treated with a chemical designated as low toxicity, or comparatively free from danger shall be labeled with the words, "TREATED SEED" together with the name of the substance. Example: "THIS SEED IS TREATED (name of substance)", or "(name of substance) TREATED." The label shall also bear the signal word, "CAUTION". Additional precautionary statements describing hazards to humans and other vertebrate animals, and special handling procedures to avoid poisoning shall also appear in the labeling.~~

~~4. Effective Warning.~~

~~Any words or terms used on the label which tend to reduce the effectiveness of the warning statements required by section 4-16-5 and this regulation are construed to be misleading.~~

~~5. Bulk Seed.~~

~~In the case of seed in bulk, the information required on the labels of packaged seed shall appear on the invoice or other records accompanying and pertaining to such seed.~~

~~D. Treatment by Custom Applicators.~~

~~The provisions of this regulation shall apply to seed which has been treated by custom applicators, or in a custom manner, even though the transfer of ownership is not intended on said seed.~~

~~E. Changes in Federal Law.~~

~~The kinds of chemicals declared highly toxic, moderately toxic, or low toxicity and their approved uses on seed must of necessity be in conformity with applicable federal laws and regulations. If at any time the federal government prohibits the use of such substances on seed or makes other changes affecting seed then the provisions of this regulation are considered to be modified to the extent necessary to conform to such federal laws and regulations.~~]

(1) It is unlawful for any person to sell, offer for sale, barter, give away, or dispose of any screenings containing more than six whole prohibited noxious weed seeds per pound or more than 27 whole restricted weed seeds per pound except for screenings containing seeds that are moved or sold to a mill or plant for processing that will reduce the number of whole weed seeds to within the stated tolerances.

(2) Each container or shipment of screenings shall be labeled with:

(a) the words "Screenings for Processing, Not for Seeding or Feeding"; and

(b) the name and address of the consignor and consignee.

R68-8-5. [~~Inoculated Seed~~]Special Labeling Provisions.

[~~The term "inoculant" means a commercial preparation containing nitrogen-fixing bacteria applied to seed. Seed claimed to be inoculated shall be labeled to show the month and year beyond which the inoculant on the seed is no longer claimed to be effective.~~]

(1) Prepackaged containers shall be labeled in accordance with requirements applying to the specific kinds of seed in a prepackaged container as provided by Section 4-16-201.

(2) Seed weighed from bulk containers, including jars, cans, and bins, in the presence of the customer and sold in quantities of more than one pound shall be exempt from the full labeling provisions provided that the container from which the seed is taken is fully and properly labeled in accordance with this rule.

(3) Labels on the seed containers shall be attached and kept in a conspicuous place.

(4) The name and address of the supplier or vendor shall be plainly printed on lots of seed sold from bulk containers, along with the required labeling and name of the substance used in treatment.

(5) If the seed was treated, the appropriate treatment labeling shall be on the master container from which the seed is weighed and on each receiving container.

(6) The vendor shall mark any additional labeling information required by the law on any receiving container when requested by the purchaser.

(7) The local merchant or distributor of seed may adopt and use the analysis furnished by the original seller to remain attached to the proper container of the seed for a period not to exceed:

(a) 12 calendar months for vegetable, flower, tree, and shrub seeds;

(b) 18 calendar months for agricultural seeds; or

(c) 36 calendar months for hermetically sealed seeds.

(8) After the stated time determined by the seed, a local dealer or distributor shall:

(a) retest or have retested any remaining seed in their possession;

(b) remove the original analysis label and attach a new analysis label; or

(c) place an appropriately printed, permanently adhering sticker on the original label bearing:

(i) the original lot number;

(ii) percent of germination;

(iii) date of the test; and

(iv) the identity of the labeling person, if different from the original labeler.

(9) Any vegetable or flower seeds in packets or containers of one pound or less, including pre-planted containers, that are offered, exposed for sale, or distributed shall meet the labeling requirements listed in Section 4-16-201. Seed packets shall not be made available for retail sale before November 1, before the labeled "packed for" year.

(10) The 1998 version of The Federal Seed Act is incorporated by reference. Any labeling, advertising, or other representation subject to the Federal Seed Act representing the seed to be certified seed or any class is unlawful unless:

(a) a seed certifying agency determines that the seed conformed to standards of purity and identifies as to kind, species, and subspecies, if appropriate, or variety and that tree and shrub seed was found to be of the origin and elevation claimed, in compliance with the rules of the certified agency about the seed; and

(b) the seed bears an official label issued for the seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind, species, and subspecies if appropriate or variety.

(11) The label and educational requirements for non-commercial seed sharing include:

(a) each container of agricultural, vegetable, and flower seeds distributed for sowing purposes in a non-commercial setting shall bear or have attached, in a conspicuous place, a written or printed label or tag in English conveying the following information:

(i) name of the species or commonly accepted name of the kind or kind and variety of each seed component present with hybrids labeled as hybrids;

(ii) a word or statement indicating if the seed has been treated and, if treated, it shall be labeled by applicable state and federal laws;

(iii) identification that provides traceability although retention of posterity file samples are not required;

(iv) name and city or address of the non-commercial seed sharing entity; and

(v) calendar month and year the seed was donated;

(b) seed shall be free of foreign material other than coatings or treatments, including germination medium, mulch, fertilizer, pre-planted containers, mats, tapes, or other planting devices;

(c) no distributed container shall hold more than eight ounces of agricultural seed or four ounces of vegetable or flower seed;

(d) germination and purity analysis are not required, however, if a germination or purity percentage is noted on the label, whether the analysis was performed according to the Association of Official Seed Analyst (AOSA) rules for testing seed shall be included;

(e) location involved with non-commercial seed sharing: and

(f) a legible and visible sign stating that the seeds being distributed may not meet germination or varietal purity standards listed in this rule and noting that patented seeds or varieties protected by the Plant Variety Protection Act, 7 USC Section 2321-2582, will not be accepted or distributed without the permission of the certificate holder.

(12) Human food grade seed repurposed for sowing purposes shall be labeled for its intended use by the packager and meet labeling requirements as outlined in Section 4-16-201.

R68-8-6. [~~Weight or Seed Count Requirements~~]Treated Seed - Use of Highly Toxic, Moderately Toxic, Low Toxicity Substances, and Labeling of Containers.

[~~Net weight on all containers is required except that preplanted containers, mats, tapes, or other planting devices shall state the minimum number of seeds in the container. All weight labeling shall be consistent with the requirements of the Weights and Measures Law and rules. Under appropriate circumstances when a seed tag is used, the weight information may appear on the seed tag rather than on the seed bag. The term "weight" shall be understood and construed to mean the net weight of the commodity.~~]

(1) Any agricultural, vegetable, flower, tree, shrub seed, or a mixture of seeds that have been treated, shall be labeled:

(a) in type no smaller than eight point font to indicate that the seed has been treated; and

(b) to show the name of any substance or a description of any process, other than the application of a substance, used to treat the seed.

(2) The label shall contain the required information in any form that is clearly legible and complies with Section 4-16-201 and 7 CFR Part 201, Labeling in General. The information may be on the seed analysis tag, on a separate tag, or printed on each container in a conspicuous manner. The label shall contain:

(a) the names of the substances, as follows:

(i) the required name of the substance used in the treatment shall be the commonly accepted coined, chemical (generic), or abbreviated chemical name; and

(ii) commonly accepted coined names are not private trademarks and are available for use by the public and are commonly recognized as names of substances; and

(b) treatment coloring includes any toxic substance used in seed treatment and it shall be distinctly colored to be readily discernible.

(3) Labeling of treated seed shall contain the following;

(a) the name of the treatment substance used labeled according to this rule, and bearing appropriate signal words and warning statements required according to the relative toxicity of the chemicals applied; and

(b) the statement, "Keep out of Reach of Children."

(4) Seed treated with a chemical substance designated by the Environmental Protection Agency or the Commissioner as a highly toxic substance shall be labeled as follows:

(a) to conspicuously show the words, "TREATED SEED," together with the name of the substance, "THIS SEED TREATED WITH (name of substance)," or "(name of substance) TREATED";

(b) in red letters with the signal words, "DANGER-POISON," and a representation of a skull and crossbones, at least twice the size of the type used for the name of the substance;

(c) with additional precautionary statements in red letters stating hazards to humans and other vertebrate animals, special steps, or procedures to avoid poisoning, and wording to inform physicians of proper treatment for poisoning;

(d) any bags, sacks, or other containers of seed that have been or are being used to contain seeds treated with "highly toxic" substances, shall be identified with the words "DANGER-POISON," and a representation of skull and crossbones;

(e) the printing shall be directly printed or impregnated on or into the containers, or applied by other means approved by the department, as to be permanent; and

(f) any container in which seed treated with highly toxic substances has been contained, except for future similar use for seed, may not again be used to contain any food, feed, or agricultural products, without written approval from the department.

(5) Seed treated with a chemical substance designated as moderately toxic, shall be labeled as follows:

(a) with the words, "TREATED SEED," together with the name of the substance, "THIS SEED TREATED WITH (name of substance)" or "(name of substance) TREATED":

(b) with the signal word, "WARNING"; and

(c) with additional precautionary statements describing hazards to humans and other vertebrate animals, and special handling procedures to avoid poisoning shall appear in the labeling.

(6) Seed treated with a chemical designated as a low toxicity, or comparatively free from danger shall be labeled as follows:

(a) with the words, "TREATED SEED" and the name of the substance, "THIS SEED IS TREATED (name of substance)" or "(name of substance) TREATED";

(b) with the signal word, "CAUTION"; and

(c) with additional precautionary statements describing hazards to humans and other vertebrate animals, and special handling procedures to avoid poisoning shall also appear in the labeling.

(7) If a harmful substance is used in seed treatment, and the amount remaining with the seed is toxic to humans or other vertebrate animals, the seed shall be labeled with an appropriate caution statement, such as:

(a) "do not use for food";

(b) "do not use for feed";

(c) "do not use for oil purposes"; or

(d) "do not use for food, feed, or oil purposes".

(8) Any words or terms used on the label that tend to reduce the effectiveness of the warning statements required by Section 4-16-201 and Rule 68-8 are construed to be misleading.

(9) In the case of seed in bulk, the information required on the labels of packaged seeds shall appear on the invoice or other records accompanying and pertaining to the seeds.

(10) This rule shall apply to seed treated by custom applicators, or in a custom manner, even though the transfer of ownership is not intended on the seed.

(11) The kinds of chemicals declared highly toxic, moderately toxic, or low toxicity and their approved uses on seed shall be in conformity with applicable federal laws and regulations. If at any time the federal government prohibits the use of substances on seed or makes other changes affecting seed, then this rule will be modified to the extent necessary to conform to federal laws and regulations.

(12) Seed claimed to be inoculated shall be labeled to show the month and year beyond which the inoculant on the seed is no longer claimed to be effective.

R68-8-7. [~~Labeling of Agricultural Seed Varieties~~]Weight or Seed Count Requirements.

[~~A. The following kinds of agricultural seeds shall be labeled to show the variety name or the words, "Variety Not Stated."~~

~~Alfalfa~~
~~Bahiagrass~~
~~Beans, field~~
~~Beets, field~~
~~Brome, smooth~~
~~Broomcorn~~
~~Clover, crimson~~
~~Clover, red~~
~~Clover, white~~
~~Corn, field~~
~~Corn, pop~~
~~Cotton~~
~~Cowpea~~
~~Crambe~~
~~Fescue, tall~~
~~Flax~~
~~Lespedeza, striate~~
~~Millet, foxtail~~
~~Millet, pearl~~
~~Oat~~
~~Pea, field~~
~~Peanut~~
~~Rice~~
~~Rye~~
~~Safflower~~
~~Sorghum~~
~~Sorghum-Sudangrass~~
~~Sudangrass hybrid~~
~~Soybean~~
~~Sudangrass~~
~~Sunflower~~
~~Tobacco~~
~~Trefoil, birdsfoot~~

~~B. The following kinds of agriculture seeds shall be labeled to show the variety name:~~

~~Barley~~
~~Triticale~~
~~Wheat, Common~~
~~Wheat, durum~~

~~C. When two or more varieties are present in excess of five percent and are named on the label, the name of each variety shall be accompanied by the percentage of each.~~]

Net weight or seed count on each container is required. Pre-planted containers, mats, tapes, or other planting devices may state the minimum number of seeds in the container. Under appropriate circumstances when a seed tag is used, the weight information may appear on the seed tag rather than on the seed bag. Any weight labeling shall be consistent with the requirements of Title 4, Chapter 9, Weights and Measures and Rule R70-960.

R68-8-8. Labeling of [~~Lawn~~]Seed[~~ Mixtures~~].

[~~A. Format. When labeling lawn and turf seed mixtures as provided by Section 4-16-4, the following format shall be used:~~

~~TABLE~~

~~Grass Seed Mixture~~
~~Lot 77-7~~

~~PURE SEED GERMINATION~~

~~42.20% Kentucky Bluegrass 80%~~
~~28.37% Annual Ryegrass 85%~~
~~11.90% Creeping Red Fescue 85%~~
~~5.43% White Dutch Clover 75%~~
~~HARD SEED 10%~~
~~.50% Weed Seed Tested: July 1979~~
~~1.60% Other crop seed~~
~~10.00% Inert matter~~

~~Noxious weed seed-none~~
~~John Doe Seed Company, Inc.~~
~~1977 Bell Street, Salt Lake City, Utah 84000~~
~~Net Weight: 5 pounds~~

~~B. Agricultural seed other than seed required to be named on the label shall be designated as "other crop seed" or "crop seed." If a mixture contains no crop seed, the statement "contains no other crop seed," may be used.~~

~~C. The headings "pure seed" and "germination" or "germ," shall be used in the proper place.~~

~~D. The word "mixed" or "mixture" shall be stated with the name of the mixture.~~]

(1) A seed label shall include the required labeling components outlined in Section 4-16-201 including;

(a) seed label components designated as "Pure Seed" or "Purity;" "Inert Matter" or "Inert;" "Other Crop Seeds," "Crop Seeds" or "Other Crop;" "Weed Seeds" or "Weeds;" and "Germination" or "Germ"; and

(b) the first listing of each term as stipulated under the Federal Seed Act, PL 76-354.

(2) The percentage of hard seed, if present, shall appear on the label in addition to the percentage of germination.

(3) The percentage of dormant seeds, if present, shall appear on the label in addition to the percentage of germination.

(4) A noxious weed statement is not required when none are present.

R68-8-9. [~~Vegetable Seeds and Minimum Germination Standards~~]Labeling of Agricultural Seed Varieties.

[~~A. Vegetable seeds are the seeds of the following, and the minimum germination standards are as indicated:~~

~~TABLE~~

~~KIND~~	~~MINIMUM PERCENT GERMINATION STANDARD~~
~~Artichoke--Cynara scolymus~~	~~60~~
~~Asparagus--Asparagus officinalis~~	~~70*~~
~~Bean, garden--Phaseolus vulgaris~~	~~70*~~
~~Bean, asparagus--Vigna sequipedalis~~	~~75*~~
~~Bean, lima--Phaseolus lunatus var. macrocarpus~~	~~70*~~
~~Bean, runner--Phaseolus coccineus~~	~~75~~
~~Beet--Beta vulgaris~~	~~65~~
~~Broadbean--Vicia fava~~	~~75~~
~~Broccoli--Brassica oleracea var. botrytis~~	~~75~~
~~Brussels sprouts--Brassica oleracea var. gemmifera~~	~~70~~
~~Burdock, great--Arctium lappa~~	~~60~~
~~Cabbage--Brassica oleracea var. capitata~~	~~75~~
~~Cabbage, Chinese--Brassica Pekinensis~~	~~75~~
~~Cabbage, tronchuda--Brassica oleracea var. tronchuda~~	~~75~~
~~Cantalope (see Muskmelon)~~	
~~Cardoon--Cynara cardunculus~~	~~60~~
~~Carrot--Daucus carota~~	~~55~~
~~Cauliflower--Brassica oleracea var. botrytis~~	~~75~~
~~Celery and celeriac--Apium graveolens var. dulce and repaceum~~	~~55~~
~~Chard, Swiss--Beta vulgaris var. cicla~~	~~65~~
~~Chicory--Cichorium intybus~~	~~65~~
~~Chives--Allium schoenoprasum~~	~~50~~
~~Citron--Citrullus lanatus var. citroides~~	~~65~~
~~Collards--Brassica oleracea var. acephala~~	~~80~~
~~Corn, Sweet--Zea mays~~	~~75~~
~~Cornsalad (Fetticus--Valerianella locusta)~~	~~70~~
~~Cowpea--Vigna sinensis~~	~~75~~
~~Cress, garden--lepidium sativum~~	~~75~~
~~Cress, Upland--Barbarea verna~~	~~60~~
~~Cress, Water--Rorippa nasturtium-acquaticum~~	~~40~~
~~Cucumber--Cucumis sativus~~	~~80~~
~~Dandelion--Taraxacum officinals~~	~~60~~
~~Eggplant--Solanum melongena~~	~~60~~
~~Endive--Cichorium endivia~~	~~70~~
~~Herbs--(all kinds and varieties not listed)~~	~~50~~
~~Kale--Brassica spp.~~	~~75~~
~~Kohlrabi--Brassica oleracea var. gongylodes~~	~~75~~
~~Leek--Allium porrum~~	~~60~~
~~Lettuce--Lactuca sative~~	~~80~~
~~Muskmelon (Cantalope)--Cucumis melo~~	~~75~~
~~Mustard, India--Brassica juncea~~	~~75~~
~~Mustard, spinach--Brassica perviridis~~	~~75~~
~~Okra--Hibiscus esculentus~~	~~50~~
~~Onion--Allium cepa~~	~~70~~
~~Onion, Welsh--Allium fistulosum~~	~~70~~
~~Pak choi--Brassica chinensis~~	~~75~~
~~Parsley--Petroselinum crispum~~	~~60~~
~~Parsnip--Pastinaca sativa~~	~~60~~
~~Pea, garden--Pisum sativum~~	~~80*~~
~~Pepper--Capsicum spp.~~	~~55~~
~~Pumpkin--Cacurbita pepo~~	~~75~~
~~Radish--Raphanus sativus~~	~~75~~
~~Rhubard--Rheum rhaponticum~~	~~60~~
~~Rutabaga--Brassica napus var. napobrassica~~	~~75~~
~~Salsify--Tragapogon porrifolius~~	~~75~~
~~Sorrel--Rumex spp~~	~~65~~
~~Soybean--Glycine max. L.~~	~~75~~
~~Spinach--Spinacia oleracea~~	~~60~~
~~Spinach, New Zealand--Tetragonia expansa~~	~~40~~
~~Squash--Cucurbita pepo~~	~~75~~
~~Tomato--Lycopersicon esculentum~~	~~75~~
~~Tomato, husk--Physalis spp~~	~~50~~
~~Turnip--Brassica rapa~~	~~80~~
~~Watermelon--Citrullus vulgaris~~	~~70~~

~~*Including hard seeds~~]

(1) The kinds of agricultural seeds listed in Table 4 shall be labeled to show the variety name or the words "Variety Not Stated" or "VNS". The Federal Seed Act, PL 76-354, specifies that "Variety Not Stated" should be used rather than "VNS."

TABLE 4 KIND NAME AND "VNS" ON LABEL
Alfalfa
Bahiagrass
beans, field
beets, field
brome, smooth
broom corn
clover, crimson
clover, red
clover, white
corn, field
corn, pop
Cotton
Cowpea
Crambe
fescue, tall
Flax
lespedeza, striate
millet, foxtail
millet, pearl
Oat
pea, field
Peanut
Rice
Rye
Safflower

sorghum
sorghum-sudangrass
Soybean
Sudangrass
sunflower
Tobacco
trefoil, birdsfoot

(2) The kinds of agricultural seeds listed in Table 5 shall be labeled to show the variety name.

TABLE 5 KIND REQUIRES VARIETY NAME
Barley
Triticale
wheat, common
wheat, durum

R68-8-10. [~~Flower Seeds and~~]Minimum Germination Standards for Vegetable and Herb Seeds.

[~~The kinds of flower seeds listed below are those for which standard testing procedures have been prescribed and which are therefore required to be labeled in accordance with the germination labeling provisions of Section 4-16-4. The percentage listed opposite each kind is the germination standard for that kind. For the kinds marked with an asterisk, this percentage is the total percentage of germination and percentage of hard seed.~~

~~TABLE~~

~~KIND MINIMUM GERMINATION STANDARDS~~

~~Archillea (The Pearl)-Achillea ptarmica 50~~
~~African daisy-Dimorphotheca aurantiaca 55~~
~~African Violet-Saintpaulia SPP 30~~
~~Ageratum-Ageratum mexicanum 60~~
~~Agrostemma (rose campion)-Agrostemma 65 coronaria~~
~~Alyssum-Alyssum compactum, A. 60 maritimum, A. procumbens, A. saxatile~~
~~Amaranthus-Amaranthus spp. 65~~
~~Anagalis (pimpernel)-Anagalis 60 arvensis, Anagalis coerulea, Anagalis grandiflora~~
~~Anemone-Anemone coronaria, A. pulsatilla 55~~
~~Angel's trumpet-Datura arborea 60~~
~~Arabis-Arabis alpina 60~~
~~Arctotis (African lilac daisy)-~~
~~Arctotis grandis 45~~
~~Armeria-Armeria formosa 55~~
~~Asparagus, fern-Asparagus plumosus 50~~
~~Asparagus, sprenger-Asparagus sprengeri 55~~
~~Aster, China-Callistephus chinensis, 55 except Pompom, Powderpuff and Princess types~~
~~Aster, China-Callistephus chinensis, 50 Pompom, Powderpuff and Princess types.~~
~~Aubrietia-Aubrietia deltoides 45~~
~~Baby Smilax-Asparagus asparagoides 25~~
~~Balsam-Impatiens balsamina 70~~
~~Begonia-(Begonia fibrous rooted) 60~~
~~Begonia-(Begonia tuberous rooted) 50~~
~~Bells of Ireland-Molucella laevis 60~~
~~Brachycome (swan river daisy)-~~
~~Brachycome iberidifolia 60~~
~~Browallia-Browallia elata and B 65 speciosa~~
~~Buphthalmum (willowleaf oxeye)-~~
~~Buphthalmum salicifolium 60~~
~~Calceolaria-Calceolaria spp 60~~
~~Calendula-Calendula officinalis 65~~
~~California Poppy-Eschscholtzia 60 california~~
~~Calliopsis-Coreopsis bicolor, C. 65 drummondi, C. elegans~~
~~Campanula: 60~~
~~Cantebury bells-Campanula medium 60~~
~~Cup and Saucer bellflower-Campanula 60 calycanthema~~
~~Carpathian bellflower-Campanula 50 carpatica~~
~~Peach bellflower-Campanula persicifolia 50~~
~~Candytuft, annual-Iberis amara, I. 65 umbellata~~
~~Candytuft, perennial-Iberis 55 gibraltarica I. sempervirens~~
~~Caster bean-Richinus communis 60~~
~~Cathedral bells-Cobaea scandens 65~~
~~Celosis-Celosia argentea 65~~
~~Centaurea: Basketflower-Centaurea 60 americana, Cornflower C. cyanus, Dusty Miller-C. candidissima, Royal centaurea C. imperialis, Sweet Sultan-C. moschata, Velvet centaurea C. gymnocarpa~~
~~Cerastium (snow in summer)-Cerastium 65 biebersteini and C. tomentosum~~
~~Chinese forget-me-not-Cynoglossum 55 amabile~~
~~Chrysanthemum, annual-Chrysanthemum 40 carinatum, C. coronarium, C. segetum~~
~~Cineraria-Senecio cruentus 60~~
~~Clarkia-Clarkia elegans 65~~
~~Cleome-Cleome gigantea 65~~
~~Coleus-Coleus blumei 65~~
~~Columbine-Aquilegia spp 50~~
~~Coral Bells-Heuchera sanquinea 55~~
~~Coreopsis, perennial-Coreopsis 40 lanceolata~~
~~Corn, Ornamental-Zea Mays 75~~
~~Cosmos: Sensation, Mammoth and 65 Crested type-Cosmos bipinnatus; Klondyke type-C. sulphureus~~
~~Crossandra-Crossandra infundibuliformis 50~~
~~Dahlia-Dahlia spp 55~~
~~Daylily-Hemerocallis spp. 45~~
~~Delphinium, perennial; Belladonna 55 and Bellamosum types: Cardinal larkspur-Delphinium cardinale; Chinesis types; Pacific Giant, Gold Medal and other hybrids of D. elatum~~
~~Dianthus:~~
~~Carnation-Dianthus caryophyllus 60~~
~~China pinks-Dianthus chinensis, 70 Heddewigi, Heddensis~~
~~Grass pinks-Dianthus plumarius 60~~
~~Maiden pinks-Dianthus deltoides 60~~

~~Sweet William - Dianthus barbatus 70~~
~~Sweet Wivelsfield - Dianthus allwoodi 60~~
~~Didiscus (blue lace flower) - Didiscus 65~~
~~coerulea~~
~~Doronicum (leopard's bane) - Doronicum 60~~
~~caucasicum~~
~~Dracena - Cracena indivisa 55~~
~~Dragon Tree - Dracaena Draco 40~~
~~English daisy - Bellis perennis 55~~
~~Flax, Golden - Linum flavum, Flowering 60~~
~~flax L. grandiflorum, perennial flax~~
~~L. perenne~~
~~Flowering Maple - Abutilon spp. 35~~
~~Foxglove - Digitalis spp 60~~
~~Gaillardia, annual - Gallardia 45~~
~~pulchella, G. picta; perennial G.~~
~~grandiflora~~
~~Gerbera (transvaal daisy) - Gerbera 60~~
~~jamesoni~~
~~Geum - Geum spp 65~~
~~Gilia - Gilia spp 65~~
~~Gloriosa daisy (rudbeckia) Echinacea 60~~
~~purpurea and Rudbeckia hirta~~
~~Gloxinia - Sinningia speciosa 40~~
~~Godetia - Godetia amonea, G. grandiflora 65~~
~~Gourds: Yellow flowered - Cucurbita 70~~
~~pepo; White flowered Lagenaria~~
~~sisceraria; Dishcloth-Luffa cylindrica~~
~~Gypsophila, annual Baby's breath - 70~~
~~Gypsophila elegans; perennial Baby's~~
~~breath-G. paniculata, G. pacifica,~~
~~G. repens~~
~~Helenium - Helenium autummale 40~~
~~Helichrysum - Helichrysum monstrosum 60~~
~~Heliopsis - Heliopsis scabra 55~~
~~Heliotrope - Heliotropium spp 35~~
~~Helipeterum (Acroclinum) - Helipeterum 60~~
~~roseum~~
~~Hesperis (sweet rocket) - Hesperis 65~~
~~matronalis~~
~~Hollyhock - Althea rosea 65*~~
~~Hunnemannia (Mexican tulip poppy) - 60~~
~~Hunnemannia fumariaefolia~~
~~Hyacinth bean - Dolichos loblab 70*~~
~~Impatiens - Impatiens holstii, I. sultani 55~~
~~Ipomea: Cypress vine - Ipomea 75*~~
~~quamoclit; Moonflower I. noctiflora;~~
~~Morning glories, Cardinal climber,~~
~~Hearts and Honey vine - Ipomea spp~~
~~Jerusalem cross (Maltese cross) - 70~~
~~Lychnis chalcedonica~~
~~Job's tears - Ciox lacryma-jobi 70~~
~~Kochia (Mexican fire bush) - Kochia 55~~
~~childsii~~
~~Larkspur, annual - Delphinium ajacia 60~~
~~Lantana - Lantana camara, L. hybrida 35~~
~~Lilium (regal lily) - Lilium regale 50~~
~~Linaria - Linaria spp 65~~
~~Lobelia - Lobelia erinus 65~~
~~Lunaria, honesty - Lunaria annua 65~~
~~Lupine - Lupinus spp 65*~~
~~Marigold - Tagetes spp 65~~
~~Marvel of Peru (Four O'clock) - 60~~
~~Mirabilis jalapa~~
~~Matricaria (feverfew) - Matricaria spp 60~~
~~Migonette - Reseda odorata 55~~
~~Myosotis - Myosotis alpestris, 50~~
~~M. oblongata, M. pulastris~~
~~Nasturtium - Tropeaolum spp 60~~
~~Nemesia - Nemesia spp 65~~
~~Nemophila - Nemophila insignis 70~~
~~Nemophila, spotted - Nemophila maculata 60~~
~~Nicotiana - Nicotiana affinis, N. 65~~
~~sanderae, N. sylvestris~~
~~Nierembergia - Nierembergia spp 55~~
~~Nigella - Nigella damascena 55~~
~~Pansy - Viola tricolor 60~~
~~Penstemon - Penstemon barbatus, P. 60~~
~~grandiflorus, P. laevigatus, P.~~
~~pupescens~~
~~Petunia - Petunia spp 45~~
~~Phacelia - Phacelia campanularia, P. 65~~
~~minor, P. tanacetifolia~~
~~Phlox, annual - Phlox drummondii all 55~~
~~types and varieties~~
~~Physalis - Physalis spp 60~~
~~Plantycodon (balloon flower) - 60~~
~~Platycodon grandiflorum~~
~~Plumbago, cape - Plumbago capensis 50~~
~~Ponytail - Beaucarnea Recurvata 40~~
~~Poppy: Shirley poppy - Papaver rhoeas, 60~~
~~Iceland poppy P. nudicaule, Oriental~~
~~poppy P. orientale, Tulip poppy P.~~
~~glaucum~~
~~Portulaca - Portulaca grandiflora 65~~
~~Primula (primrose) - Primula spp 50~~
~~Pyrethrum (painted daisy) - Pyrethrum 60~~
~~coccineum~~
~~Salpiglossis - Salpigloss's 60~~
~~gloxinaeflora, S. sinuata~~
~~Salvia - Scarlet Sage - Salvia spendens, 50~~
~~Mealycup Sage (blue bedder) - Salvia~~
~~farinacea~~
~~Saponaria - Saponaria ocymoides, S. 60~~
~~vaccaria~~
~~Scabiosa, annual - Scabiosa atropurpurea 50~~
~~Scabiosa, perennial - Scabiosa caucasica 40~~
~~Scizanthus - Schizanthus spp 60~~
~~Sensitive plant (mimosa) - Mimosa pudica 65*~~
~~Shasta Daisy-Chrysanthemum maximum, 65~~
~~C. leucanthemum~~
~~Silk Oak - Grevillea Robusta 25~~
~~Snapdragon - Antirrhinum spp 55~~
~~Solanum - Solanum spp 60~~
~~Statice - Statice sinuata S. suworowii 50~~
~~(flower heads)~~
~~Stocks: Common - Matthiola incana, 65~~
~~Evening Scented-Matthiola bicornis~~
~~Sunflower - Helianthus spp 65~~
~~Sunrose - Helianthemum spp 30~~
~~Sweet pea, annual and perennial other 75*~~
~~than dwarf bush-Lathyrus odoratus, L.~~
~~latifolius~~
~~Sweet pea, dwarf bush - Lathyrus odoratus 65*~~
~~Tahoka daisy - Machacanthera tanacetifolia 60~~
~~Thunbergia - Thunbergia alata 60~~
~~Torch flower - Tithonia speciosa 70~~
~~Torenia (wishbone flower) - Torenia 70~~
~~fournieri~~
~~Tritoma - Kniphofia spp 65~~
~~Verbena, annual - Verbena hybrida 35~~
~~Vinca (periwinkle) - Vinca rosea 60~~
~~Viola - Viola carnuta 55~~
~~Virginian stocks - Malcolmia maritima 65~~
~~Wallflower - Cheiranthus allioni, C. 65~~
~~cheiri~~
~~Yucca (Adamsneedle) - Yucca filamentosa 50~~
~~Zinnia (except linearis and creeping) -~~
~~Zinnia augustifolia, Z. elegans, Z. 65~~
~~grandifloria, Z. gracillima, Z.~~
~~haageana, Z. multiflora, Z. pumila~~
~~Zinnia, linearis and creeping - 50~~
~~Zinnia linearis, Sanvitalia procumbens~~
~~All other kinds 50~~

~~* Including hard seeds~~]

The standards for germinating vegetable and herb seeds are listed in Table 6 and shall be construed to include hard seed.

TABLE 6 GERMINATION STANDARDS FOR VEGETABLE AND HERB SEEDS	
KIND OF VEGETABLE AND HERB SEEDS	PERCENT
Anise	50
Artichoke	60
Asparagus	70
asparagus bean	75
basil, sweet	70
bean, garden	70
bean, lima	70
bean, runner	75
Beet	65
Broadbean	75
Broccoli	75
brussels sprout	70
burdock, great	60
Cabbage	75
cabbage, tronchuda	70
Cantaloupe	75
Caraway	55
Cardoon	60
Carrot	55
Cauliflower	75
Celeriac	55
Celery	55
chard, swiss	65
chervil, salad	65
chickory	65
Chinese cabbage	75
Chives	50
Citron	65
Collards	80
Coriander	70
corn, pop	75
corn, sweet	75
Cornsalad	70
Cowpea	75
cress, garden	75
cress, upland	60
cress, water	40
cucumber	80
Dandelion	60
Eggplant	60
Endive	70
fennel, florence	60
fennel, sweet	50
Kale	75
kale, Chinese	75
kale, Siberian	75
Kohlrabi	75
Leek	60
Lettuce	80
Muskmelon	75
marjoram, sweet	50
Mustard	75
mustard, spinach	75
okra	50
Onion	70
onion, welsh	70
Oregano	60
pak-choi	75
Parsely	60
Parsnip	60
Pea	80
Peanut	60
Pepper	55
Pumpkin	75
Radish	75
Rhubarb	60
Roquette	60
Rosemary	30
Rutabaga	75
Sage	60
Salsify	75
savory, summer	55
Sorrel	65
Soybean	75
Spinach	60
spinach, New Zealand	40

Squash	75
Thyme	50
Tomato	75
tomato, husk	50
turnip	80
Watermelon	70
all other kinds	40

R68-8-11. [~~Labeling of~~]Flower Seeds and Minimum Germination Standards.

[~~Flower seeds shall be labeled with the name of the kind and variety or a statement of type and performance characteristics as prescribed by Section 4-16-4.~~

~~A. Seeds of Plants Grown Primarily for Their Blooms.~~

~~1. Single Name. Seeds of a single name variety shall be labeled to show the kind and variety name. For example: "Marigold, Butterball."~~

~~2. Single Type and Color. Seeds of a single type and color for which there is no special variety name shall be labeled to show either the type of plant or the type of color of bloom. For example: "Scabiosa, Tall, Large Flowered, Double, Pink."~~

~~3. Assortment of Colors. Seeds consisting of an assortment of mixture of colors or varieties of a single kind shall be labeled to show the kind name, the type of plant, and the types of bloom. In addition, it shall be clearly indicated that the seed is mixed or assorted. An example of labeling such a mixture or assortment is "Marigold, Dwarf, Double French, Mixed colors."~~

~~4. Assortment of Kinds. Seeds consisting of an assortment of mixture of kinds shall be labeled to clearly indicate that the seed is assorted or mixed and the specific use of the assortment of mixture shall be indicated. For example: "Cut Flower Mixture," or "Rock Garden Mixture." Such statements as "Wild Flower Mixture," "General Purpose Mixture," "Wonder Mixture," or any other statement which fails to indicate the specific use of the seed shall not meet the requirements of this provision unless the specific use of the mixture is also stated.~~

~~B. Seeds of Plants Grown for Ornamental Purposes Other Than Their Blooms. Seeds of plants grown for ornamental purposes other than their blooms shall be labeled to show the kind and variety, or the kind together with a descriptive statement concerning the ornamental part of the plant. For example: "Ornamental Gourds, Small Fruited, Mixed."~~]

(1) The kinds of flower seeds listed in Table 7 are those for which standard testing procedures have been prescribed and shall be labeled according to the germination labeling requirements listed in Subsection 4-16-201(7).

(2) For the kind of flower seeds marked with an asterisk, the percentage is the total of percentage germination and percentage hard seed. For other kinds, it is the percentage germination.

TABLE 7
GERMINATION STANDARDS FOR FLOWER SEEDS

Kind of Flower Seeds	Percent
archillea (the pearl) - Achillea Ptarmica	50
African daisy - Dimorphotheca Aurantiaca	55
African violet -- Saintpaulia spp.	30
ageratum - Ageratum Mexicanum	60
agrostemma (rose campion) - Agrostemma Coronaria	65
alyssum - Alyssum Compactum, A. Maritimum, A. Procumbens, A. Saxatile	60
amaranthus - Amaranthus spp.	65
anagalis (primpernel) - Anagalis Arvensis, Anagalis Coerulia, Anagalis Grandiflora	60
anemone - Anemone Coronaria, A. Pulsatilla	55
angel's trumpet - Datura Arborea	60
arabis - Arabis Alpina	60
arctotis (African lilac daisy) - Arctotis Grandis	45
armeria - Armeria Formosa	55
asparagus, fern - Asparagus Plumosus	50
asparagus, sprenger -- Asparagus Sprengeri	55
aster, China - Callistephus Chinensis; -except Pompon, Powderpuff, and Princess types	55
aster, China - Callistephus Chinensis; Pompon, Powderpuff and Princess types	50
aubretia - Aubretia Deltoides	45
baby smilax - Aparagus Asparagoides	25
balsam - Impatiens Balsamina	70
begonia - (Begonia Fibrous Rooted)	60
begonia - (Begonia Tuberous Rooted)	50
bells of Ireland - Molucella Laevis	60
brachycome (swan river daisy) - Brachycome Iberidifolia	60
browallia - Browallia Elata and B. Speciosa	65

bupthalum (sunwheel) - Buphthalum Salicifolium	60
calceolaria - Calceolaria spp.	60
calendula - Calendula Officinalis	65
California poppy - Eschscholtzia Californica	60
calliopsis - Coreopsis Bicolor, C. Drummondi, C. Elegans, Campanula	65
canterbury bells - Campanula Medium	60
cup and saucer bellflower - Campanula Medium Calycanthema.	60
carpathian bellflower - Campanula Carpatica	50
peach bellflower - Campanula Persicifolia	50
candytuft, annual - Iberis Amara, I. Umbellata	65
candytuft, perennial - Iberis Gibraltarica, I. Sempervirens	55
castor bean - Ricinus Communis	60
cathedral bells - Cobaea Scandens	65
celosia - Celosia Argentea	65
centaurea:basket flower - Centaurea Americana Cornflower - C. Cyanus, Dusty Miller - C. Candidissima, Royal Centaurea C. Imperialis, Sweet Sultan - C. Moschata, Velvet Centaurea - C. Gymnocarpa	60
cerasium (snow-in-summer) Cerastium Biebersteini and C.Ttomentosum	65
Chinese forget-me-not - Cynoglossum Amabile	55
chrysanthemum, annual - Chrysanthemum Carinatum C.Coronarium, C. Segetum	50
cineraria -- Senecio Cruentus	60
clarkia - Clarkia Elegans	65
cleome - Cleome Gigantea	65
coleus - Coleus Blumei	65
columbine - Aquilegia spp.	50

coral bells - Heuchera Sanguinea	55
coreopsis, perennial - Coreopsis Ianceolata	40
corn, ornamental - Zea Mays	75
cosmos: sensation, mammoth, and crested types - Cosmos Bipinnatus; Klondyke Type - C. Sulphureau	65
crossandra - Crossandra Infundibuliformis	50
dahlia - Dahlia spp.	55
daylily - Hemerocallis spp.	45
delphinium, perennial- belladonna and bellamosum types; cardinal larkspur - Delphinium Cardinale; Chinensis Types; Pacific Giant, Gold Medal, and other hybrids of D. Elatum	55
dianthus:	
carnation -dianthus caryophyllus	60
China pinks - Dianthus Chinensis, Heddewigi, Heddensis	70
grass pinks - Dianthus Plumarius	60
maiden pinks - Dianthus Deltoids	70
sweet william - Dianthus Barbatus	60
sweet wivelsfield - Dianthus Allwoodi	60
didiscus - (blue lace flower) - Didiscus Coerulea	65
doronicum (leopard's bane) - Doronicum Caucasicum	60
dracaena - Dracaena Indivisa	55
dragon tree - Dracaena Draco	40
english daisy - Bellis Perennis	55
flowering maple - Abutilon spp.	35
flax - golden flax (linum flavum); flowering flax L. Randiflorum; Perennial Flax, L. Perenne	60
foxglove - Digitalis spp.	60

gaillardia, annual - Gaillardia Pulchella; G. Picta; perennial - G. Grandiflora	45
gerbera (transvaal daisy) - Gerbera Iamesoni	60
geum - Geum spp.	55
gilia - Gilia spp.	65
gloriosa daisy (rudbeckia) - Echinacea Purpurea and Rudbeckia Hirta	60
gloxinia - Sinningia Speciosa	40
godetia - Godetia Amoena, G. Grandiflora	65
gourds: yellow flowered - Cucurbita Pepo; white flowered -- Lagenaria Sisceraria; dishcloth - Luffa Cylindrical	70
gypsophila: annual baby's breath - Gypsophlla Elegans; perennial baby's breath - G. Paniculata, G. Pacifica G. Repens	70
helenium - Helenium Autumnale	40
helichrysum - Helichrysum Monstrosum	60
heliopsis - Heliopsis Scabra	55
heliotrope - Heliotropium spp.	35
helipterum (acroclinium) Helipterum Roseum	60
hesperis (sweet rocket) - Hesperis Matronalis	65
*hollyhock - Althea Rosea	65
hunnemania (Mexican tulip poppy) - Hunnemania Fumariaefolia	60
hyacinth bean - Dolichos Lablab	70
impatiens - Impatiens Hostii, I. Sultani	55
*ipomea - cypress vine - Ipomea Quamoclit; moonflower -- I. Noctiflora; morning glories, cardinal climber, hearts and honey vine - Ipomea spp.	75
jerusulem cross (maltese cross) - Lychnis Chalcedonica	70
job's tears - Coix Lacrymajobi	70

kochia - Kochia Childsi	55
Larkspur, Annual - Delphinium ajacis	60
lantana - Lantana Camara, L. Hybrida	35
lilium (regal lily) - Lilium Regale	50
linaria - Linaria spp.	65
lobelia, annual - Lobelia Erinus	65
lunaria, annual - Lunaria Annua	65
*lupine - Lupinus spp.	65
marigold - Tagetes spp.	65
marvel of Peru - Mirabilis Ialapa	60
matricaria (feverfew) - Matricaria spp.	60
mignonette - Reseda Odorata	55
myosotis - Myosotis Alpestris, M. Oblongata, M. Palustris	50
nasturtium - Tropaeolum spp.	60
nemesia - Nemesia spp.	65
nemophila - Nemophila Insignis	70
nemophila, spotted - Nemophila Maculata	60
nicotiana - Nicotiana Affinis, N. Sanderae, N. Sylvestris	65
nierembergia - Nierembergia spp.	55
nigella - Nigella Damascena	55
pansy - Viola Tricolor	60
penstemon - Penstemon Barbatus, P. Grandflorus, P. Laevigatus, P. Pubescens.	60
petunia - Petunia spp.	45
phacelia - Phacelia Campanularia, P. Minor, P. Tanacetifolia	65
phox, annual - Phlox Drummondi all types and varieties	55
physalis - Physalis spp.	60

platycodon (balloon flower) - Platycodon Grandiflorum	60
plumbago, cape - Plumbago Capensis	50
ponytail - Beaucarnea Recurvata	40
poppy: shirley poppy - Papaver Rhoeas; Iceland poppy - P.nudicaule; oriental poppy - P. Orientale; tulip poppy - P.Glaucum	60
portulace - Portulaca Grandiflora	55
primula (primrose) - Primula spp.	50
pyrethrum (painted daisy) - Pyrethrum Coccineum	60
salpiglossis - Salpiglossis Gloxinaeflora, S. Sinuata	60
salvia - scarlet sage - Salvia Splendens; mealycup sage (blue bedder) -- Salvia Farinacea	50
saponaria - Saponaria Ocymoides, S. Vaccaria	60
scabiosa, annual - Scabiosa Atropurpurea	50
scabiosa, perennial - Scabiosa Caucasica	40
schizanthus - Schizanthus spp.	60
*sensitive plant (mimosa) - Mimosa Pudica	65
shasta daisy - Chrysanthemum Maximum C. Leucanthemum	65
silk oak - Grevillea Robusta	25
snapdragon - Antirrhinum spp.	55
solanum - Solanum spp.	60
statice - Statice Sinuata, S. Suworonii (flower heads)	50
stocks: common - Mathiola Incana	65
evening scented - Mathiola Bicornis	65
sunflower - Helianthus spp.	70
sunrose - Helianthemum spp.	30
*sweet pea, annual and perennial other than dwarf bush - Lathyrus Odoratus, L. Latifolius	75
*sweet pea, dwarf bush - Lathyrus Odoratus	65
tahoka daisy - Machaeanthera Tanacetifolia	60
thunbergia - Thunbergia Alata	60
torch flower - Tithonia Speciosa	70
torenia (wishbone flower) - Torenia Fournieri	70
tritoma - Kniphofia spp.	65
verbena, annual - Verbena Hybrida	35
vinca - Vinca Rosea	60
viola - Viola Cornuta	55
virginian stocks - Malcolmia Maritime	65
wallflower - Cheiranthus Allioni	65
yucca (Adam's needle) - Yucca Filamentosa	50
zinna (except linearis and creeping) - Zinnia Angustifolia, Z. Elegans, Z. Grandiflora, Z. Gracillima, Z. Haegeana, Z. Multiflora, Z.Ppumila	65
zinnia, linearis and creeping - Zinnia Linearis, Sanvitalia Procumbens	50
* including germination and percentage of hard seed	
all other kinds	35

(3) A "mixture" of kinds of flower seeds will be below standard if the germination of kinds or combination of kinds constituting 25% or more of the mixture by number is below standard for the kinds involved.

[~~R68-8-12. Application of Germination Standards to Mixtures of Kinds of Flower Seeds.~~

~~A mixture of kinds of flower seeds will be considered to be below standard if the germination of any kind or combination of kinds constituting 25 % or more of the mixture by number is below standard for the kind or kinds.~~]

R68-8-1[~~3~~]2. [~~Tree and Shrub Seed~~]Labeling of Flower Seeds.

[~~The information in the following example shall be used for all tree and shrub seeds for which standard testing procedures are prescribed.~~

~~TABLE~~

~~Common Name: Lot#:~~
~~Genus: Species:~~
~~Origin: State: County: Elevation:~~
~~Date Collected or Tested: Month: Year:~~
~~Pure Seed: % Weed Seed: % Inert Matter:~~
~~Other crop seed: % Germination: % Hard Seed:~~
~~Net Weight:~~
~~Name:~~
~~Address:~~

~~If the kind of seed to be labeled is not one for which standard testing procedures are prescribed, the information on germination and hard seeds may be omitted from the example shown above.~~]

(1) Flower seeds shall be labeled with the name of the kind and variety or a statement of type and performance characteristics as listed in Subsection 4-16-201(6). Seeds of plants grown primarily for their bloom shall:

(a) be labeled to show the kind and variety name, such as, "Marigold, Butterball":

(i) seeds of a single type and color for which there is no special variety name shall be labeled to show either the type of plant or the type of color of the bloom, such as, "Scabiosa, Tall, Large Flowered, Double, Pink";

(ii) seeds consisting of an assortment of colors or varieties of a single kind shall be labeled to show the kind name, the type of plant, and the types of bloom and shall clearly indicate that the seed is mixed or assorted, such as "Marigold, Dwarf, Double French, Mixed colors"; and

(iii) seeds consisting of an assortment of different kinds shall be labeled to clearly indicate that the seed is assorted or mixed and the specific use of the assortment of mixtures shall be indicated, such as, "Cut Flower Mixture," or "Rock Garden Mixture"; and

(b) shall not contain statements such as "Wild Flower Mixture," "General Purpose Mixture," "Wonder Mixture," or any other statement that fails to indicate the specific use of the seed unless the specific use of the mixture is also stated.

(2) Seeds of plants grown for ornamental purposes other than their blooms shall be labeled to show the kind and variety, or the kind together with a descriptive statement concerning the ornamental part of the plant. For example: "Ornamental Gourds, Small Fruited, Mixed".

R68-8-1[4]3. Hermetically Sealed Seed Containers.

(1) Agricultural or vegetable seeds packaged in hermetically sealed containers may be sold, exposed for sale, or offered for sale or transportation for 36 months after the last day of the month the seeds were tested for germination before packaging.

(2) If seeds in hermetically sealed containers are sold, exposed for sale, or offered for sale or transportation more than 36 months after the last day of the month in which they were tested for germination before packaging, they shall be retested within nine months, exclusive of the calendar month in which the retest was completed, immediately before the sale, exposure for sale, or offering for sale or transportation.

(3) The 36-month provision on the date of the test in Section 4-16-5 will apply to hermetically sealed agricultural and vegetable seed when the following conditions have been met:

[~~A.~~](a) [~~T~~]the seed was packaged within nine months after harvest[~~.~~];

[~~B.~~](b) [~~T~~]the container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of the surface at 100 degrees F. with a relative humidity on one side of 90[~~ percent~~]% and on the other side 0[~~ percent~~]%[~~. Water~~], assuming vapor penetration (WVP) is measured by the standards adopted by the U. S. Bureau of Standards as: WVP=gm H_2O/24 hr./100 sq. in./100 degrees F./90% RHV[~~.~~], 0%RH; and

[~~C.~~](c) [~~T~~]the seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed [~~below:~~]in Table 8 or Table 9;

[~~TABLE~~

~~1. AGRICULTURAL SEEDS PERCENT~~

~~Beet, field 7.5~~
~~Beet, sugar 7.5~~
~~Bluegrass, Kentucky 6.0~~
~~Clover, Crimson 8.0~~
~~Fescue, Red 8.0~~
~~Ryegrass perennial 8.0~~
~~All other agricultural seed 6.0~~
~~Mixtures of above 8.0~~

~~2. VEGETABLE SEEDS PERCENT~~

~~Bean, garden 7.0~~
~~Bean, lima 7.0~~
~~Beet 7.5~~
~~Broccoli 5.0~~
~~Brussel sprouts 5.0~~
~~Cabbage 5.0~~
~~Carrots 7.0~~
~~Cauliflower 5.0~~
~~Celeriac 7.0~~
~~Celery 7.0~~
~~Chard, Swiss 7.5~~
~~Chinese cabbage 5.0~~
~~Chives 6.5~~
~~Collards 5.0~~
~~Corn, sweet 8.0~~
~~Cucumber 6.0~~
~~Eggplant 6.0~~
~~Kale 5.0~~
~~Kohlrabi 5.0~~
~~Leek 6.5~~
~~Lettuce 5.5~~
~~Muskmelon 6.0~~
~~Mustard, India 5.0~~
~~Onion 6.5~~
~~Onion, Welsh 6.5~~
~~Parsley 6.0~~
~~Parsnip 6.0~~
~~Pea 7.0~~
~~Pepper 4.5~~
~~Pumpkin 6.0~~
~~Radish 5.0~~
~~Rutabaga 5.0~~
~~Spinach 8.0~~
~~Squash 6.0~~
~~Tomato 5.5~~
~~Turnip 5.0~~
~~Watermelon 6.5~~
~~All other vegetable seed 6.0~~]

TABLE 8	
AGRICULTURAL SEEDS	PERCENT

beet, field	7.5%
beet, sugar	7.5%
bluegrass, Kentucky	6%
clover, crimson	8%
fescue, red	8%
ryegrass, annual	8%
ryegrass, perennial	8%
any other agricultural seed	6%
mixtures of above	8%

TABLE 9	
VEGETABLE SEED	PERCENT
bean, garden	7%
bean, lima	7%
beet	7.5%
broccoli	5%
brussels sprout	5%
cabbage	5%
carrots	7%
cauliflower	5%
celeriac	7%
celery	7%
chard, swiss	7.5%
cabbage, Swiss	5%
chives	6.5%
collards	5%
corn, sweet	8%
cucumber	6%
eggplant	6%
kale	5%
kohlrabi	5%
leek	6.5%
lettuce	5.5%
muskmelon	6%
mustard, India	5%
onion	6.5%
onion, Welsh	6.5%
parsely	6%
parsnip	6%
pea	7%
pepper	4.5%
pumpkin	6%
radish	5%
rutabaga	5%
spinach	8%
squash	6%
tomato	5.5%
turnip	5%
watermelon	6.5%
all other vegetable seeds	6%

[~~D.~~](d) [~~T~~]the container is conspicuously labeled in not less than eight point type to indicate:

[~~1.~~](i) [~~T~~]that the container is hermetically sealed[~~.~~];

[~~2.~~](ii) [~~T~~]that the seed has been preconditioned as to moisture content[~~,~~]; and

[~~3.~~](iii) [~~T~~]the calendar month and year in which the germination test was completed[~~.~~]; and

[~~E.~~](e) [~~T~~]the [~~percentage of germination of the~~]vegetable seed germination percentage at the time of packaging was equal to or above the standards specified in Section R68-8-[~~9~~]10.

R68-8-1[~~5~~]4. [~~Rules for~~]Seed Testing.

(1) Rules for testing seeds shall be the same as those found in the current "Rules [~~F~~]for Testing Seeds" recommended by the [~~Association of Official Seed Analysts~~]AOSA.

(2) For seeds not listed in the "Rules for Testing Seed," procedures for testing shall be determined by the [~~S~~]state [~~S~~]seed [~~A~~]analyst based upon the most authoritative seed testing information available. [~~For seed not listed in the "Rules for Testing Seeds," procedures for testing shall be determined by the State Seed Analyst based upon the most authoritative seed testing information available. Utah~~]The [~~D~~]department [~~of Agriculture and Food~~]has a copy of the "Rules for Testing Seeds", on file in the [~~S~~]seed [~~L~~]laboratory.

R68-8-1[~~6~~]5. Labeling of Chemical Tests for Viability (Tetrazolium).

(1) The results of tetrazolium (TZ) tests performed in accordance with the current "Rules For Testing Seeds" of the [~~Association of Official Seed Analysts~~]AOSA shall be recognized for viability labeling purposes.

(2) For all seeds, if a TZ test is used in place of a germination test, the label shall reflect that the seed was tested for viability using a TZ test in place of a germination test.

R68-8-1[~~7~~]6. Labeling of Seed Distributed to Wholesalers.

[~~A wholesaler, whose predominant business is to supply seed to other distributors rather than to consumers, shall label seed as follows:~~

~~A. Containers. If the seed is in containers, the information required in Section 4-16-4 need not be shown on each container provided, that:~~

~~1. The lot designation is shown on an attached label or by stenciling or printing on container.~~

~~2. The required information for labeling accompanies such shipment.~~

~~B. Bulk. In the case of seed in bulk, the information required in Section 4-16-4 shall appear in the invoice or other records accompanying and pertaining to such seed.~~]

(1) After the seed has been conditioned, it shall be labeled before distribution to any person, including a wholesaler.

(2) Each bag or bulk lot shall be labeled entirely when supplied to a retailer or consumer.

(3) Labeling of seed supplied to a wholesaler, one whose predominant business is to provide seed to other distributors rather than to consumers of seed, may be by invoice or other records, if each bag or other container is identified by a lot number stenciled on the container or if the seed is in bulk.

(4) Each bag or container that is not identified by seed lot, shall carry complete labeling.

[~~R68-8-18. Inspector's Duties.~~

~~It shall be the duty of the District Agricultural Inspectors, either in person or by deputy, to quarantine any lots of seed which contain weed seeds in violation of current regulations of the Department of Agriculture and Food. Such seed may be recleaned under the supervision of any official representative of the Utah State Department of Agriculture and Food, and if found to meet the requirements of the current regulations of the Department of Agriculture and Food with respect to weed seed content, the same may be released for distribution, otherwise, such seed will be destroyed. It shall be the duty of the District Agricultural Inspectors, either in person or by deputy, to quarantine any lots of seed which do not comply with the labeling provisions of Section 4-16-4, and Section R68-8. Such seeds shall remain quarantined and shall not be offered for sale until they are properly labeled to meet the above requirements.~~

~~R68-8-19. Sampling.~~

~~A. General Procedure~~

~~1. In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity.~~

~~2. For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags, a probe or trier long enough to sample all portions of the bag shall be used.~~

~~3. Non-free-flowing seed, such as certain grass seed, uncleaned seed, or screenings which are difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.~~

~~4. The portions shall be combined into a composite sample or samples.~~

~~5. As the seed or screening is sampled, each portion shall be examined and whenever there appears to be lack of uniformity, additional samples shall be taken to show such lack of uniformity as may exist.~~

~~B. Bulk. Bulk seeds or screenings shall be sampled by inserting a probe or thrusting the hand into the bulk, as circumstances require, to obtain a composite sample of at least as many cores or handfuls of seed or screenings as if the same quantity were in bags of an ordinary size. The cores or handfuls of seed which comprise the composite sample shall be taken from well distributed points throughout the bulk.~~

~~C. Bags.~~

~~1. In quantities of six bags or less, each bag shall be sampled.~~

~~2. In quantities of more than six bags, five bags plus at least 10% of the number of bags in the lot shall be sampled, rounding numbers with decimals to the nearest whole number. Regardless of the lot size, it is not necessary to sample more than thirty bags. Example:~~

~~TABLE~~

~~No. Bags in Lot 7 10 23 50 100 200 300 400~~
~~No. Bags to Sample 6 6 7 10 15 25 30 30~~

~~3. Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved.~~

~~D. Small Containers. Seed in small containers shall be sampled by taking the entire unopened containers in sufficient number to supply a minimum size sample as required in Subsection R68-8-19(E). The contents of a single container or the combined contents of multiple containers of the same lot shall be considered representative of the entire lot of seed sampled.~~

~~E. Size of Samples. The following are minimum weights of samples of seed to be submitted for analysis, test, or examination:~~

~~1. Grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these - two ounces (approximately 55 grams).~~

~~2. Alfalfa, bromegrasses, crimson or red clover, flax, lespedezas, millet, rape, ryegrass or seeds of similar size - five ounces (approximately 150 grams).~~

~~3. Proso, sudangrass, or seeds of similar size - one pound. (Approximately 500 grams).~~

~~4. Cereals, sorghums, vetches or seeds of similar or larger size - two pounds (approximately 1000 grams).~~

~~5. Vegetable and flower seed - at least 400 seeds per sample.~~

~~6. Tree and shrub seed - at least 600 seeds per sample for germination purposes. If a purity or noxious-weed seed examination is required, the amount of sample shall be at least the size of that required for seeds of similar size in Subsections R68-8-19(E)(1), (2), (3), and (4).~~

~~7. Screenings - two quarts.~~]

R68-8-[~~20~~]17. Records.

[~~The term "Complete Records," as it pertains to Section 4-16-11, shall be construed to mean information which relates to origin, germination, purity, variety, and treatment of each lot of seed transported or delivered for transportation within this State. Such information shall include seed samples and records of declaration, labels, purchases, sales, cleaning, bulking, handling, storage, analysis, tests, and examinations. The complete record kept by each person for each lot of seed consists of the information pertaining to his own transactions and the information received from others pertaining to their transactions with respect to each lot of seed~~]A complete record shall be kept for two years by each person for each lot of seed consisting of the information about their transactions and the information received from others about their transactions concerning each lot of seed in compliance with Subsection 4-16-102(6) and Section 4-16-303.

R68-8-[~~21~~]18. Advertising.

(1) The name of a kind or kind and variety of seed and any descriptive terms [~~pertaining thereto~~]shall be correctly represented in any advertisement of seed.

[~~A.~~](2) [~~Name of Kind or Kind and Variety.~~]The representation of the name of a kind or kind and variety of seed in any advertisement [~~subject to the act shall be confirmed to the name of the kind or kind and variety determined in accordance with Section 4-16-2 associated with words or terms that~~]shall not create a misleading impression as to the history or characteristics of the kind or kind and variety. Descriptive [~~terms~~]words and firm names may be used in kind and variety name[~~s~~]; provided,[~~, that~~] the descriptive [~~terms~~]words or firm names are a part of the kind or variety of seed; for example, Stringless Green Pod, Detroit Dark Red, Black Seed Simpson, and Henderson Bush Lima. A [~~S~~]seed shall not be designated as a hybrid seed in any advertisement [~~subject to the act~~]unless it comes within the definition of "Hybrid" in Section 4-16-102.

[~~B.~~](3) [~~Characteristics of Kind or Variety.~~]Terms descriptive as to color, shape, size, the habit of growth, disease resistance, or other characteristics of the kind or variety, may be associated with the name of the kind or variety; provided, that it is done in a manner [~~which~~]that clearly indicates the descriptive term is not part of the name of the kind or variety; for example, Oshkosh pepper (yellow) Copenhagen Market (round head) cabbage, and Kentucky Wonder pole bean.

[~~C.~~](4) [~~Description of Quality and Origin.~~]Terms descriptive of quality or origin and [~~terms~~]words descriptive of the basis for representations made may be associated with the name of the kind or variety of seed; provided,[~~ that~~] the terms are clearly identified as [~~being other than~~]not part of the name of the kind or variety; for example[~~:~~], Blue Tag Gem Barley, Idaho Origin Ranger Alfalfa.[~~, and Grower's Affidavit of Variety Atlas Sorghum.~~]

[~~D.~~](5) [~~Description of Manner of Production or Processing.~~]Terms descriptive of the [~~manner~~]way or method of production or processing the seed may be associated with the name of the kind or variety of seed, providing [~~such~~]the terms are not misleading.

[~~E.~~](6) [~~Separation of Brand Names from Kind and Variety Names.~~]Brand names and terms taken from trademarks may be associated with the name of the kind and variety or mixtures of kinds or blends of varieties of seed as an indication of source; provided, that the terms are clearly indicated as being other than part of the name of the kind and variety, mixture, or blend. For example[~~:~~], Valley Brand Blend 15 Alfalfa, or River Brand Golden Cross Corn.

(7) If a number is associated with the word "mix" or "mixture," it shall represent the number of kinds rather than the number of varieties. For example, a 3-Way Mix shall include three different "kinds" of seed.

(8) Labeling, advertising, or other representations subject to this rule and claiming a seed lot is of a certified origin or any class thereof shall be determined by a seed certifying agency that shall verify:

(a) that the seed conforms to standards of purity and identity as to kind, species, and subspecies, if appropriate, or variety, and that tree and shrub seed was found to be of the origin and elevation claimed about the seed;

(b) that the seed bears an official label issued for the seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind, species, and subspecies if appropriate, or variety; and

(c) if the seed is a variety protected under the Plant Variety Protection Act, 7 USC 2321 and specifies sale only as a class of certified seed, the seed is labeled with a varietal name and certified by an official seed certifying agency. Seed from a certified lot may be labeled as to the variety name when used in a mixture by, or with the approval of, the owner of the variety.

R68-8-19. Unlawful Acts.

A person may not:

(1) detach, alter, deface, or destroy any label provided for in this rule;

(2) alter or substitute seed with the intent to defeat the purpose of this rule;

(3) engage in false or misleading advertising and labeling regarding seeds;

(4) use the name of the department or the name of the official laboratory for advertising purposes in connection with seed analyzed or tested by the official laboratory, except in the case of certified seed;

(5) fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop sale" order or tags attached, except with permission of the department, and for the purpose specified;

(6) use the word "trace" or the phrase "contains > than .01%" as a substitute for any statement that is required;

(7) use the word "type" in any labeling in connection with the name of any agricultural seed variety;

(8) alter or falsify any seed labels, seed tests, laboratory reports, records, or other documents to create a misleading impression as to kind, kind of variety, history, quality, certification, or origin of the seed;

(9) sell or market a protected variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it without obtaining the approval of the variety owner or developer; or

(10) hinder or obstruct, in any way, any authorized person in performing their duties.

[~~R68-8-22. Seed Screenings.~~

~~It shall be unlawful for any person, company, or corporation to sell, offer for sale, barter, give away, or otherwise dispose of any screenings containing more than 6 whole prohibited noxious weed seeds per pound and/or more than 27 whole restricted weed seeds per pound; except that screenings containing such seeds may be moved or sold to a mill or plant for processing in such a manner which will reduce the number of whole weed seeds to within the above stated tolerances. Each container or shipment of screenings shall be labeled with the words "Screenings for Processing - Not For Seeding or Feeding" and with the name and address of the consignor and consignee.~~]

R68-8-2[~~3~~]0. Fees [~~F~~]for Testing Services.

(1) [~~Charges~~]The fees for testing samples, representing seed sold or offered for sale[~~ in Utah~~], or other services performed by the state seed laboratory, shall be determined by the department pursuant to Subsection [~~4-2-2(2)~~]4-2-103(2).

(2) A current listing of approved fees may be obtained upon request from, [~~Utah State~~]the [~~D~~]department[~~ of Agriculture and Food~~] and is listed on the department's website.

KEY: inspections
Date of Last Change: 2023[~~July 2, 2008~~]
Notice of Continuation: November 19, 2020
Authorizing, and Implemented or Interpreted Law: 4-2-[~~2~~]103; 4-16[~~-3~~]; 4-17-[~~3~~]103

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R68-28**	**Filing ID: 55343**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R68-28. Cannabis Processing

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Changes are needed to add clarifications to this rule related to definitions and labeling requirements. Additionally, changes are needed to make this rule consistent with the statute following changes passed during the 2023 General Session in S.B. 91.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Changes have been made to the definition section to clarify existing definitions and add a definition for artificially derived cannabinoid, consistent with statutory changes.

In Section R68-28-4, language has been added to add record keeping requirements for vaporizer cartridge heavy metal testing, also now required in statute following the passage of S.B. 91 (2023).

In Section R68-28-7, language has been added addressing the ability of cannabis processors to purchase cannabinoid isolate from industrial hemp processors. This will replace the purchase of industrial hemp waste that is no longer allowed statutorily.

Clarifying inventory information requirements are added to Section R68-28-8 and agent clarifications are added to Section R68-28-9 to address the statutory change of agent cards being issued to individuals rather than cannabis production establishments.

Finally in Section R68-28-13, clarifications are added regarding labeling requirements based on the Department of Agriculture and Food's (Department) needs to manage the program. Additionally, warning requirements are added consistent with statutory changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There will be some saved costs to the Department because the Department no longer will be approving hemp waste transfers; however, there will be increased costs for inspecting cannabinoid isolate records. Overall, there should be no fiscal impact to the Department with these changes.

B) Local governments:

Local governments will not be impacted because they do not participate as or regulate medical cannabis processors.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
Small businesses will experience a fiscal cost related to adhering to new labeling requirements. The Department estimates this will be approximately $3,000 per processor, or a total of $45,000 split evenly between small and non-small businesses or $22,500 each in FY 2024 only.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
Small businesses will experience a fiscal cost related to adhering to new labeling requirements. The Department estimates this will be approximately $3,000 per processor, or a total of $45,000 split evenly between small and non-small businesses or $22,500 each in FY 2024 only.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
Other persons will not be impacted by the changes because they are not medical cannabis licensees and do not regulate medical cannabis processing.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs for affected persons will not change aside from the increased cost for labeling of approximately $3,000 per cannabis processor.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$22,500	$0
Non-Small Businesses	$0	$22,500	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$45,000**	**$0**

Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$(45,000)**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Commissioner of the Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 4-41a-103(5)		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	04/18/2023

R68. Agriculture and Food, Plant Industry.
R68-28. Cannabis Processing.
R68-28-1. Authority and Purpose.

(1) Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-

41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis processing license.

R68-28-2. Definitions.

(1) "Appealing to children" means:

(a) has a likeness bearing resemblance to a cartoon character or fictional character; or

(b) appears to imitate a food or other product that is typically marketed toward or is appealing to children.

(2) "Applicant" means any person or business entity who applies for a cannabis processing facility license.

(3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

([~~3~~]4) "Batch" means a quantity of:

(a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;

(b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or

(c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

(5) "Brand name" means a type of product manufactured by a particular company under a particular name. "Brand name" does not mean strains or flavors.

([~~4~~]6) "Board" means the Cannabis Production Establishment Licensing Advisory Board, created in Section 4-41a-201.1.

(7) "Cannabinoid isolate" means the same as the term is defined in Subsection R68-29-2(11).

([~~5~~]8)(a) "Cannabis" means any part of a marijuana plant.

(b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.

([~~6~~]9) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.

([~~7~~]10) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

([~~8~~]11) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.

([~~9~~]12) "Cannabis derivative product" means a product made using cannabis concentrate.

(1[~~0~~]3) "Cannabis fact panel" means a part of the label that contains the information described in Subsections R68-28-13(6) and R68-28-13(7).

(1[~~1~~]4) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.

(1[~~2~~]5) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis concentrate; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.

(1[~~3~~]6) "Cannabis processing facility agent" means an individual who[~~:~~]

[~~a) is an employee of a cannabis processing facility; and~~

~~b)~~] holds a valid cannabis production establishment agent registration card[~~.~~] with a cannabis processing facility designation.

(1[~~4~~]7) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual may act as an agent.

(1[~~5~~]8) "COA" means Certificate of Analysis from an independent cannabis testing laboratory.

(1[~~6~~]9) "Complaint" means any negative feedback received from a medical cannabis patient or medical cannabis or industrial hemp licensee.

([~~17~~]20) "Department" means the Utah Department of Agriculture and Food.

(21) "Directions for use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines, and may include:

(a) THC percentage;

(b) strain names;

(c) strain dominance; or

(d) dietary restrictions.

([~~18~~]22) "Label" means a written, printed, or graphic display on the immediate container of a product.

([~~19~~]23) "Labeling" means a label and other written, printed, or graphic display:

(a) on the product or the product's container or wrapper; or

(b) accompanying the product.

(24) "Logo" means symbols, stylized text, or both that represent a company through a visual image that can be easily understood and recognized.

(2[~~0~~]5) "Lot" means the quantity of:

(a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

(b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

(2[~~1~~]6) "Product face" means the part of a label that is on the outer packaging and most likely to be displayed, presented, or shown under customary conditions of display for retail sale.

(2[~~2~~]7) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

R68-28-3. Cannabis Processing Facility License.

(1) A cannabis processing facility license allows the licensee to receive cannabis from a cannabis production facility.

(2) A Tier 1 cannabis processing facility license allows the licensee to:

(a) create cannabis concentrate;

(b) create cannabis derivative product; and

(c) package and label final product.

(3) A Tier 2 cannabis processing facility license allows the licensee to package and label cannabis and cannabis final product.

(4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, copy of current Utah manufactured food establishment registration, and other applicable documents required in the application packet to be accepted and processed by the department.

(5) Before approving an application, the department may contact the applicant and request additional supporting documentation or information.

(6) Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

(7) Each cannabis processing facility license shall expire one calendar year from the date of licensure.

(8) An application for renewals shall be submitted to the department 30 days before expiration.

(9) If the renewal application is not submitted 30 days before the expiration date, the licensee may not continue to operate.

(10) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.

R68-28-4. Cannabis Processing Facility Requirements.

(1) A cannabis processing facility operating plan shall contain a blueprint of the facility containing the following information:

(a) the square footage of the areas where cannabis is to be extracted;

(b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;

(c) the square footage of the areas where cannabis products are manufactured;

(d) the square footage and location of storerooms for cannabis awaiting extraction;

(e) the square footage and location of storerooms for cannabis awaiting further manufacturing;

(f) the area where finished cannabis and cannabis products are stored;

(g) the location of toilet facilities and hand washing facilities;

(h) the location of a break room and location of personal belonging lockers;

(i) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and

(j) the total square footage of the overall cannabis processing facility.

(2) A cannabis processing facility shall have written emergency procedures to be followed in case of:

(a) fire;

(b) chemical spill; or

(c) other emergency at the facility.

(3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.

(4) A cannabis processing facility shall use a standardized scale that is registered with the department when cannabis is:

(a) packaged for sale by weight;

(b) bought and sold by weight; or

(c) weighed for entry into the inventory control system.

(5) A cannabis processing facility shall compartmentalize each area in the facility based on function and shall limit access between compartments.

(6) A cannabis processing facility shall limit access to the compartments to the appropriate agents.

(7) A cannabis processing facility creating cannabis derivative product shall develop standard operating procedures.

(8) Pursuant to Subsection 4-41a-403(4)(b), a cannabis processing facility may use signage on the property that includes a logo, as long as the logo does not include:

(a) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;

(b) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;

(c) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;

(d) imagery featuring a person using the product in any way;

(e) any recreationally oriented subject; or

(f) any statement, design, or representation, picture, or illustration that is obscene or indecent.

(9) A cannabis processing facility shall keep records of any complaints received and make those records available to the department upon request.

(10) A cannabis processing facility shall keep records verifying that each time they receive a batch of vaporizer cartridges a sample is tested for heavy metals by an independent cannabis testing laboratory pursuant to Section 4-41a-603.

R68-28-5. Separation of Cannabis and Hemp Processed in a Single Facility.

(1) Any facility that has both an industrial hemp processing license and a license for medical cannabis processing shall ensure physical separation of medical cannabis and industrial hemp in their facility.

(2) Processing of industrial hemp material and cannabis material shall not occur on the same equipment on the same day, unless cleaned between runs.

(3) Processing equipment may be considered neutral territory for hemp and cannabis if:

(a) only one material is present in neutral territory at a time;

(b) packaging tables in neutral territory are only used for the material being processed that day; and

(c) if packaging tables are used for another material they shall be moved to the respective side of the facility.

(4) If the facility uses the same machinery to process both industrial hemp and medical cannabis:

(a) the machinery shall be cleaned in between hemp and cannabis days;

(b) cleaning logs shall be kept and monitored by the department upon inspection of the facility; and

(c) cleaning logs shall include the machines used, the date cleaned, and the name of the employee that conducted the cleaning.

(5) Packaging of medical cannabis and industrial hemp may occur:

(a) in a neutral zone; or

(b) in a designated side of the facility.

(6) Freezer separation.

(a) Each licensee that processes both medical cannabis and industrial hemp shall have a separate freezer or a physical separation within the same freezer for each material.

(b) Cannabis and hemp material shall be clearly labeled pursuant to the requirements of this rule and Rule R68-25 and shall be in sealed containers.

(7) Storage separation.

(a) Industrial hemp and medical cannabis shall be stored in separate secure locations.

(b) Storage shall include storage for:

(i) final product;

(ii) raw material; and

(iii) processed material.

(8) Upon request, the licensee shall inform the department of how separation of materials is implemented, including the facility's separation procedures for raw material, extract, and final products.

R68-28-6. Cannabis Extraction Requirements.

(1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity.

(2) A cannabis processing facility shall use a professional grade [~~closed loop~~]extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present.

(3) A cannabis processing facility using carbon dioxide (CO_2) gas extraction system shall use a professional grade closed loop CO_2 gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO_2 shall be at least 99% purity.

(4) Closed loop hydrocarbon, alcohol, or CO_2 extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.

(5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:

(a) safe for its intended use;

(b) commercially manufactured; and

(c) built to conform to recognized and generally accepted good engineering practices, such as:

(i) the American Society of Mechanical Engineers (ASME);

(ii) American National Standards Institute (ANSI);

(iii) Underwriters Laboratories; or

(iv) The American Society for Testing and Materials.

(6) The certification document shall contain the signature and stamp of the certifying professional engineer and the serial number of the extraction unit being certified.

(7) A cannabis processing facility may use an alternative extraction method with prior approval from the department.

(8) A cannabis processing facility shall use food grade ingredients to create cannabis derivative product.

(9) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not use solvents or gasses.

(10) A cannabis processing facility shall ensure each solvent, with the exception of CO_2, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

(11) A cannabis [~~establishment~~]processing facility agent using solvents or gasses in a closed loop system shall be fully trained in the use of the system and have direct access to applicable material safety data sheets.

(12) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Rule R68-29.

R68-28-7. Cannabinoid Isolate.

(1) A licensed Tier 1 cannabis processing facility may use cannabinoid isolate from a licensed industrial hemp processing facility.

(2) A Tier 1 cannabis processing facility may not receive more than 120 kilograms of cannabinoid isolate in a single license year.

(3) Any transfer of cannabinoid isolate shall be accompanied by a full panel COA.

(4) The cannabis processing facility shall maintain record of each transfer of cannabinoid isolate that is available for review by the department, including:

(a) the source of the cannabinoid isolate and verification that it was derived from certified industrial hemp;

(b) the intended use of the cannabinoid isolate; and

(c) the disposition of the cannabinoid isolate.

(5) Upon receipt of cannabinoid isolate, a cannabinoid processing facility shall submit a sample of the isolate to a licensed independent cannabis testing laboratory for cannabinoid and adulterant testing, pursuant to the requirements of Rule R68-29.

R68-28-[~~7~~]8. Security Requirements.

(1) At a minimum, each cannabis processing facility shall have a security alarm system on each perimeter entry point and perimeter window.

(2) At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:

(a) with minimum camera resolution of 1280 x 720 pixels or pixel equivalent for analog; and

(b) that retains footage for at least 45 days.

(3) Each camera shall be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas.

(4) Controlled areas included:

(a) any entrances and exits, or ingress and egress vantage points;

(b) any areas where cannabis or cannabis products are stored;

(c) any areas where cannabis or cannabis products are extracted;

(d) any areas where cannabis or cannabis products are manufactured, packaged, or labeled; and

(e) any areas where cannabis waste is being moved, processed, stored, or destroyed.

(5) Each camera shall record continuously.

(6) For locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or theft.

(7) For footage stored on a remote server, access shall be restricted to protect from employee tampering.

(8) Any gate or entry point must have lighting sufficient to record activity occurring in low light conditions.

(9) Each visitor to a cannabis processing facility shall be required to display an identification badge issued by the facility while on the premises.

(10) At any time, visitors shall be escorted by a cannabis processing facility agent.

(11) A cannabis processing facility shall keep and maintain a visitors log showing:

(a) the full name of each visitor entering the facility;

(b) badge number issued;

(c) the time of arrival;

(d) the time of departure; and

(e) the purpose of the visit.

(12) The cannabis processing facility shall keep the visitors log for a minimum of one year.

(13) The cannabis processing facility shall make the visitor log available to the department upon request.

R68-28-[~~8~~]9. Inventory Control.

(1) Each batch or lot of cannabis, cannabis derivative product, cannabis product, test sample, or cannabis waste shall be entered into[~~have a unique identifier in~~] the inventory control system. Recorded information shall include:

(a) unique identification number;

(b) package ID;

(c) name of product;

(d) facility name and license number; and

(e) date created.

(2) Each batch or lot of cannabis, cannabis derivative product, cannabis product, sample, or cannabis waste shall be traceable to the lot.

(3) Unique identification numbers may not be reused.

(4) Each batch, lot, or sample of cannabis shall have a unique identification number that is displayed on a physical tag.

(5) The tag shall be legible and placed in a position that can be clearly read.

(6) The following shall be reconciled in the inventory control system at the close of each business each day:

(a) date and time material containing cannabis are being transported to a cannabis production establishment or medical cannabis pharmacy;

(b) each sample used for testing and the test results;

(c) a complete inventory of material containing cannabis;

(d) cannabis product by unit count;

(e) weight per unit of product;

(f) weight and disposal of cannabis waste materials;

(g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and

(h) theft or loss or suspected theft or loss of material containing cannabis.

(7) A receiving cannabis processing facility shall document in the inventory control system any material containing cannabis received, and any difference between the quantity specified in the transport manifest and the quantity received.

(8) A cannabis processing facility shall immediately upon receipt of THC extract from a licensed industrial hemp processor enter the following information into the inventory control system:

(a) the amount of THC extract received;

(b) the name, address, and licensing number of the industrial hemp processor;

(c) the weight per unit of product received; and

(d) the assigned unique identification number.

R68-28-[~~9~~]10. Cannabis Processing Facility Agents.

(1) A prospective cannabis processing facility agent shall apply to the department for a cannabis [~~establishment~~]processing facility agent registration card on a form provided by the department.

(2) An application is not considered complete until the background check has been completed, [~~and~~]the [~~facility has paid~~]the registration fee has been paid, and the prospective agent has submitted the required training certificate.

(3) The cannabis processing facility agent registration card shall contain:

(a) the full name of the agent;

[~~b) the name of the cannabis processing establishment;~~]

([~~c~~]b) [~~the job title or position of the agent~~]identifying information; and

([~~d~~]c) a photograph of the agent.

(4) A cannabis processing facility is responsible to ensure that each agent has received[~~:~~]

[~~a) the department approved training as specified in Section 4-41a-301; and~~

~~b)~~] any task specific training as outlined in the operating plan submitted to the department.

(5) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.

(6) Each cannabis [~~production establishment~~]processing facility agent shall have their state issued identification card in their possession to certify the information on their badge is correct.

[~~7) Upon termination, the identification badge of an agent shall be immediately returned to the department by the cannabis processing facility.~~]

(7) Each cannabis processing facility shall maintain a list of each employee that holds a cannabis processing facility agent registration card and provide the list to the department upon request.

R68-28-1[~~0~~]1. Minimum Storage and Handling Requirements.

(1) A cannabis processing facility shall store cannabis, cannabis concentrate, or cannabis product in a [~~separate~~]location separated by a physical barrier from outdated, damaged, deteriorated, misbranded, or adulterated product or product whose containers or packaging have been opened or breached.

(2) Cannabis, cannabis concentrate, and cannabis product shall be stored at least six inches off the ground.

(3) Storage areas shall:

(a) be maintained in a clean and orderly condition; and

(b) be free from infestation by insects, rodents, birds, or vermin.

(4) A cannabis processing facility shall:

(a) track and label each cannabis plant product and cannabis concentrate;

(b) ensure each unfinished product is stored in a secure location; and

(c) immediately after completion of the process or at the end of the scheduled business day return to a secure location.

(5) Cannabis shall be stored away from other chemicals, lubricants, pesticides, or other potential contaminants.

(6) If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing

area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

R68-28-1[~~1~~]2. Product Appearance and Flavor.

(1) A cannabis processing facility may not produce a cannabis product that is designed to mimic a candy product.

(2) A cannabis processing facility may not shape a cannabis product in any way to appeal to children.

R68-28-1[~~2~~]3. Processing of Cannabis and Cannabis Product.

(1) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis product in accordance with 21 CFR 111, "Current Good Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements."

(2) Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 CFR 1700.

(3) A cannabis processing facility shall package cannabis or cannabis product in accordance with this rule and Section 4-41a-602 before transportation to a medical cannabis pharmacy.

(4) Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and shall not impart any toxic or deleterious substance to the cannabis or cannabis product.

(5) Cannabis cultivation byproduct shall either be:

(a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

(b) destroyed according to Section 4-41a-405.

(6) Cannabis concentrate and product produced by cannabis processing facilities shall be tested pursuant to Rule R68-29.

(7) If a cannabis product contains [~~derivative or synthetic~~]artificially derived cannabinoids they shall be isolated to a purity of greater than 95%, as required by Subsection 4-41a-603(3).

(8) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

R68-28-1[~~3~~]4. Labeling and Packaging of Cannabis and Cannabis Product.

(1) Cannabis product labeling shall contain the following information:

(a) [~~the common or usual name of the product;~~]the medicinal dosage form identified on the product face along with the words "THC or Cannabis Infused":

(i) "gummies" may be used instead of "gelatinous cube";

(ii) "tincture" may be used instead of "sublingual preparation" or "liquid suspension"; and

(iii) a descriptive product name is allowed if the text is smaller than the dosage form and is no appealing to children;

(b) the name and license number of the cannabis processing facility;

(c) directions for consumers to contact the department with product complaints by going to medicalcannabis.utah.gov/production;

(d) for products containing THC, a warning symbol provided by the department; and

(e) the amount of total THC contained in the package, in milligrams.[~~; and~~]

([~~f~~]2) Before January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

(3) Starting on January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

(4) Starting on May 3, 2023, raw cannabis or a cannabis product sold in a vaporizer cartridge shall include a warning label that states:

(a) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and

(b) "WARNING: Inhalation of cannabis smoke has been associated with lung injury."

([~~2~~]5) A cannabis processing facility may include a QR code on the cannabis product labeling that [~~contains a~~]links to a COA from a licensed independent cannabis testing laboratory. The QR code may not link to any other information.

([~~3~~]6) Any information appearing on the cannabis product labeling shall be:

(a) displayed in any legible font, that is not a script or decorative font, provided that the lowercase letter "o" is at least one-sixteenth inch in height;

(b) displayed in a color that contrasts conspicuously with its background; and

(c) displayed in English, although a licensee may also choose to display required information in additional languages.

([~~4~~]7) A cannabis processing facility shall place a cannabis fact panel on a cannabis product before the sale of the cannabis product to a medical cannabis pharmacy.

([~~5~~]8) The cannabis fact panel shall be printed in black and white.

([~~6~~]9) The cannabis fact panel shall be securely affixed to the package.

([~~7~~]10) The cannabis fact panel for cannabis plant product shall include the following information, from top to bottom, in the order as listed:

(a) the name of the cannabis cultivation facility;

(b) the lot number;

(c) the date of harvest;

(d) the date of final testing;

(e) the batch number;

(f) the date on which the product was packaged;

(g) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;

(h) the expiration date; and

(i) the net weight displayed in grams.

([~~8~~]11) THC potency levels for cannabis flower shall be listed as total THC in milligrams per gram.

([~~9~~]12) The cannabis fact panel for cannabis derivative product shall include the following information, from top to bottom, in the order listed:

(a) the batch number;

(b) the date of the final testing;

(c) the date on which the product was packaged;

(d) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;

(e) the expiration date;

(f) the total amount of THC measured in milligrams per gram;

(g) a list of each ingredient and each major food allergen as identified in 21 U.S.C. 343;

(h) the identity [~~and quantity~~]of any [~~derivative or synthetic~~]artificially derived cannabinoid present in the product;

(i) the net weight of the product displayed in grams or milliliters and number of pieces, if applicable; and

(j) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.

(1[~~0~~]3) The label of a cannabis derivative product may include a flavor name if it is not candy-like or a name the facility knows or should know appeals to children.

(1[~~1~~]4) The label of a cannabis product that contains [~~a derivative or synthetic~~]an artificially derived cannabinoid shall clearly display the following text : "This product contains [~~derivative or synthetic~~]artificially derived cannabinoids."

(1[~~2~~]5) Any terpene listed on a cannabis product package shall be verified as present by a licensed independent cannabis testing laboratory and have its quantity listed on the fact panel.

(1[~~3~~]6) A cannabis processing facility may include a[~~the licensee's~~] logo and product brand name on the cannabis product [~~label~~]face that is exempt from the requirements of Subsection R68-28-13(3) and that:

(a) does not exceed 20% of the product face;

(b) does not obscure the information required on the label; and

(c) does not include:

(i) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;

(ii) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;

(iii) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;

(iv) imagery featuring a person using the product in any way;

(v) any recreationally oriented subject; or

(vi) any statement, design, or representation, picture, or illustration that is obscene or indecent.

(1[4]7) No other information, illustration, or depiction with the exception of directions for use shall appear on the labeling.

(18) Shapes on cannabis product packaging or labeling shall not resemble the product or real-world items.

([~~15~~]19) After January 1, 2023, cannabis product packaging, logos, and brand names shall be pre-approved by the department.

R68-28-1[4]5. Transportation.

(1) A printed transport manifest shall accompany each transport of cannabis.

(2) The manifest shall contain the following information:

(a) the cannabis production establishment address and license number of the departure location;

(b) physical address and license number of the receiving location;

(c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;

(d) date and time of departure;

(e) estimated date and time of arrival; and

(f) name and signature of each agent accompanying the cannabis.

(3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.

(4) A copy of the transport manifest shall be given to the receiving cannabis production establishment or medical cannabis pharmacy.

(5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy shall ensure that the cannabis material received is as described in the transport manifest and shall:

(a) record the amounts received for each strain into the inventory control system; and

(b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

(6) During transportation, cannabis shall be:

(a) shielded from the public view;

(b) secured; and

(c) temperature controlled if perishable.

(7) A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

(8) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.

R68-28-1[~~5~~]6. Recall Protocol.

(1) The department may initiate a recall of cannabis or cannabis products if:

(a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;

(b) evidence exists that residual solvents are present on or in cannabis or cannabis product;

(c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or

(d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.

(2) The recall plan of a cannabis processing facility shall include, at a minimum:

(a) a designation of at least one member of the staff who serves as the recall coordinator;

(b) procedures for identifying and isolating product to prevent or minimize distribution to patients;

(c) procedures to retrieve and destroy product; and

(d) a communications plan to notify those affected by the recall.

(3) The cannabis processing facility shall track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

(4) The cannabis processing facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

(5) The department has authority to monitor the progress of the recall until the department declares an end to the recall.

(6) A cannabis production facility shall notify the department before initiating a voluntary recall.

R68-28-1[~~6~~]7. Cannabis Waste Disposal.

(1) Solid and liquid wastes generated during cannabis processing shall be stored, managed, and disposed of in accordance with applicable state law[~~s and regulations~~].

(2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state law[~~s and regulations~~].

(3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent[~~,~~] or pesticide.

(4) Cannabis waste shall be [~~rendered~~]made unusable before leaving the cannabis processing facility.

(5) Cannabis waste, [~~which~~]that is not designated as hazardous, shall be [~~rendered~~]made unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department before implementation.

(6) Materials used to grind and incorporate with cannabis fall into two categories:

(a) compostable; or

(b) non-compostable.

(7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(a) food waste;

(b) yard waste; or

(c) vegetable-based grease or oils.

(8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(a) paper waste;

(b) cardboard waste;

(c) plastic waste; or

(d) soil.

(9) Cannabis waste includes:

(a) cannabis plant waste, including roots, stalks, leaves, and stems;

(b) excess cannabis or cannabis products from any quality assurance testing;

(c) cannabis or cannabis products that fail to meet testing requirements; and

(d) cannabis or cannabis products subject to a recall.

R68-28-1[~~7~~]8. Change in Operation Plans.

(1) A cannabis processing facility shall submit a notice, on a form provided by the department, before making any changes to the facility's operating plan, including:

(a) ownership or financial backing of the facility;

(b) the facility's name;

(c) a change in location;

(d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility;[~~ or~~]

(e) change to the number of production lines[~~.~~]; or

(f) any information requested by the department that shall allow the department to determine if requirements will be met.

(2) A cannabis processing facility may not implement changes to the initial approved operation plan without board approval.

(3) The board shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

(4) The department shall specify the reason for the denial of approval for a change to the operation plan.

(5) Before the board's review of a cannabis production establishment license under Subsection 4-41a-201.1(7)(e), the cannabis production establishment shall provide the board with:

(a) blueprints that show that there will be physical separation between medical cannabis and industrial hemp produced in their facility, including demonstrating storage and packaging areas on separate sides of the same room; and

(b) any information requested by the board that shall allow the board to determine if the requirements of Section R68-28-5 will be met before the medical cannabis production establishment processes industrial hemp or industrial hemp products.

R68-28-1[~~8~~]9. Renewals.

(1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department within 30 days of license expiration.

(2) If the licensing fee and intent to renew are not submitted within 30 days of license expiration, the licensee may not continue to operate.

(3) The board may take into consideration significant violations issued in determining license renewals.

R68-28-[~~19~~]20. Violation Categories.

(1) Public Safety Violations: $3,000- $5,000 per violation. This category is for violations which present a direct threat to public health or safety including:

(a) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with testing requirements;

(e) a test result for high pesticide residue in the cannabis produced or cannabis product;

(f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;

(g) failure to maintain required cleanliness and sanitation standards;

(h) unauthorized personnel on the premises;

(i) permitting criminal conduct on the premises;

(j) possessing, manufacturing, or distributing cannabis products that the person knows or should know appeal to children;

(k) failure to follow an approved recall protocol; or

(l) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, which amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules including:

(a) failure to maintain alarm and security systems;

(b) failure to keep and maintain records for at least two years;

(c) failure to maintain traceability;

(d) failure to follow transportation requirements;

(e) failure to follow the waste and disposal requirements;

(f) failure to maintain separation between cannabis and hemp;

(g) failure to follow labeling and packaging requirements;

(h) failure to meet extraction requirements;

(i) distributing a final cannabis product with an actual weight that is lower than the net weight listed on the cannabis fact panel;

(j) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to a regulatory violation as described in this subsection; or

(k) failure to maintain standardized scales.

(3) Licensing Violations: $500- $5,000 per violation. This category is for violations involving licensing requirements including:

(a) an unauthorized change to the operating plan;

(b) failure to notify the department of changes to the operating plan;

(c) failure to notify the department of changes to financial or voting interests of greater than 2%;

(d) failure to follow the operating plan as approved by the department;

(e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to a licensing violation as described in this subsection; or

(f) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

(5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: cannabis processing, cannabis production establishment
Date of Last Change: [~~October 24, 2022~~]2023
Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R68-29**	**Filing ID: 55345**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	4315 S 2700 W, TSOB South Bldg, Floor 2	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-29. Quality Assurance Testing on Cannabis
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
Changes are needed to make this rule consistent with statute following the passage of S.B. 91 during the 2023 General Session. These changes involve replacing synthetic and derivative cannabinoid references with artificially derived cannabinoid throughout, as well as removing references to use of industrial hemp waste and replacing with cannabinoid isolate.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**
Section R68-29-2 is updated to add a definition for cannabinoid isolate and artificially derived cannabinoid and delete definitions for synthetic and derived cannabinoids as that wording is consistent with current statute. Additionally, language is updated throughout this rule to remove references to synthetic or derived cannabinoids and replace them with artificially derived cannabinoid. In Section R68-29-3, guidelines related to testing of industrial hemp waste are removed and replaced with testing requirements for cannabinoid isolate.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no impact on the state budget. The changes related to industrial hemp waste will have a positive fiscal impact to the Department of Agriculture and Food (Department), however, there will also be additional similar cost related to inspecting cannabinoid isolate.
B) Local governments:
Local governments do not perform medical cannabis testing or regulate testing so they will not be impacted by the rule changes.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
There will be no impact on small businesses because the changes make clarifications to make this rule consistent with current law. The changes related to hemp waste codify current Department practice.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There will be no impact on non-small businesses because the changes make clarifications to make this rule consistent with current law. The changes related to hemp waste codify current Department practice.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Other persons will not be impacted by the changes because they are not licensed medical cannabis establishments.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

Compliance costs will not change because compliance requirements are being clarified rather than changed. Fees charged by the Department will not change.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Utah Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 4-41a-701(3)		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	04/07/2023

R68. Agriculture and Food, Plant Industry.
R68-29. Quality Assurance Testing on Cannabis.
R68-29-1. Authority and Purpose.

Pursuant to Subsection 4-41a-701(3), this rule establishes the standards for cannabis and cannabis product potency testing and sets limits for water activity, foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

R68-29-2. Definitions.

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;
(b) heavy metals;
(c) solvents;
(d) microbial life;
(e) toxins; or
(f) foreign matter.

(2) "Analyte" means a substance or chemical component that is undergoing analysis.

(3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the

molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

([~~3~~]4) "Batch" means a quantity of:

(a) cannabis concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;

(b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis concentrate is used; or

(c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

([4]5) "Cannabinoid" means any:

(a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or

(b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.

([~~5~~]6) "Cannabis" means any part of the marijuana plant.

([~~6~~]7) "Cannabinoid concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; or

(b) any amount of a natural[~~, derivative,~~] or [~~synthetic cannabinoid in the synthetic cannabinoid's purified state~~]artificially derived cannabinoid.

([~~7~~]8) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.

([~~8~~]9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

([~~9~~]10) "Cannabis derivative product" means a cannabis product made using cannabis concentrate.

(11) "Cannabinoid isolate" means a concentrated form of cannabinoid with less than a 0.3% combined concentration of THC or any THC analog that is intended for use as an ingredient in a cannabinoid product but is not grown by a Utah licensed cannabis cultivation facility.

(1[~~0~~]2) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(1[~~1~~]3) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or cannabis concentrate; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.

(1[~~2~~]4) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or delta 9-tetrahydrocannabinol.

(1[~~3~~]5) "CBD" means cannabidiol (CAS 13956-29-1).

(1[~~4~~]6) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).

(1[~~5~~]7) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for the performed testing.

(1[~~6~~]8) "Delta-9-tetrahydracannabinol" or "delta-9-THC" means the cannabinoid identified as CAS #1972-08-03, the primary psychotropic cannabinoid in cannabis.

(1[~~7~~]9) "Department" means the Utah Department of Agriculture and Food.

[~~(18) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.~~]

([~~19~~]20) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.

(2[~~0~~]1) "Foreign matter" means:

(a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or

(b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient, including seeds.

(2[~~1~~]2) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.

[~~(22) "Industrial hemp waste" means:~~

~~(a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp biomass; or~~

~~(b) verified industrial hemp biomass with a total THC concentration of less than 0.3% by dry weight.~~]

(23) "Lot" means the quantity of:

(a) flower from a single strain of cannabis and growing cycle produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

(b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

(24) "Pest" means:

(a) any insect, rodent, nematode, fungus, weed; or

(b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.

(25) "Pesticide" means any:

(a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other forms of plant or animal life that are normally considered to be a pest or that the commissioner declares to be a pest;

(b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

(c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own, used with a pesticide to aid in the application or effect of a pesticide.

(26) "Sampling technician" means a person tasked with collecting a representative sample of a cannabis plant product, cannabis concentrate, or cannabis product from a cannabis production establishment who is:

(a) an employee of the department;

(b) an employee of an independent cannabis laboratory that is licensed by the department to perform sampling; or

(c) a person authorized by the department to perform sampling.

(27) "Standard operating procedure" (SOP) means a document providing detailed instruction for the performance of a task.

[~~(28) "Synthetic cannabinoid" means any cannabinoid that:~~

~~(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and~~

~~(b) is not a derivative cannabinoid.~~]

(2[~~9~~]8) "THC" means delta-9-tetrahydrocannabinol (CAS 1972-08-3).

([~~30~~]29) "THCA" means delta-9-tetrahydrocannabinolic acid (CAS 23978-85-0).

(3[~~1~~]0)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or their naturally occurring acid forms:

(i) cannabichromene (CBC), CAS# 20675-51-8;

(ii) cannabicyclol (CBL), CAS# 21366-63-2;

(iii) cannabidiol (CBD), CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), CAS# 24274-48-4;

(v) cannabielsoin (CBE), CAS# 52025-76-0;

(vi) cannabigerol (CBG), CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), CAS# 55824-11-8;

(viii) cannabinol (CBN), CAS# 521-35-7; or

(ix) cannabivarin (CBV), CAS# 33745-21-0.

(3[~~2~~]1) "Total CBD" means the sum of the determined amounts of CBD and CBDA.

(3[~~3~~]2) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

(3[4]3) "Unit" means each individual portion of an individually packaged product.

(3[~~5~~]4) "Water activity" is a dimensionless measure of the water present in a substance that is available to microorganisms; calculated as the partial vapor pressure of water in the substance divided by the standard state partial vapor pressure of pure water at the same temperature.

R68-29-3. Required Cannabis, Cannabis Product, and [~~Industrial Hemp Waste Tests~~]Cannabinoid Isolate Tests.

(1) Before the transfer of cannabis biomass from a cannabis cultivation facility to a cannabis processing facility, the cultivation facility shall make a declaration to the department that the biomass to be transferred is either a cannabis plant product or a cannabis cultivation byproduct.

(2) A representative sample of each batch or lot of cannabis plant product shall be tested by an independent cannabis testing laboratory to determine:

(a) the water activity of the sample;

(b) the amount of total THC, total CBD, and any THC analog know to be present in the sample; and

(c) the presence of adulterants in the sample, as specified in Table 1.

(3) Required testing shall be performed either:

(a) Before the transfer of the cannabis plant product to a cannabis processing facility; or

(b) following the transfer of the cannabis plant product to a cannabis processing facility.

(4) If cannabis plant product is tested before being transferred to a cannabis processing facility, repeat testing for microbial contaminants and foreign matter shall be performed following the transfer.

(5) Cannabis cultivation byproduct shall either be:

(a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

(b) destroyed pursuant to Section 4-41a-405.

(6) Before its incorporation into a cannabis derivative product, cannabis concentrate shall be tested by an independent cannabis testing laboratory to determine:

(a) the amount of total THC, total CBD, and any THC analog known to be present in the sample; and

(b) the presence of adulterants in the sample, as specified in Table 1.

(c) Any [~~derivative or synthetic~~]artificially derived cannabinoids present in the cannabis concentrate shall be isolated to a purity of greater than 95%, with a 5% margin of error, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

(7) Before the transfer of a cannabis product to a medical cannabis pharmacy a representative sample of the product shall be tested by an independent cannabis testing laboratory to determine:

(a) the water activity of the sample, as determined applicable by the department;

(b) the quantity of any cannabinoid or terpene to be listed on the product label; and

(c) the presence of adulterants in the sample, as specified in Table 1.

(8) Testing results for cannabis concentrate may be applied to cannabis product derived therefrom, provided that the processing steps used to produce the product are unlikely to change the results of the test, as determined by the department.

(9) Mycotoxin testing of a cannabis plant product, or cannabis product may be required if the department has reason to believe that mycotoxins may be present.

(10) Mycotoxin testing shall be required for cannabis concentrate.

(11) A cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards may be remediated by a cannabis cultivation facility or cannabis processing facility after submitting and gaining approval for a remediation plan from the department.

(12) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

(13) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for resampling within 60 days of department approval of the remediation plan.

(14) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

(15) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time period shall be destroyed pursuant to Section 4-41a-405.

(16) If test results cannot be retained in the Inventory Control System, the laboratory shall:

(a) keep a record of test results;

(b) issue a COA for required tests; and

(c) keep a copy of the COA on the laboratory premises.

[~~(17) Plant product that has been classified as industrial hemp waste may enter the state and be held by a medical cannabis cultivation facility until required testing is completed by an~~

~~independent cannabis testing laboratory. A cannabis cultivation facility may not take ownership of the industrial hemp plant product until testing requirements have been met.~~

~~(18) Industrial hemp waste purchased by a cannabis cultivation facility in the form of a plant product or a concentrate must meet department cannabis testing standards as determined by an independent cannabis testing laboratory before its transfer to a cannabis cultivation facility.~~

~~(19) Industrial hemp waste that is transferred to a cannabis cultivation facility will be considered cannabis for all testing and regulatory purposes of the department.~~]

(17) Cannabinoid isolate shall be tested for:

(a) solvents;

(b) pesticides;

(c) microbials;

(d) heavy metals; and

(e) mycotoxins.

(18) Cannabinoid isolate shall be accompanied by a COA that complies with the standards included in Section R68-29-5 through Section R68-29-12.

(19) Cannabinoid isolate shall receive cannabinoid testing from an independent cannabis testing laboratory before being used to create a cannabis derivative product.

TABLE 1
Required Test by Sample Type

Test	Cannabis Plant Product	Cannabis Concentrate	Cannabis Product
Moisture Content	Required	X	X
Water Activity	Required	X	X
Foreign Matter	Required	Required	Required
Potency	Required	Required	Required
Microbial	Required	Required	Required
Pesticides	Required	Required	Required
Residual Solvents	X	Required	Required
Heavy Metals	Required	Required	Required

R68-29-4. Sampling Cannabis and Cannabis Products.

(1) The entity that requests testing of a cannabis plant product lot or cannabis concentrate batch, or cannabis product batch shall make the entirety of the lot or batch available to the sampling technician.

(2) The lot or batch being sampled shall be contained in a single location and physically separated from other lots or batches.

(3) The sample shall be collected by a sampling technician who is unaffiliated with the entity that requested testing of the cannabis lot or cannabis product batch unless an exception is granted by the department.

(4) The owner of the cannabis lot or cannabis product batch and any of their employees shall not assist in the selection of the sample.

(5) The sampling technician shall collect the representative sample in a manner set forth in a SOP, that is ISO 17025 compliant, maintained by the laboratory that will perform the testing.

(6) When collecting the representative sample, the sampling technician shall:

(a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;

(b) place tamper proof tape on the container; and

(c) appropriately label the sample pursuant to Section R68-30-6.

(7) For cannabis plant product lots the minimum representative sample shall be taken according to the following schedule:

(a) 10 subunits with an average weight of one gram each for lots weighing 5 kilograms or less;

(b) 16 subunits with an average weight of one gram each for lots weighing 5.01-9 kilograms;

(c) 22 subunits with an average weight of one gram each for lots weighing 9.01-14 kilograms;

(d) 28 subunits with an average weight of one gram each for lots weighing 14.01-18 kilograms;

(e) 32 subunits with an average weight of one gram each for lots weighing 18.01-23 kilograms.

(8) For cannabis concentrate the minimum representative sample shall be taken according to the following schedule:

(a) 10 mL or grams for batches of one liter or kilogram or less; or

(b) 20 mL or grams for batches of four liters or kilograms or less.

(9) For cannabis products in their final product form the following minimum number of sample units must be taken, the combined total weight of which must be at least 10 grams, not including packaging materials:

(a) four units for a sample product batch with 5-500 products;

(b) six units for a sample product batch with 501-1000 products;

(c) eight units for a sample product batch with 1,001-5,000 products; and

(d) ten units for a sample product batch with 5,001-10,000 products.

(10) Additional material may be included in the representative sample if the material is necessary to perform the required testing.

R68-29-5. Moisture Content Testing and Water Activity Standards.

(1) The moisture content of a sample and related lot of cannabis shall be reported on the COA as a mass over mass percentage.

(2) A sample and related lot of cannabis fail quality assurance testing if the water activity of the representative sample is found to be greater than 0.65.

(3) A sample and related cannabis or cannabinoid product batch intended for human consumption fail quality assurance testing if the water activity of the representative sample is greater than 0.65, unless water is a component of the product formulation and is listed as an ingredient.

R68-29-6. Foreign Matter Standards.

(1) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing if:

(a) the sample contains foreign matter visible to the unaided human eye;

(b) the sample is found to contain microscopic foreign matter considered to be harmful or estimated to comprise greater than

3% of the mass of the representative sample as determined by the testing laboratory; or

(c) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

R68-29-7. Potency Testing.

A lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall have its potency determined and listed on a COA as total THC, total CBD, and the total concentration of any THC analog known to be present.

R68-29-8. Microbial Standards.

(1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table 2.

(2) Each sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall be tested for total aerobic microbial count and total combined yeast and mold. The specific pathogens listed in Table 2 may be tested for at the discretion of the department.

TABLE 2
Microbial Analytes and Action Levels

Material	Microbial Limit Requirement (cfu)
Cannabis Plant Product	Total Aerobic Microbial Count ≤100,000 Absence of E. Coli and Salmonella spp. Absence of Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus
Cannabinoid Concentrate	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of STEC Absence of Pseudomonas Absence of Staph
Orally Consumable Products	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of E. Coli and Salmonella spp. Absence of Staph
Transdermal -Products	Total Aerobic Microbial Count ≤250 Total Yeast and Mold Count ≤250 Absence of Pseudomonas Absence of Staph

R68-29-9. Pesticide Standards.

(1) Only pesticides allowed by the department may be used in the cultivation of cannabis.

(2) If an independent cannabis laboratory identifies a pesticide that is not allowed under Subsection R68-29-5(1) and is above the action levels provided in Subsection R68-29-5(3) that lot or batch from which the sample was taken has failed quality assurance testing.

(3) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing for pesticides if the results exceed the limits as set forth in Table 3.

TABLE 3
Pesticide Analytes and Action Levels

Analyte	Chemical Abstract Service	Action Level
	(CAS) Registry number	ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
hexythiazox	78587-05-0	1
imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl_butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2

Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

(4) Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8).

(5) Pyrethrins should be measured as the cumulative residues of pyrethrin I (CAS 121-21-1), pyrethrin II (CAS 121-29-9), cinerin 1 (CAS 25402-06-6), and jasmolin 1 (CAS 4466-14-2).

(6) Abamectin is a composite of the amounts of avermectin B1a and avermectin B1b.

R68-29-10. Residual Solvent Standards.

(1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table 4 unless the solvent is:

(a) a component of the product formulation;

(b) listed as an ingredient; and

(c) generally considered to be safe for the intended form of use.

TABLE 4 List of Solvents and Action Levels		
Solvent	Chemical Abstract Service	Action level
	(CAS)Registry number	Ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone	78-93-3	5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	-75-83-2	290
2,3-dimethylbutane	-79-29-8	-290
1,2-dimethylbenzene	-95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	-106-42-3	See Xylenes
Dimethyl sulfoxide	-67-68-5	-5,000
Ethanol	-64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	-100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	290	5,000
Methanol	67-56-1	3,000
Methylpropane	75-28-5	5,000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

(2) Xylenes is a combination of the following:

(a) 1,2-dimethylbenzene;

(b) 1,3-dimethylbenzene;

(c) 1,4-dimethylbenzene; and

(d) ethyl benzene.

R68-29-11. Heavy Metal Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, [~~or~~]cannabis product, or vaporizer cartridges fail quality assurance testing for heavy metals if the results exceed the limits provided in Table 5.

TABLE 5 Heavy Metals	
Metals	Natural Health Products Acceptable
	limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

R68-29-12. Mycotoxin Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for mycotoxin if the results exceed the limits provided in Table 6.

TABLE 6 Mycotoxin	
Test	Specification
The Total of	
Aflatoxin B1,	
Aflatoxin B2,	
Aflatoxin G1, and	
Aflatoxin G2	<20 ppb of substance
Ochratoxin A.	-<20 ppb of substance

KEY: cannabis testing, quality assurance, cannabis laboratory
Date of Last Change: [~~April 21, 2023~~]2023

Authorizing, and Implemented or Interpreted Law: 4-41a-701(3)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R68-30**	**Filing ID: 55344**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Street address:	4315 S 2700 W, TSOB South Bldg, Floor 2
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:

Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R68-30. Independent Cannabis Testing Laboratory

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Changes are needed to make this rule consistent with the current statute following the passage of S.B. 91 during the 2023 General Session.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

In Section R68-30-7, clarifications have been made to the language regarding laboratory agents based on statutory changes that tie agent registration to individuals rather than cannabis production establishments.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The changes clarify existing requirements and will not impact the state budget.

B) Local governments:

Local governments will not be impacted because they do not operate as laboratories or regulate laboratories in the state.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There will be no impact to small businesses because the requirements of the program will not change. Agent requirements are just clarified.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There will be no impact to non-small businesses because the requirements of the program will not change. Agent requirements are just clarified.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There will be no impact to other persons because the requirements of the program will not change. Agent requirements are just clarified.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

Compliance requirements to operate as a laboratory and fees charged by the Department of Agriculture and Food will not change with these rule changes.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0

Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 4-41a-103(5)		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	04/18/2023

R68. Agriculture and Food, Plant Industry.
R68-30. Independent Cannabis Testing Laboratory.
R68-30-1. Authority and Purpose.

Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain an independent cannabis testing laboratory license.

R68-30-2. Definitions.

(1) "Applicant" means any person or business entity who applies for a cannabis processing facility license.

(2) "Batch" means a quantity of:

(a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;

(b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or

(c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

(3) "Cannabis" means any part of a marijuana plant.

(4) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.

(5) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4 Chapter 41, Hemp and Cannabinoid Act;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy.

(6) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual may act as an agent.

(7) "Department" means the Utah Department of Agriculture and Food.

(8) "Independent cannabis testing laboratory" means a person who:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(9) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(10) "Lot" means the quantity of:

(a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

(b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

R68-30-3. Independent Testing Laboratory License.

(1) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis cultivation facility to conduct testing as required by Subsection 4-41a-701(2) and Rule R68-29.

(2) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis processing facility to conduct testing as required by Subsection 4-41a-701(2) and Rule R68-29.

(3) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis cultivation facility and a cannabis processing facility to conduct the additional test as requested.

(4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

(5) Before approving an application, the department may contact any applicant and request additional supporting documentation or information.

(6) Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

(7) The department may conduct face-to-face interviews with an applicant if needed to determine the best-qualified applicant for the number of licenses needed.

(8) The license shall expire 12 months from the date on which the license is issued.

(9) An application for renewals shall be submitted to the department no later than 30 days before the license expiration date.

(10) If the renewal application is not submitted 30 days before the expiration date the licensee may not continue to operate.

(11) An independent cannabis testing laboratory license is not transferable or assignable. If the ownership of an independent cannabis testing laboratory changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.

R68-30-4. Independent Cannabis Testing Laboratory Requirements.

(1) An independent testing laboratory shall employ a scientific director responsible for:

(a) ensuring that the laboratory achievement and maintenance of quality standards of practice; and

(b) supervising laboratory staff.

(2) The scientific director for an independent laboratory shall have:

(a) a doctorate in chemical or biological sciences from an accredited college or university and have at least 2 years of post-degree laboratory experience;

(b) a master's degree in chemical or biological sciences from an accredited college or university and have at least 4 years of post-degree laboratory experience; or

(c) a bachelor's degree in chemical or biological sciences from an accredited college or university and have a least 6 years of post-degree laboratory experience.

(3) An independent cannabis testing laboratory shall follow validated analytical methods, such as those published by the Association of Official Agricultural Chemists (AOAC), American Herbal Pharmacopoeia, EPA, FDA, or other reputable scientific organizations or notify the department of alternative scientifically valid testing methodology the lab is following for each required test.

(4) An independent cannabis testing laboratory may not use an alternative testing method without earlier review from the department.

(5) The department shall review any monograph or analytical method followed by an independent cannabis testing laboratory to ensure the methodology produces scientifically accurate results before the use of alternative testing methods to conduct the required tests.

(6) An independent cannabis testing laboratory shall establish written standard operating procedures for each test being conducted.

(7) An independent cannabis testing laboratory shall maintain an average testing turnaround time below ten business days within any three- month period.

(8) An independent cannabis testing laboratory shall obtain and keep the International Organization for Standardization (ISO) 17025:2017 accreditation.

(9) An independent cannabis testing laboratory may be licensed before ISO 17025:2017 accreditation provided the independent cannabis testing laboratory:

(a) adopt and follow minimum good laboratory practices which satisfy the OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and Development; and

(b) becomes ISO 17025:2017 accredited within 24 months.

(10) The department incorporates the following materials by reference:

(a) Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control (2014 Revisions) published by the American Herbal Pharmacopoeia; and

(b) OECD Principles of Good Laboratory Practice and Compliance Monitoring (1997) published by the Organization for Economic Co-operation and Development.

(11) An independent cannabis testing laboratory shall have written emergency procedures to be followed in case of:

(a) fire;

(b) chemical spill; or

(c) other emergencies at the laboratory.

(12) An independent cannabis testing laboratory shall compartmentalize each area in the facility based on function and shall limit access to the compartments to the appropriate authorized agents.

R68-30-5. Security Requirements.

(1) At a minimum, a licensed independent cannabis testing laboratory shall have a security alarm system on each perimeter entry point and perimeter window.

(2) At a minimum, a licensed independent cannabis testing laboratory shall have complete video surveillance system:

(a) with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog[,]; and

(b) that retains footage for at least 45 days;

(3) Cameras shall:

(a) be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas; and

(b) record continuously.

(4) Controlled areas included:

(a) entrances and exits;

(b) any areas where cannabis or cannabis products are stored;

(c) any areas where cannabis or cannabis products are being tested; and

(d) any areas where cannabis waste is being moved, processed, stored, or destroyed.

(5) If an independent cannabis testing facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(6) If an independent cannabis testing laboratory stores footage on a remote server, access shall be restricted to protect from employee tampering.

(7) Any entry point must be lighted in low-light conditions sufficient to record activity occurring.

(8) Any visitors to an independent cannabis testing laboratory shall be required to have a properly displayed identification badge issued by the facility at all times while on the premises of the facility.

(9) Any visitors shall be escorted by an independent cannabis facility agent at all times while in the facility.

(10) An independent cannabis testing laboratory shall keep and maintain a visitor's log showing:

(a) the full name of each visitor entering the facility;

(b) the badge number issued;

(c) the time of arrival;

(d) the time of departure[~~,~~]; and

(e) the purpose of the visit.

(11) The independent cannabis testing laboratory shall keep the visitors log for a minimum of a year.

(12) The independent cannabis testing laboratory shall make the visitor log available to the department upon request.

R68-30-6. Inventory Control.

(1) Each test sample shall have a unique identification number in the inventory control system.

(2) Each test sample shall be traceable to the lot or batch used as the base material from the cannabis production establishment.

(3) Unique identification numbers may not be reused.

(4) Each test sample that has been issued a unique identification number shall have a physical tag placed on it with:

(a) the unique identification number;

(b) the license number and name of the lab receiving the test sample;

(c) the license number and name of the cannabis production establishment name;

(d) the date the test sample was collected; and

(e) the weight of the sample.

(5) The tag shall be legible and placed in a position that can be clearly read and shall be kept free from dirt and debris.

(6) The following shall be reconciled in the inventory control system at the close of business each day:

(a) the date and time the test sample was received;

(b) each sample used for testing and the test results;

(c) the identity of the agent conducting the test;

(d) a complete inventory of cannabis test samples;

(e) the weight and disposal of cannabis waste materials;

(f) the identity of who disposed of the cannabis waste; and

(g) the theft or loss or suspected theft or loss of test sample.

(7) An independent cannabis testing laboratory shall document in the inventory tracking system any test samples received, and any difference between the quantity specified in the transport and quantities received.

R68-30-7. Independent Cannabis Testing Laboratory Agents.

(1) [~~An~~]A prospective independent cannabis testing laboratory agent shall apply to the department for a cannabis [~~establishment~~]testing laboratory agent registration card on a form provided by the department.

(2) An application is not considered complete until the background check has been completed, [~~and~~]the [~~independent cannabis testing laboratory has paid~~]the registration fee has been paid, and the prospective agent has submitted the required training certificate.

(3) The cannabis establishment agent registration card shall contain:

(a) the agent's full name;

(b)[~~ the name of the cannabis processing establishment; and~~] identifying information; and

(c) a photograph of the agent.

(4) An independent cannabis testing laboratory is responsible to ensure that each agent has received[~~:~~

~~a) the department approved training as specified in Section 4-41a-301; and~~

~~b)~~] any task-specific training as outlined in the operating plan submitted to the department.

(5) An independent cannabis testing agent shall have a properly displayed identification badge which has been issued by the department while on the facility premises or while engaged in the transportation of cannabis.

(6) Cannabis [~~production establishment~~]testing laboratory agents shall have their state-issued identification card in their possession to certify the information on their badge is correct.

(7) [~~An agent's identification badge shall be returned to the department immediately upon termination of their employment with the independent cannabis testing laboratory~~]Each cannabis testing laboratory shall maintain a list of each employee that holds a cannabis testing laboratory agent registration card and provide the list to the department upon request.

R68-30-8. Transportation.

(1) A printed transport manifest shall accompany every transport of cannabis.

(2) The manifest shall contain the following information:

(a) the cannabis production establishment address and license number of the departure location;

(b) physical address and license number of the receiving location;

(c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;

(d) date and time of departure;

(e) estimated date and time of arrival; and

(f) name and signature of each agent accompanying the cannabis.

(3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.

(4) A copy of the transport manifest shall be given to the independent laboratory.

(5) The receiving independent laboratory shall ensure that the cannabis material received is as described in the transport

manifest and shall record the amounts received for each strain into the inventory control system.

(6) The receiving independent laboratory shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

(7) During transport an independent cannabis testing laboratory agent shall ensure the cannabis is:

(a) shielded from the public view;

(b) secured; and

(c) temperature controlled if perishable.

(8) An independent cannabis testing laboratory shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

(9) Only the registered agents of the independent cannabis testing laboratory may occupy a transporting vehicle.

R68-30-9. Cannabis Waste Disposal.

(1) Solid and liquid wastes generated during cannabis testing shall be stored, managed, and disposed of in accordance with applicable state law[~~s and regulations~~].

(2) Waste water generated during cannabis testing shall be disposed of in compliance with applicable state law[~~s and regulations~~].

(3) Cannabis waste generated from the cannabis plant, trim, and leaves are not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

(4) Cannabis waste shall be made[~~rendered~~] unusable before leaving the independent cannabis testing laboratory.

(5) Cannabis waste, which is not designated as hazardous, shall be made[~~rendered~~] unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department before implementation.

(6) Materials used to grind and incorporate with cannabis fall into two categories:

(a) compostable; or

(b) non-compostable.

(7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(a) food waste;

(b) yard waste; or

(c) vegetable-based grease or oils.

(8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(a) paper waste;

(b) cardboard waste;

(c) plastic waste; or

(d) soil.

(9) Cannabis waste includes:

(a) cannabis plant waste including roots, stalks, leaves, and stems;

(b) excess cannabis or cannabis products from any quality assurance testing;

(c) cannabis or cannabis products that fail to meet testing requirements; and

(d) cannabis or cannabis products subject to a recall.

R68-30-10. Change in Operation Plans.

(1) An independent cannabis testing laboratory shall submit a notice, on a form provided by the department, before making any changes to:

(a) ownership or financial backing of the facility;

(b) the facility's name;

(c) a change in location;

(d) change in testing methods, equipment, remodeling, expansion, reduction or physical, non-cosmetic alteration of the lab; or

(e) change in written operating procedures.

(2) An independent cannabis testing laboratory may not implement changes to the approved operation plan without department approval.

(3) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

(4) The department shall specify the reason for the denial of approval for a change to the operation plan.

R68-30-11. Renewals.

(1) An independent cannabis testing laboratory shall submit a notice of intent to renew and the licensing fee to the department by their license expiration date.

(2) If the licensing fee and intent to renew are not submitted on or before the expiration date, the licensee may not continue to operate.

(3) The department shall renew a license unless renewal would lead to a violation of the applicable laws and rules of the state.

R68-30-12. Proficiency Testing.

(1) The department shall establish a proficiency testing program for independent cannabis testing laboratories.

(2) Each independent cannabis testing laboratory shall participate in the designated proficiency testing program with satisfactory performance as determined by the Department.

R68-30-13. Violation Categories.

(1) Public Safety Violations: $3,000- $5,000 per violation. This category is for violations which present a direct threat to public health or safety including:

(a) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) refusal to participate in proficiency testing;

(e) failure to comply with testing requirements;

(f) failure to report testing results;

(g) unauthorized personnel on the premises;

(h) permitting criminal conduct on the premises;

(i) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, that amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules including:

(a) failure to maintain alarm and security systems;

(b) failure to keep and maintain records for at least two years;

(c) failure to maintain traceability;

(d) failure to follow transportation requirements;

(e) failure to follow the waste and disposal requirements; or

(f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule that amounts to a regulatory violation as described in this subsection.

(3) Licensing Violations: $500- $5,000 per violation. This category is for violations involving licensing requirements including:

(a) an unauthorized change to the operating plan;

(b) failure to notify the department of changes to the operating plan;

(c) failure to notify the department of changes to financial or voting interests of greater than 2%;

(d) failure to follow the operating plan as approved by the department;

(e) engaging in or permitting a violation of this rule or Title 4, Chapter 41, Cannabis Production Establishments, that amounts to a licensing violation as described in this subsection; or

(f) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

KEY: cannabis laboratory, cannabis testing
Date of Last Change: [~~June 8, 2022~~]2023
Authorizing, and Implemented or Interpreted Law: 4-41a-701(3); 4-41a-404(3); 4-41a-405(2)(b)(iv); 4-41a-103(5)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R317-4**	**Filing ID: 55391**

Agency Information

1. Department:	Environmental Quality	
Agency:	Water Quality	
Room number:	DEQ, Third Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144870	
City, state and zip:	Salt Lake City, Utah 84114-4870	
Contact persons:		
Name:	**Phone:**	**Email:**
Robert Beers	385-501-9580	rbeers@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R317-4. Onsite Wastewater Systems
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The purpose of the amendment is to incorporate up-to-date industry equipment, standards, and practices not previously addressed.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**
This filing adds requirements that allow membrane bioreactor alternative onsite wastewater systems. It would also add definitions and sections for design, installation, construction, operation, and maintenance of membrane bioreactor alternative onsite wastewater systems. This rule is also revised for added compliance with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amended rule does not require construction or installation of any onsite wastewater system. Installation or construction of any onsite wastewater system at any state facilities is optional. Costs to the state would be subject to local health department rules, ordinances, and fees for permitting and initial installation costs only for facilities where any onsite wastewater system may be installed. Such costs are inestimable, but vary by the size of the onsite wastewater system to be installed and the installation equipment selected for use. Ongoing maintenance costs are anticipated to be an insignificant addition to typical onsite system maintenance costs. A benefit to the state may be realized through improved groundwater quality due to increased use of alternative onsite wastewater technology. Such savings will vary by the volume of water treated by the alternative onsite system.
B) Local governments:
Costs are inestimable as all local health departments are required to have alternative onsite wastewater system programs. Local health departments can choose to approve or disallow any new alternative onsite wastewater system technology.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
Costs to small businesses are subject to local health department rules, ordinances, and fees for permitting and initial installation costs only for businesses that choose to install onsite wastewater systems. Such costs are inestimable, but will vary by the size and type of the onsite wastewater systems to be installed. Ongoing

maintenance costs for new technology included in the amended rule are not anticipated to be significantly different in comparison to ongoing maintenance costs for other alternative onsite wastewater systems.

Savings to small businesses may be realized through the increased use of treated wastewater used for subsurface landscape irrigation. This could result in reduced charges for landscape watering by local utilities. Such savings will vary by the volume of water treated by alternative onsite wastewater systems.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

Costs to non-small businesses are subject to local health department rules, ordinances, and fees for permitting and initial installation costs only for entities that choose to install onsite wastewater systems. Such costs are inestimable, but will vary by the size and type of the onsite wastewater systems to be installed. Ongoing maintenance costs for new technology included in the amended rule are not anticipated to be significantly different in comparison to ongoing maintenance costs for other alternative onsite wastewater systems.

Savings to non-small businesses may be realized through the increased use of treated wastewater used for subsurface landscape irrigation. This could result in reduced charges for landscape watering by local utilities. Such savings will vary by the volume of water treated by alternative onsite wastewater systems.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Costs for residential property owners are subject to local health department rules, ordinances, and fees for permitting and initial installation costs only when they choose to install onsite wastewater systems. Such costs are inestimable, but will vary by the size and type of the onsite wastewater systems to be installed. Ongoing maintenance costs for new technology included in the amended rule are not anticipated to be significantly different in comparison to ongoing maintenance costs for other alternative onsite wastewater systems.

Savings to residential property owners may be realized through the increased use of treated wastewater used for subsurface landscape irrigation. This could result in reduced charges for landscape watering by local utilities. Such savings will vary by the volume of water treated by alternative onsite wastewater systems.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

Costs for business or residential property owners are subject to local health department rules, ordinances, and fees for permitting and initial installation costs only when they choose to install onsite wastewater systems. Such costs are inestimable, but will vary by the size and type of the onsite wastewater systems to be installed. Ongoing maintenance costs for new technology included in the amended rule are not anticipated to be significantly different in comparison to ongoing maintenance costs for other alternative onsite wastewater systems.

Savings to business, or residential property owners may be realized through the increased use of treated wastewater used for subsurface landscape irrigation. This could result in reduced charges for landscape watering by local utilities. Such savings will vary by the volume of water treated by alternative onsite wastewater systems.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kimberly D Shelley, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Title 19, Chapter 5		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/15/2023

9. This rule change MAY become effective on:	06/29/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	John K. Mackey, Division Director	**Date:**	05/01/2023

R317. Environmental Quality, Water Quality.
R317-4. Onsite Wastewater Systems.
R317-4-1. Authority, Purpose, Scope, and Administrative Requirements.

(1)[~~1.1 Authorization.~~]_This[~~ese~~] rule[~~s are~~] is[~~ administered by the division~~] authorized by Title 19, Chapter 5, Water Quality Act.

(2) [~~1.2. Purpose.~~]The purpose of this rule is to protect the public health and environment from potential adverse effects from onsite wastewater disposal within the boundaries of Utah.

(3) [~~1.3. Scope.~~]This rule shall apply to any onsite wastewater system[~~s~~].

(4) [~~1.4. Jurisdiction.~~]Local health departments have jurisdiction to administer this rule. Nothing contained in this rule shall be construed to prevent local health departments from:

(a)[~~A.~~] adopting stricter requirements than those contained [~~herein~~]in this rule;

(b)[~~B.~~] issuing an operating permit, with a term not exceeding five years, with an inspection showing a satisfactory performance of the permitted system by the department's staff before renewal;

(c)[~~C.~~] taking necessary steps for ground water quality protection:

(i)[~~1.~~] through adoption of a ground water quality protection management policy based on a ground water management study; or

(ii)[~~2.~~] by an onsite wastewater systems management planning policy and land use planning through the county's agency;

(d)[~~D.~~] prohibiting any alternative system within its jurisdiction;

(e)[~~E.~~] assessing administrative fees[~~ for administration of this rule~~];

(f)[~~F.~~] requiring [~~the~~]any onsite system[~~s~~] within its jurisdiction to be [~~placed under an umbrella of~~]managed by a:

(i)[~~1.~~] responsible management entity overseen by the local health department;

(ii)[~~2.~~] contract service provider overseen by the local health department; or

(iii)[~~3.~~] management district body politic created by the county for [~~the purpose of~~]operating[~~on~~], maintaining[~~enance~~], repairing[~~s~~] and monitoring[~~ of~~] alternative or all onsite wastewater systems;

(g)[~~G.~~] requiring any conventional and alternative system[~~s~~] to be serviced; [~~and~~]or

(h)[~~H.~~] receiving a request for a variance, conducting a review, and granting either an approval or denial.

(5)[~~1.5. Alternative System Administration.~~]_Local health departments shall administer an alternative onsite wastewater system[~~s~~] program.

(a)[~~A. The~~]_A local [~~board of~~]health department may restrict its administration of [~~these~~]alternative onsite wastewater systems by notifying the division that it is exempt from this requirement by:

(i)[~~1.~~] adopting a resolution or regulation; or

(ii)[~~2.~~] presenting an ordinance.

(b)[~~B.~~] An alternative onsite wastewater system[~~s~~] program shall:

(i)[~~1.~~] advise the owner of the:

(A)[~~a.~~] type of alternative onsite wastewater system;

(B)[~~b.~~] information concerning risk of failure;

(C)[~~c.~~] level of maintenance required;

(D)[~~d.~~] financial liability for repair, modification or replacement of a failed system; and

(E)[~~e.~~] periodic monitoring requirements;

(ii)[~~2.~~] ensure that a [~~N~~]notice of the existence of the alternative onsite wastewater system is recorded in the chain of title for that property;

(iii)[~~3.~~] provide oversight of installed alternative onsite wastewater systems;

(iv)[~~4.~~] inspect any[~~ll~~] installed alternative onsite wastewater system[~~s~~] at frequency specified in this rule, through:

(A)[~~a.~~] the department's staff;

(B)[~~b.~~] contracted service providers;

(C)[~~c.~~] responsible management entity[~~ies~~]; or

(D)[~~d.~~] a management district body politic created by the county for[~~ the purpose of~~] managing onsite wastewater systems;[~~ or e. any combination of the above options;~~]

(v)[~~5.~~] maintain records of all installed alternative onsite wastewater system[~~s~~], failures, modifications, repairs and all inspections, recording the condition of the system at the time of inspection, such as overflow, surfacing, ponding, and nuisance;

(vi)[~~6.~~] submit an annual report to the division on or before September 1 for the previous [~~state of~~]Utah fiscal year's activities showing:

(A)[~~a.~~] the type and number of alternative onsite wastewater systems approved, installed, modified, repaired, failed, and inspected;

(B)[~~b.~~] a summary of enforcement actions taken, pending and resolved; and

(C)[~~c.~~] a summary of performance of water quality data collected; and

(vii)[~~7.~~] require any[~~ll~~] alternative onsite wastewater system[~~s~~] to be inspected and serviced as detailed in Section R317-4-13 Table 7 and Section R317-4-11.

(6)[~~1.6. Variance Administration Authority.~~]The [~~Water Quality Board~~]division delegates the authority to grant or deny any variance[~~s~~] to the design requirements provided for in this rule to the local health departments. The [~~board~~]division may amend, suspend, or rescind this delegation of authority to a local health department if it [~~is~~]determines[~~d~~] that the local health department is not accepting or conducting onsite wastewater system reviews as described in Section R317-4-12.

(a)[~~A.~~] The local health department having jurisdiction shall accept any application[~~s~~] for variance request[~~s~~] on any lot[~~s~~] that [~~are~~]is deemed not feasible for permitting an onsite wastewater system. Upon completion of a review, the local health department [~~will~~]shall grant or deny a variance to this rule as outlined in Section R317-4-12. The local health department also [~~will~~]shall submit an annual report of completed variance determinations to the division.

(b)[~~B.~~] If a local health department fails to evaluate any variance request[~~s~~] according to Section R317-4-12, the director shall notify the local health department. The director[~~ on behalf of the board~~] may thereafter amend, suspend, or rescind the delegation of variance authority to the local health department. The variance authority would then revert to the division, and any variance request[~~s~~] [~~wi~~]shall be reviewed as follows:[~~.~~]

(i)[~~1.~~] The director may appoint a variance advisory committee to consider variance requests and make recommendations to the director. Any such advisory committee shall include at least one representative from a local health department. The director may refer any variance request to the variance advisory committee.

(ii)[~~2.~~] Upon review of the recommendation submitted by the variance advisory committee, the director shall [~~render~~]provide a written determination of the requested variance. If no committee was appointed by the director, the director shall [~~render~~]provide a written determination. Written determinations must be given within 180 days of the receipt of a complete and technically adequate variance request.

(iii)[~~3.~~] The director's final written determination [~~will~~]shall be forwarded to the local health department that has jurisdiction. The local health department is not required to approve or deny an operating or construction permit based on the director's determination of a variance request.

R317-4-2. Definitions.

(1) "Absorption area" means the entire area used for the subsurface treatment and dispersion of effluent by an absorption system.

(2) "Absorption bed" means an absorption system consisting of large excavated areas utilizing drain media or chambers.

(3) "Absorption system" means a covered system constructed to receive and to disperse effluent, from gravity or a pump, in such a manner that the effluent is effectively filtered and retained below the ground surface.

(4) "Absorption trench" means an absorption system consisting of a series of narrow excavated trenches utilizing drain media, chambers, or bundled synthetic aggregate units.

(5) "Alternative onsite wastewater system" means an onsite wastewater system that is not a conventional onsite wastewater system.

(6) "At-grade system" means an alternative onsite wastewater system where the bottom of the absorption system is placed at or below the elevation of the existing site grade, and the top of the distribution pipe is above the elevation of existing site grade, and the absorption system is contained within fill that extends above that grade.

(7) "Barrier material" means an effective, pervious material such as an acceptable synthetic filter fabric, or a two-inch layer of compacted straw.

(8) "Bedrock" means the rock, usually solid, that underlies soil or other unconsolidated, superficial material.

(9) "Bedroom" means any portion of a dwelling that is so designed as to furnish the minimum isolation necessary for use as a sleeping area. It may include a den, study, sewing room, or sleeping loft. Unfinished basements shall be counted as a minimum of one additional bedroom.

(10) [~~"Board" means the Utah Water Quality Board.~~]"Body politic" means the state or its agencies or any political subdivision of the state to include a county, city, town, improvement district, taxing district or other governmental subdivision or public corporation of the state.

(11) "Building sewer" means the pipe that carries wastewater from the building to a public sewer, an onsite wastewater system or other point of dispersal. It is synonymous with "house sewer."[~~.~~]

(12) "Bundled synthetic aggregate trench" means an absorption trench utilizing bundled synthetic aggregate units.

(13) "Bundled synthetic aggregate unit" means a cylindrically shaped manufactured unit of synthetic aggregate enclosed in polyolefin netting, which may contain a perforated pipe.

(14) "Chamber" means an open bottom, chambered structure of an approved material and design.

(15) "Chambered trench" means an absorption trench utilizing chambers.

(16) "Cleanout" means a device designed to provide access for removal of deposited or accumulated materials, generally from a pipe.

(17) "Closed loop distribution" means a distribution method where the absorption system layout has the inlet and outlet ends of each lateral connected creating a complete and continuous pathway for effluent flow.

(18) "Coarse drain media" means drain media ranging from 3/4 to 12 inches in diameter.

(19) "Condominium" means the ownership of a single unit in a multi-unit project together with an undivided interest in common, in the common areas and facilities of the property.

(20) "Connecting trench" means an absorption trench that is used to connect other absorption trenches, is less than 20 feet in length, and may be used to calculate total required absorption area.

(21) "Construction permit" means the permit that authorizes an onsite wastewater system to be installed according to an approved design. An additional construction permit may also authorize activities associated with the repair or alteration of a malfunctioning or failing system.

(22) "Conventional onsite wastewater system" means an onsite wastewater system typically consisting of a building sewer, a

septic tank, and an absorption system utilizing absorption trenches, absorption beds, deep wall trenches, or seepage pits.

(23) "Cover" means soils used to overlay the absorption area that is free of large stones 10 inches diameter or larger, frozen clumps of earth, masonry, stumps, or waste construction material, or other materials that could damage the system.

(24) "Curtain drain" means any ground water interceptor or drainage system that is backfilled with gravel or other suitable material and is intended to interrupt or divert the course of shallow ground water or surface water away from the onsite wastewater system.

(25) "Designer" means a person who fulfills the requirements of Rule R317-11.

(26) "Deep wall trench" means an absorption system consisting of deep excavated trenches utilizing coarse drain media, with a minimum sidewall absorption depth of 24 inches of suitable soil formation below the distribution pipe.

[~~"Director" means the director of the Division of Water Quality or, for purposes of groundwater quality at a facility licensed by and under the Division of Radiation Control, the director of the Division of Radiation Control.~~

](27) "Distribution box" means a watertight structure that receives effluent and distributes it concurrently, in essentially equal portions, into two or more pipes leading to an absorption system.

(28) "Distribution pipe" means an approved pipe, solid or perforated, used in the dispersion of effluent in an absorption system.

(29) "Diversion valve" means a watertight structure that receives effluent through one inlet and distributes it to two or more outlets, only one of which is used at a time.

[~~"Division" means the Utah Division of Water Quality.~~

](30) "Domestic wastewater" means a combination of the liquid or water-carried wastes from residences, business buildings, institutions, and other establishments with installed plumbing facilities, excluding non-domestic wastewater. It is synonymous with the term "sewage."[~~.~~]

(31) "Drain media" means media used in an absorption system. It shall consist of stone, crushed stone, or gravel, ranging from 3/4 to 2-1/2 inches in diameter. It shall be free from fines, dust, sand or organic material and shall be durable and inert so that it [~~will~~]maintains its integrity, will not collapse or disintegrate with time. The maximum fines in the media shall be 2% by weight passing through a US Standard #10 mesh or 2 millimeter sieve. It shall be protected by a barrier material.

(32) "Drainage system" means all the piping within public or private premises that conveys sewage or other liquid wastes to a legal point of treatment and dispersal, but does not include the mains of a public sewer system or a public sewage treatment or disposal plant.

(33) "Drop box" means a watertight structure that receives septic tank effluent and distributes it into one or more distribution pipes, and into an overflow leading to another drop box and absorption system located at a lower elevation.

(34) "Dry wash" means the dry bed of an ephemeral stream that flows only after heavy rains and is often found at the bottom of a canyon.

(35) "Dwelling" means any structure, building, or any portion thereof that is used, intended, or designed to be occupied for human living purposes including houses, mobile homes, hotels, motels, and apartments.

(36) "Effluent" means the liquid discharge from any treatment unit including a septic tank.

(37) "Effluent pump" means a pump used to lift effluent.

(38) "Effluent sewer" means solid pipe that carries effluent to the absorption system.

(39) "Ejector pump" means a device to elevate or pump sewage to a septic tank, public sewer, or other means of disposal.

(40) "Ephemeral stream" means a stream that flows for a [~~small~~]short period[~~ of time~~], a week or less, after a precipitation event.

(41) "Excessively permeable soil" means soils having an excessively high permeability, such as cobbles or gravels with little fines and large voids, and having a percolation rate faster than 1 minute per inch.

(42) "Experimental onsite wastewater system" means an onsite wastewater treatment and absorption system that is still in experimental use and requires further testing [~~in order~~]to provide sufficient information to determine its acceptance.

(43) "Filter fabric" means a synthetic, non-degradable woven or spun-bonded sheet material that has adequate tensile strength to prevent ripping during installation and backfilling, adequate permeability to allow free passage of water and gases; and adequate particle retention to prevent downward migration of soil particles into the absorption system. The minimum physical properties for the fabric shall be 4.0 ounces per square yard or equivalent.

(44) "Ground water" means that portion of subsurface water that is in the zone of soil saturation.

(45) "Ground water table" means the surface of a body of unconfined ground water in which the pressure is equal to that of the atmosphere.

(46) "Ground water table, perched" means unconfined ground water separated from an underlying body of ground water by an unsaturated zone. It is underlain by a restrictive strata or impervious layer. Perched ground water may be either permanent, where recharge is frequent enough to maintain a saturated zone above the perching bed, or temporary, where intermittent recharge is not great or frequent enough to prevent the perched water from disappearing from time to time as a result of drainage over the edge of or through the perching bed.

(47) "Gulch" means a small rocky ravine or a narrow gorge, especially one with an ephemeral stream running through it.

(48) "Gully" means a channel or small valley, especially one carved out by persistent heavy rainfall or an ephemeral stream.

(49) "Impervious strata" means a layer that prevents water or root penetration. In addition, it shall be defined as unsuitable soils or soils having a percolation rate slower than 60 minutes per inch for conventional systems.

(50) "Installer" means a qualified person with an appropriate contractor's license and knowledgeable in the installation or repair of an onsite wastewater system or its components.

(51) "Intermittent stream" means a stream that flows for a period longer than an ephemeral stream on a seasonal basis or after a precipitation event.

(52) "Invert" means the lowest portion of the internal cross section of a pipe or fitting.

(53) "Large Underground Wastewater Disposal System" means an onsite wastewater system that is designed to receive wastewater flows that may exceed more than 5,000 gallons per day, and may be designed to serve multiple dwelling units that are owned by separate owners except condominiums. A large underground wastewater disposal system usually consists of a building sewer, a septic tank and an absorption system.

(54) "Lateral" means a length of distribution pipe or chambered trenches in the absorption system.[

~~"Local health department" means a county or multi-county local health department established under Title 26A.~~]

(55) "Lot" means a portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both and may not include any part of the right-of-way of a street or road.

(56) "Malfunctioning or failing system" means any onsite wastewater system that is not functioning in compliance with the requirements of this regulation and may include:

(a)[~~A.~~] any absorption system[~~s~~] that seeps or flows to the surface of the ground or into waters of the state;

(b)[~~B.~~] any system[~~s~~] that overflows from any of [~~their~~]its components;

(c)[~~C.~~] any system[~~s~~] that, due to failure to operate in accordance with [~~their~~]its designed operation, causes backflow into any portion of a building drainage system;

(d)[~~D.~~] any system[~~s~~] discharging effluent that does not comply with applicable effluent discharge standards;

(e)[~~E.~~] any leaking septic tank[~~s~~]; or

(f)[~~F.~~] noncompliance with any standard[~~s~~] stipulated on or by the construction permit, operating permit, or both.

(57) "Maximum ground water table" means the highest elevation that the top of the "ground water table" or "ground water table, perched" is expected to reach for any reason over the full operating life of the onsite wastewater system at that site.

[~~"May" means discretionary, permissive, or allowed.~~](58) "Membrane Bioreactor" means an alternative onsite wastewater system that includes both biological processes and mechanical filtration processes to treat septic tank effluent before discharge to an absorption system. A membrane bioreactor unit includes a balance tank, an aeration tank, and a filtration tank. All tanks are interconnected with aeration pumps and recirculation lines.

(59) "Mound system" means an alternative onsite wastewater system where the bottom of the absorption system is placed above the elevation of the original site, and the absorption system is contained in a mounded fill body above that grade.

(60) "Non-closed loop distribution" means a distribution method where the absorption system layout has lateral ends that are not connected.

(61) "Non-domestic effluent" means the liquid discharge from any treatment unit including a septic tank that has a BOD5 equal or greater than 250 mg/L; or TSS equal to or greater than 145 mg/L; or fats, oils, and grease equal to or greater than 25 mg/L.

(62) "Non-domestic wastewater" means process wastewater originating from the manufacture of specific products. Such wastewater is usually more concentrated, more variable in content and rate, and requires more extensive or different treatment than domestic wastewater.

(63) "Non-public water source" means a culinary water source that is not defined as a public water source.

(64) "Non-residential" means a building that produces domestic wastewater, and is not a single[-]-family dwelling.

(65) "Onsite wastewater system" means an underground wastewater dispersal system that is designed for a capacity of 5,000 gallons per day or less, and is not designed to serve multiple dwelling units that are owned by separate owners except condominiums. It usually consists of a building sewer, a septic tank and an absorption system.

(66) "Operating permit" means the permit that authorizes the operation and maintenance of an onsite wastewater system or wastewater holding tank. It may have a fee component that requires periodic renewal.

(67) "Packed bed media system" means an alternative onsite wastewater system that uses natural or synthetic media to treat wastewater. Biological treatment is facilitated via microbial growth on the surface of the media. The system may include a pump tank, a recirculation tank, or both.

(68) "Percolation rate" means the time expressed in minutes per inch required for water to seep into saturated soil at a constant rate during a percolation test.

(69) "Percolation test" means the method used to measure the permeability of the soil by measuring the percolation rate as described in this[~~ese~~] rule[~~s~~]. This is sometimes referred to as a "perc test."[~~.~~]

(70) "Permeability" means the rate at which a soil transmits water when saturated.

[~~"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state as defined in Section 19-1-103.~~

~~"Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for public health and safety as defined in Section 19-5-102.~~

](71) "Pressure distribution" means a method designed to uniformly distribute effluent under pressure within an absorption system.

(72) "Public health hazard" means, for [~~the purpose of~~]this rule, a condition whereby there are sufficient types and amounts of biological, chemical, or physical agents relating to water or sewage that are likely to cause human illness, disorders or disability. These may include pathogenic viruses and bacteria, parasites, toxic chemicals and radioactive isotopes. A malfunctioning onsite wastewater system constitutes a public health hazard.

(73) "Public water source" means a culinary water source, either publicly or privately owned, providing water for human consumption and other domestic uses, as defined in Title R309.

(74) "Pump tank" means a watertight receptacle equipped with a pump and placed after a septic tank or other treatment component.

(75) "Pump vault" means a device installed in a septic or pump tank that houses a pump and screens effluent with 1/8 inch openings or smaller before it enters the pump.

(76) "Recirculation tank" means the tank that receives, stores, and recycles partially treated effluent and recycles that effluent back through the treatment process or to the absorption area.

(77) "Regulatory authority" means either the Utah Division of Water Quality or the local health department having jurisdiction.

(78) "Replacement area" means sufficient land with suitable soil, excluding streets, roads, easements and permanent structures that complies with the setback requirements of this[~~ese~~] rule[~~s~~], and is intended for the 100% replacement of absorption systems.

(79) "Rotary tilling" means a tillage operation. Working land by plowing and harrowing[~~ in order~~] to make land ready for cultivation, or employing power driven rotary motion of the tillage tool to loosen, shatter and mix soil.

(80) "Sand lined trench system" means an alternative onsite wastewater system consisting of a series of narrow excavated trenches utilizing sand media and pressure distribution.

(81) "Sand media" means sand fill meeting the ASTM C33/C33M - 11A Standard Specification for Concrete Aggregates.

(82) "Saprolite" means weathered material underlying the soil that grades from soft thoroughly decomposed rock to rock that has been weathered sufficiently so that it can be broken in the hands, cut with a knife or easily dug with a backhoe and is devoid of expansive clay. It has rock structure instead of soil structure and does not include hard bedrock or hard fractured bedrock.

(83) "Scarification" means loosening and breaking up of soil compaction in a manner that prevents smearing and maintains soil structure.

(84) "Scum" means a mass of sewage solids, which is buoyed up by entrained gas, grease, or other substances, floating on the surface of wastes in a septic tank.

(85) "Seepage pit" means an absorption system consisting of one or more deep excavated pits, either hollow-lined or filled, utilizing coarse drain media, with a minimum sidewall absorption depth of 48 inches of suitable soil formation below the distribution pipe.

(86) "Septage" means the semi-liquid material that is pumped out of a septic or pump tank, generally consisting of the sludge, liquid, and scum layer.

(87) "Septic tank" means a watertight receptacle that receives the discharge of a drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through an absorption system.

(88) "Sequential distribution" means a distribution method in which effluent does not pass through an absorption area before it enters the succeeding areas through a distribution box or relief line allowing for portions of the absorption area to be isolated.

(89) "Serial distribution" means a distribution method in which effluent passes through an absorption area before entering the succeeding areas through a distribution box or relief line creating a single uninterrupted flow path.

[~~"Shall" means a mandatory requirement.~~

~~"Should" means recommended or preferred and is intended to mean a desirable standard.~~

](90) "Single-family dwelling" means a building designed to be used as a home by the owner or lessee of such building.

(91) "Sludge" means the accumulation of solids that have settled in a septic tank or a wastewater holding tank.

(92) "Slope" means the ratio of the rise divided by the run between two points, typically described as a percentage (rise divided by run multiplied by 100).

(93) "Soil exploration pit" means an open pit dug to permit examination of the soil to evaluate its suitability for absorption systems. This is also referred to as a "test pit."[~~.~~]

(94) "Soil log" means a detailed description of soil characteristics and properties.

(95) "Soil structure" means the way in which the individual particles, sand, silt, and clay, are arranged into larger distinct aggregates called peds. The main types of soil structure are granular, platy, blocky, prismatic, and columnar. Soil may not have a visible structure because it is either single grain or massive.

(96) "Soil texture" means the percent of sand, silt, and clay in a soil mixture. Field methods for judging the texture of a soil are found in Subsection R317-4-14(3) Appendix C.

(97) "Standard trench" means an absorption trench utilizing drain media into which effluent is discharged through specially designed distribution pipes.

(98) "Suitable soil" means undisturbed soil that through textural and structural analysis or percolation rate meets the requirements for placement of an absorption system.

(99) "Test pit" see "soil exploration pit."[~~.~~]

(100) "Unapproved system" means any onsite wastewater system that is deemed by the regulatory authority to be any:

(a)[~~A.~~] installation without the required regulatory oversight, permits, or inspections;

(b)[~~B.~~] repairs to an existing system without the required regulatory oversight, permits, or inspections; or

(c)[~~C.~~] alteration to an existing system without the required regulatory oversight, permits, or inspections.

(101) "USDA system of classification" means the system of classifying soil texture used by the United States Department of Agriculture.

[~~"Waste" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water as defined in Section 19-5-102.~~

](102) "Wastewater" means sewage, industrial waste or other liquid substances that might cause pollution of waters of the state. Intercepted ground water that is uncontaminated by wastes is not included.

(103) "Wastewater holding tank" means a watertight receptacle designed to receive and store wastewater to facilitate treatment at another location.

[~~"Waters of the state":~~

~~A. means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state; and~~

~~B. does not include bodies of water confined to and retained within the limits of private property, and that do not develop into or constitute a nuisance, or public health hazard, or a menace to fish or wildlife.~~

](104) "Wind-blown sand" means sand that is formed by the weathering and erosion of sandstone typically found in sand-dune or sand-sheet deposits and is capable of producing sand and dust storms when disturbed.

R317-4-3. General Standards, Prohibitions, Requirements, and Enforcement.

(1)[~~3.1. Failure to Comply With Rules.~~

]Any person failing to comply with this rule shall be subject to enforcement action as specified in Sections 19-5-115 and 26A-1-123.

(2)[~~3.2. Feasibility.~~

~~O~~] An onsite wastewater system[~~s are~~] may not be feasible in some areas and situations. If property characteristics [~~indicate~~]show conditions that may fail in any way to meet the requirements specified [~~here~~]in this rule, the use of an onsite wastewater system[~~s~~] shall be prohibited.

(3)[~~3.3. Onsite Wastewater System Required.~~

]The drainage system of each dwelling, building or premises covered [~~here~~]in this rule shall receive all wastewater, including bathroom, kitchen, and laundry wastes, and shall have a connection to a public sewer except when such sewer is not available or practicable for use, in which case connection shall be made:

(a)[~~A.~~] to an onsite wastewater system found to be adequate and constructed in accordance with this rule; or

(b)[~~B.~~] to any other type of wastewater system acceptable under Rule[~~s~~] R317-1, R317-3, R317-5, R317-401, or R317-560.

(4)[~~3.4. Flows Prohibited From Entering Onsite Wastewater Systems.~~]_No ground water drainage, drainage from roofs, roads, yards, or other similar sources [~~shall~~]may discharge into any portion of an onsite wastewater system, but shall be disposed of so [~~they~~]it will in no way affect the system. _Non-domestic wastes such as chemicals, paints, or other substances that are detrimental to the proper functioning of an onsite wastewater system may not be disposed of in such systems.

(5)[~~3.5. Increased Flows Prohibited.~~]_A person may not connect or expand the use of a single-family dwelling or non-residential facility connected to an existing onsite wastewater system if the projected wastewater flows would be greater than the original design flow. When the design flow is exceeded, expansion may occur if the onsite wastewater system is modified, permitted, and approved by the regulatory authority for the increased flow.

(6)[~~3.6. Material Standards.~~]All materials used in any onsite wastewater system[~~s~~] shall comply with the standards in this rule.

(7)[~~3.7. Property Lines Crossed.~~ ~~S~~]_Any onsite wastewater system[~~s~~], including any replacement area[~~s~~], shall be located on the same lot as the building served unless, when approved by the regulatory authority, a perpetual utility easement and right-of-way is established on an adjacent or nearby lot for the construction, operation, and continued maintenance, repair, alteration, inspection, relocation, and replacement of an onsite wastewater system, including all rights to ingress and egress necessary or convenient for the full or complete use, occupation, and enjoyment of the granted easement. The easement shall be large enough to accommodate the proposed onsite wastewater system and replacement area. The easement shall meet the setbacks specified in Section R317-4-13 Table 2.

(8)_[~~3.8. Initial Absorption Area and Replacement Area. A. All~~]Any property[~~ies~~] that utilizes an onsite wastewater system[~~s~~] shall be required to have a replacement area.[~~B.~~] The absorption area, including installed absorption system and replacement area, may not be subject to activity that is likely to adversely affect the soil or the functioning of the system. This may include vehicular traffic, covering the area with asphalt, concrete, or structures, filling, cutting or other soil modifications.

(9)[~~3.9. Operation and Maintenance. O~~]_An owner[s] of any onsite wastewater system[~~s~~] shall operate, maintain, and service their system[~~s~~] according to the standards of this rule.

(10)[~~3.10. No Discharge to Surface Waters or Ground Surface.~~]_Effluent from any onsite wastewater system may not be discharged to surface waters or upon the surface of the ground. Wastewater may not be discharged into any abandoned or unused well, or into any crevice, sinkhole, or similar opening, either natural or artificial.

(11)[~~3.11. Repair of a Malfunctioning or Unapproved System.~~]_Upon determination by the regulatory authority that a malfunctioning or unapproved onsite wastewater system creates or contributes to any dangerous or unsanitary condition that may involve a public health hazard, or noncompliance with this rule, the regulatory authority shall order the owner to take the necessary action to cause the condition to be corrected, eliminated or otherwise come into compliance.

(a)[~~A.~~] For any malfunctioning system[~~s~~], the local health department shall require and order:

(i)[~~1.~~] all necessary steps, such as maintenance, servicing, repairs, and replacement of system components to correct the malfunctioning system, to meet all [~~rule~~]requirements of this rule to the extent possible and may not create any new risk to the environment or public health;

(ii)[~~2.~~] effluent quality testing as required by Subsection R317-4-11[~~.4~~](4);

(iii)[~~3.~~] evaluation of the system design including non-approved changes to the system, the wastewater flow, and biological and chemical loading to the system; and

(iv)[~~4.~~] any additional test[~~s~~] or sample[~~s~~] to troubleshoot the system malfunction.

(b)[~~B.~~] The regulatory authority may require fees for additional inspections, reviews, and testing.

(12)[~~3.12. P~~]_A property owner shall follow the approved procedure for [~~W~~]wastewater [~~S~~]system [~~A~~]abandonment.

(a)[~~A.~~] When a dwelling served by an onsite wastewater system is connected to a public sewer, the septic tank shall be abandoned and shall be disconnected from and bypassed with the building sewer unless otherwise approved by the regulatory authority.

(b)[~~B.~~] When[~~ever~~] the use of an onsite wastewater system has been abandoned or discontinued, the owner of the real property on which such wastewater system is located shall [~~render~~]make it safe by having the septic tank, any other tanks, hollow seepage pit, or cesspool wastes pumped out or otherwise disposed of in an approved manner. Within 30 days the tanks shall be:

(i)[~~1.~~] crushed in place and the void filled;

(ii)[~~2.~~] completely filled with earth, sand, or gravel; or

(iii)[~~3.~~] removed.

(c)[~~C.~~] The regulatory authority may require oversight, permitting, or inspection of the abandonment process.

(13)[~~3.13. Septage Management.~~]_A person shall only dispose of septage, or sewage contaminated materials in a location or manner in accordance with [~~the regulations~~]state rules [~~of the division~~]and the local health department having jurisdiction.

(14)[~~3.14. Multiple Dwelling Units.~~]_Multiple dwelling units under individual ownership, except condominiums, may not be served by a single onsite wastewater system except where that system is under the sponsorship of a body politic. Plans and specifications for any such system[~~s~~] shall be submitted to and approved by the division. Issuance of a construction permit by the [~~board~~]division shall constitute approval of plans and authorization for construction. Before [~~the~~]any permit is issued, the division shall review plans with the local health department having jurisdiction over the proposed onsite wastewater system.

R317-4-4. Feasibility Determination.

(1)[~~4.1. General Criteria for Determining Onsite Wastewater System Feasibility.~~]_The regulatory authority shall determine the feasibility of using any onsite wastewater system. The regulatory authority [~~will~~]shall review required information for any existing or proposed lot to determine onsite wastewater system feasibility. The required information shall be prepared at the owner's expense by, or under the supervision of, a qualified person approved by the regulatory authority.

(a)_[~~A. General Information.~~

~~]~~The required information shall include:

(i)[~~1.~~] the county recorder's plat and parcel ID and situs address if available;

(ii)[~~2.~~] name and address of the property owner and person requesting feasibility;[~~ and~~]

[~~3. the location, type, and depth of all existing and proposed non-public water supply sources within 200 feet of the proposed onsite wastewater systems, and of all existing or proposed public water supply sources within 1,500 feet of the proposed onsite wastewater systems.~~

~~a. If the lot is located in aquifer recharge areas or areas of other particular geologic concern, the regulatory authority may require such additional information relative to ground water movement, or possible subsurface wastewater flow.~~

~~b. If the proposed onsite wastewater system is located within any drinking water source protection zone two, this zone shall be shown.~~

~~4. The location and distance to nearest sewer, owner of sewer, whether property is located within service boundary, and size of sewer.~~

~~5. Statement of proposed use if other than a single-family dwelling.~~

~~]~~(iii) statement of proposed use if other than a single-family dwelling;

(iv) the location and distance to nearest sewer, owner of sewer, whether property is located within service boundary, and size of sewer;

and

(v) the location, type, and depth of any existing and proposed non-public water supply source within 200 feet of the proposed onsite wastewater system, and of any existing or proposed public water supply source within 1,500 feet of the proposed onsite wastewater system.

(A) If the lot is located in aquifer recharge areas or areas of other particular geologic concern, the regulatory authority may require such additional information relative to ground water movement, or possible subsurface wastewater flow.

(B) If the proposed onsite wastewater system is located within any drinking water source protection zone two, this zone shall be shown.

(b)[~~B. S~~] The regulatory authority shall require soil exploration and [~~S~~]site [~~E~~]evaluation.

[~~1. Soil Exploration Pit and Percolation Test.~~

~~a.~~](i) A minimum of one soil exploration pit shall be excavated to allow the evaluation of the soil. The soil exploration pit shall be constructed and soil log recorded as detailed in Subsection R317-4-14(3) Appendix C.

(ii)[~~b.~~] The regulatory authority shall have the option of requiring a percolation test in addition to the soil exploration pit.

(iii)[~~c.~~] The regulatory authority:

(A)[~~i.~~] shall require additional soil exploration pits, percolation tests, or both where flows are greater than 1,000 gallons per day; and

(B)[~~ii.~~] may require additional soil exploration pits, percolation tests, or both where:

[~~(1)~~](I) soil structure varies;

[~~(2)~~](II) limiting geologic conditions are encountered; or

[~~(3)~~](III) the regulatory authority deems it necessary.

(iv)[~~d.~~] The percolation test shall be conducted as detailed in Subsection R317-4-14(4) Appendix D.

(v)[~~e.~~] Soil exploration pits and percolation tests shall be conducted as closely as possible to the proposed absorption system site. The regulatory authority shall have the option of inspecting the open soil exploration pits and monitoring the percolation test procedure. All soil logs and percolation test results shall be submitted to the regulatory authority.

(vi)[~~f.~~] When there is a substantial discrepancy between the percolation rate and the soil classification, it shall be resolved through additional soil exploration pits, percolation tests, or both.

(vii)[~~g.~~] Absorption system feasibility shall be based on Section R317-4-13 Table 5 or R317-4-13 Table 6.

(c)[~~2. Wind-Blown Sand.~~

~~]~~ The extremely fine grained wind-blown sand found in some parts of Utah shall be deemed not feasible for absorption systems. This does not apply to lots that have received final local health department approval [~~prior to~~]before the effective date of this rule.[

~~a.~~] Percolation test results in wind-blown sand will generally be rapid, but experience has shown that this soil [~~has a tendency~~]tends to become sealed with minute organic particles within a short period[~~ of time~~]. For lots that have received final local health department approval [~~prior to~~]before the effective date of this rule, an onsite wastewater system[~~s~~] may be constructed in such material provided it is found to be within the required range of percolation rates specified in this[~~ese~~] rule[~~s~~], and provided further that the required area shall be calculated on the assumption of minimum acceptable percolation rate of 60 minutes per inch for standard trenches, deep wall trenches, and seepage pits, and 40 minutes per inch for absorption beds.

(d)[~~3. Suitable Soil Depth.~~

~~]~~ For each conventional onsite wastewater system[~~s~~], effective suitable soil depth shall extend at least 48 inches or more below the bottom of the dispersal system to bedrock formations, impervious strata, or excessively permeable soil. [~~Some~~]An alternative onsite wastewater system[~~s~~] may have other requirements.

(e)[~~4. Ground Water Requirements.~~

~~]~~ The elevation of the anticipated maximum ground water table shall meet the separation requirements of the anticipated absorption systems. Local health departments and other local government entities may impose stricter separation requirements between absorption systems and the maximum ground water table when deemed necessary. Building lots recorded or having received final local health department approval [~~prior to~~]before May 21, 1984 shall be subject to the ground water table separation requirements of the then Part IV of the Code of Waste Disposal Regulations dated June 21, 1967, that states "high ground water elevation shall be at least 1 foot below the bottom of absorption systems and at least 4 feet below finished grade". Notwithstanding this grandfather provision for recorded or other approved lots, the depth to ground water requirements are applicable if compelling or countervailing public health interests would [~~necessitate~~]require application of the more stringent requirements of this regulation.

[~~a. Maximum Ground Water.~~

~~]~~(i) The [~~M~~]maximum ground water table shall be determined where the anticipated maximum ground water table, including irrigation induced water table, might be expected to rise closer than 48 inches to the elevation of the bottom of the onsite wastewater system. Maximum ground water table shall be determined where alternative onsite wastewater systems may be considered based on groundwater elevations. The maximum ground water table shall be determined by the following.

(A)[~~i.~~] Regular monitoring of the ground water table, or ground water table, perched, in an observation well for a period of one year, or for the period of the maximum groundwater table.

(B)[~~(1)~~] Previous ground water records and climatological or other information may be consulted for each site proposed for an onsite wastewater system and may be used to adjust the observed maximum ground water table elevation.

(C)[~~ii.~~] Direct visual observation of the maximum ground water table in a soil exploration pit for[~~:~~

~~(1)~~] evidence of crystals of salt left by the maximum ground water table[~~;~~] or[

~~(2)~~] chemically reduced iron in the soil, reflected by [~~redoxmorphoric~~]redoximorphic features, [~~i.e.~~]such as a mottled coloring.[

~~(3)~~] Previous ground water records and climatological or other information may be consulted for each site proposed for an onsite wastewater system and may be used to adjust the observed maximum ground water table elevation in determining the anticipated maximum ground water table elevation.

(D)[~~iii.~~] In cases where the anticipated maximum ground water table is expected to rise to closer than 34 inches from the original ground surface and an alternative or experimental onsite wastewater system would be considered, previous ground water records and climatological or other information shall be used to adjust the observed maximum ground water table in determining the anticipated maximum ground water table.

(ii)[~~b. Curtain Drains.~~

] A curtain drain or other effective ground water interceptor may be allowed as an attempt to lower the groundwater table to meet the requirements of this rule. The regulatory authority shall require that the effectiveness of such devices in lowering the ground water table be demonstrated during the season of maximum ground water table.

(f)[~~4. Ground Slope.~~

] An Absorption system[~~s~~] may not be placed on any slope[s] where the addition of fluids is judged to create an unstable slope.

(i)[~~a.~~] An absorption system[~~s~~] may be placed on any slope[~~s~~] between 0% and 25%, inclusive.

(ii)[~~b.~~] An absorption system[~~s~~] may be placed on any slope[~~s~~] greater than 25% but not exceeding 35% if:

(A)[~~i.~~] all other requirements of this rule can be met;

(B)[~~ii.~~] effluent from the proposed system [~~will~~]may not contaminate ground water or surface water, and [~~will~~]may not surface or move off site before it is adequately treated to protect public health and the environment;

(C)[~~iii.~~] no slope will fail, and there will be no other landslide or structural failure if the system is constructed and operated adequately, even if all properties in the vicinity are developed with onsite wastewater systems; and

(D)[~~iv.~~] a report is submitted by a professional engineer or professional geologist that is licensed to practice in Utah. The report shall be imprinted with the engineer's or geologist's registration seal and signature and shall include the following:[~~.~~]

(I)[~~(1)~~] Predictions and supporting information of ground water transport from the proposed system and of expected areas of ground water mounding;[~~.~~]

(II)[~~(2)~~] A slope stability analysis that shall include information about the geology of the site and surrounding area, soil exploration and testing, and the effects of adding effluent; and[~~.~~]

(III)[~~(3)~~] The cumulative effect on slope stability of added effluent if all properties in the vicinity were developed with onsite wastewater systems.

(iii)[~~c.~~] An absorption system[~~s~~] may not be placed on any slope[~~s~~] greater than 35%.

(g)[~~5.~~] Other [~~F~~]factors may [~~A~~]affect[~~ing O~~] onsite [~~W~~]wastewater [~~S~~]system [~~F~~]feasibility, including:[~~.~~]

(i)[~~a.~~] The location[~~s~~] of [~~all~~]any river[~~s~~], stream[~~s~~], creek[~~s~~], dry or ephemeral wash[~~es~~], lake[~~s~~], canal[~~s~~], marsh[~~es~~], subsurface drain[~~s~~], natural storm water drain[~~s~~], lagoon[~~s~~], artificial impoundment[~~s~~], either existing or proposed, that will affect the building site[~~s~~], shall be provided.

(ii)[~~b.~~] Any area[~~s~~] proposed for an onsite wastewater system[~~s~~] shall comply with the setbacks in Section R317-4-13 Table 2.

(iii)[~~c.~~] If any part of a property lies within or abuts a flood plain area, the flood plain shall be shown within a contour line and shall be clearly labeled on the plan with the words "flood plain area".

(h)[~~6. Unsuitable.~~

] Where soil and other site conditions are clearly unsuitable for the placement of an onsite wastewater system, there is no need for conducting soil exploration pits or percolation tests.

[~~C. Lot Size.~~

](i) One of the following two methods shall be used for determining minimum lot size. Determination of minimum lot size by the regulatory authority [~~would~~]may not preempt local governments from establishing larger minimum lot sizes.

[~~1. Method 1.~~

](A) The local health department having jurisdiction may determine minimum lot size. Under this method, a local health department[~~s~~] may elect to involve other affected governmental entities and the division in making joint lot size determinations. The division [~~will~~]shall develop technical information, training programs, and provide engineering and geohydrologic assistance in making lot size determinations that [~~will~~]shall be available to local health departments upon their request. [~~I~~]Any individual[~~s or developers~~] requesting a lot size determination[~~s~~] under this method [~~will~~]shall be required to submit to the local health department, at their own expense, a report that accurately takes into account at least the following factors:

(I)[~~a.~~] soil type and depth;

(II)[~~b.~~] area drainage, lot drainage, and potential for flooding;

(III)[~~c.~~] protection of surface and ground waters;

(IV)[~~d.~~] setbacks from [~~property lines, water supplies, etc.~~]items listed in Section R317-4-13 Table 2;

(V)[~~e.~~] source of culinary water;

(VI)[~~f.~~] topography, geology, hydrology and ground cover;

(VII)[~~g.~~] availability of public sewers;

(VIII)[~~h.~~] activity or land use, present and anticipated;

(IX)[~~i.~~] growth patterns;

(X)[~~j.~~] individual and accumulated gross effects on water quality;

(XI)[~~k.~~] reserve areas for additional subsurface dispersal;

(XII)[~~l.~~] anticipated wastewater volume;

(XIII)[~~m.~~] climatic conditions;

(XIV)[~~n.~~] installation plans for wastewater system; and

(XV)[~~o.~~] area to be utilized by dwelling and other structures.

(B)[~~2. Method 2.~~

~~a.~~] When[~~ever~~] a local health department[~~s~~] does not establish minimum lot sizes for single-family dwellings that will be served by onsite wastewater systems, the requirements of Sections R317-4-13 Table[~~s~~] 1.1 and R317-4-13 Table 1.2 shall be met.

[~~b.~~](I) For non-residential facilities, one-half of the buildable area of the lot must be available for the absorption system and replacement area.

[~~i.~~](II) The area required for [~~the~~]a non-residential facility absorption system and replacement area may be adjusted by the regulatory authority during the permitting process.

(2)[~~4.2. Subdivision Onsite Wastewater System Feasibility Determination~~] The regulatory authority shall determine the feasibility for any new subdivision where using onsite wastewater systems is proposed.

(a)[~~A.~~] In addition to information in Subsection R317-4-4[~~.1~~](1), the following information must be provided on a plat map:

(i)[~~1.~~] the proposed street and lot layout with all lots consecutively numbered;

(ii)[~~2.~~] size and dimensions of each lot, with the minimum required area sufficient to permit the safe and effective use of an onsite wastewater system, including a replacement area for the absorption system;

(iii)[~~3.~~] location of all water lines;

(iv)[~~4.~~] location of any easements; and

(v)[~~5.~~] areas proposed for wastewater dispersal, including replacement area.

(b)[~~B.~~] [~~S~~]Any surface drainage system[~~s~~] shall be included on the plan, as naturally occurring, and as altered by roadways or any drainage, grading or improvement, installed or proposed by the developer. The details of the system shall show the surface drainage structures, whether ditches, pipes, or culverts, will in no way affect onsite wastewater systems on the property.

(c)[~~C.~~] Each proposed lot shall have at least one soil exploration pit, percolation test, or both.

(i)[~~1.~~] The regulatory authority may allow fewer tests based on the uniformity of prevailing soil and ground water characteristics and available percolation or soil log test data.

(ii)[~~2.~~] If soil conditions and surface topography [~~indicate~~]show, a greater number of soil exploration pits or percolation tests may be required by the regulatory authority.

(iii)[~~3.~~] The location of all soil exploration pits and percolation test holes shall be clearly identified on the subdivision final plat and identified by a key number or letter designation.

(iv)[~~4.~~] The results of such soil tests, including stratified depths of soils and final percolation rates for each lot shall be recorded on or with the final plat.

(v)[~~5.~~] Soil exploration pits and percolation tests shall be conducted as closely as possible to the dispersal system sites on the lots or parcels.

(d)[~~D.~~] When[~~ever~~] available, information from published soil studies of the area of the proposed subdivision shall be submitted for review.

(e)[~~E.~~] If soil or site conditions exist in or near the project so as to complicate design and location of an onsite wastewater system, a detailed system layout shall be provided for those lots presenting the greatest design difficulty by meeting rules in Section R317-4-5.

(3)[~~4.3. Statement of Feasibility.~~] After review of all information, plans, and proposals, the regulatory authority shall make a written determination of feasibility stating the results of the review or the need for additional information.

(a)[~~A.~~] An affirmative statement of feasibility for a subdivision does not imply that it will be possible to install onsite wastewater systems on all[~~ of~~] the proposed lots, but shall mean that such onsite wastewater systems may be installed on the majority of the proposed lots in accordance with minimum state requirements and any conditions that may be imposed.

(b)[~~B.~~] The regulatory authority shall establish the expiration, if any, of the statement of feasibility.

R317-4-5. Plan Review and Permitting.

(1)[~~5.1. Plan Review and Permitting~~] The regulatory authority shall conduct a plan review and permit an onsite wastewater system when a property owner submits required information.

(a)[~~A. Designer Certification.~~] Any[~~II~~] plans and specifications shall be prepared by an individual certified in accordance with Rule R317-11.

(b)[~~B. Domestic Wastewater.~~] Plans and specifications for the construction, alteration, extension, or change of use of an onsite wastewater system[~~s~~] that receives domestic wastewater shall be submitted to the regulatory authority.

(c)[~~C. Non-Domestic Wastewater.~~] Plans and specifications for the construction, alteration, extension, or change of use of an onsite wastewater system[~~s~~] that receives non-domestic wastewater shall be submitted to and approved by the local health department having jurisdiction and the division.

(d)[~~D. Construction Permit Required.~~] The regulatory authority shall review[~~ said~~] plans and specifications as to their adequacy of design for the intended purpose, and shall, if necessary, require such changes as are required by this[~~ese~~] rule[~~s~~]. When the reviewing regulatory authority is satisfied that plans and specifications are adequate for the conditions under which a system is to be installed and used, a construction permit shall be issued to the individual making the submittal.

(e)[~~1.~~] Construction of any onsite wastewater system may not [~~commence~~]begin until a[~~the~~] construction permit has been issued by the regulatory authority.

(f)[~~E. Information Required.~~] Plans submitted for review shall be drawn to scale, 1" = 10', 20' or 30', or other scale as approved by the regulatory authority. Plans shall be prepared in such a manner that the contractor can read and follow them[~~ in order~~] to install the system properly. Depending on the individual site and circumstances, or as determined by the regulatory authority, some or all[~~ of~~] the following information may be required.

(i)[~~1. Applicant Information. a.~~] The name, current address, and telephone number of the applicant.

(ii)[~~b.~~] Complete address, legal description of the property, or both to be served by this onsite wastewater system.

(iii)[~~2.~~] The applicant shall submit an [~~O~~]onsite [~~W~~]wastewater [~~S~~]system [~~S~~]site [~~P~~]plan, including:[~~.~~]

(A)[~~a.~~] [~~S~~]submittal date of plan;[~~.~~]

(B)[~~b.~~] North arrow;[~~.~~]

(C)[~~c.~~] [~~L~~]lot size and dimensions;[~~.~~]

(D)[~~d.~~] [~~L~~]legal description of property;[~~.~~]

(E)[~~e.~~] [~~G~~]ground surface contours, preferably at 2 foot intervals, of both the original and proposed final grades of the property, or relative elevations using an established bench mark;[~~.~~]

(F)[~~f.~~] [~~L~~]location and explanation of type of dwelling or structure to be served by an onsite wastewater system[~~. i. M~~] and specifies the maximum number of bedrooms, including a statement of whether a finished or unfinished basement will be provided, or if other than a single[~~-~~]-family dwelling, the number of occupants expected and the estimated gallons of wastewater generated per day;[~~.~~]

(G)[~~g.~~] [~~L~~]location and dimensions of paved and unpaved driveways, roadways and parking areas;[~~.~~]

(H)[~~h.~~] [~~L~~]location and dimensions of the essential components of the wastewater system including the replacement area for the absorption system;[~~.~~]

(I)[~~i.~~] [~~L~~]location of all soil exploration pits and all percolation test holes;[~~.~~]

(J)[~~j.~~] [~~L~~]location of building sewer and water service line to serve the building;[~~.~~]

(K)[~~k.~~] [~~L~~]location of easements or drainage right-of-ways affecting the property;[~~.~~]

(L)[~~l.~~] [~~L~~]location of [~~all intermittent or year-round streams, ditches, watercourses, ponds, subsurface drains, etc.~~]any surface water feature within 100 feet of proposed onsite wastewater system;[~~.~~]

(M)[~~m.~~] [~~T~~]the location, type, and depth of all existing and proposed non-public water supply sources within 200 feet of onsite wastewater systems, and of all existing or proposed public water supply sources within 1,500 feet of onsite wastewater systems and associated source protection zones;[~~.~~]

(N)[~~n.~~] [~~D~~]distance to nearest public water main and size of main;[~~.~~] and

(O)[~~o.~~] [~~D~~]distance to nearest public sewer, size of sewer, and whether accessible by gravity.

(iv)[~~3. Statement with Site Plan.~~

~~S~~] A statement shall be included with the site plan indicating the source of culinary water supply, whether a well, spring, non-public or public system, its location and distances from all onsite wastewater systems within 200 feet.

(v)[~~4. Site Assessment and Soil Evaluation.~~

~~S~~] Documentation of soil exploration and site evaluation activities, including soil [~~L~~]logs, [~~P~~]percolation [~~T~~]test [~~C~~]certificates, or both.[

~~a.~~] [~~S~~]Documentation of soil exploration and site evaluation activities shall include a statement with supporting evidence indicating the maximum anticipated ground water table and the flooding potential for the onsite wastewater system site[~~s~~].

(vi)[~~5. Relative Elevations.~~

~~]~~ Show relative elevations of the following, using an established bench mark:[~~.~~]

(A)[~~a.~~] [~~B~~]building drain outlet;[~~.~~]

(B)[~~b.~~] [~~T~~]the inlet and outlet inverts of any septic tanks;[~~.~~]

(C)[~~c.~~] [~~S~~]septic tank access cover, including height and diameter of riser, if used;[~~.~~]

(D)[~~d.~~] [~~P~~]pump tank inlet, if used, including height and diameter of riser;[~~.~~]

(E)[~~e.~~] [~~T~~]the outlet invert of the distribution box, if provided, and the ends or corners of each distribution pipe lateral in the absorption system;[~~.~~] and

(F)[~~f.~~] [~~T~~]the final ground surface over the absorption system.

(vii) [~~6. System Design.~~

~~]~~Details for[~~ said~~] site, plans, and specifications as[~~re~~] listed in Section R317-4-6, shall include:[~~.~~]

(A)[~~a.~~] [~~S~~]schedule or grade, material, diameter, and minimum slope of building sewer and effluent sewer;[~~.~~]

(B)[~~b.~~] [~~S~~]septic tank and pump tank capacity, design, cross sections,[~~ etc.,~~] materials, and dimensions. If tank is commercially manufactured, state the name and address of manufacturer[~~.~~];

(C)[~~c.~~] pump, if provided, details as referenced in Subsection R317-4-14(2) Appendix B;

(D) if an alternative system is designed, include all pertinent information to allow plan review and permitting for compliance with this rule;

(E) [~~A~~]absorption system details, including the following:

(I)[~~i.~~] details of drop boxes or distribution boxes, if provided;

(II)[~~ii.~~] schedule or grade, material, and diameter of distribution pipes;

(III)[~~iii.~~] length, slope, and spacing of each absorption system component;

(IV)[~~iv.~~] maximum slope across ground surface of absorption system area;

(V)[~~v.~~] distance of absorption system from trees, cut banks, fills, or subsurface drains; and

(F)[~~vi.~~] cross section of absorption system showing the:

[~~(1)~~](I) depth and width of absorption system excavation;

[~~(2)~~](II) depth of distribution pipe;

[~~(3)~~](III) depth of filter material;

[~~(4)~~](IV) barrier material, [~~i.e.~~]such as synthetic filter fabric, straw, [~~etc.~~]or other material acceptable to the regulatory authority, used to separate filter material from cover; and

[~~(5)~~](V) depth of cover.[

~~d. Pump, if provided, details as referenced in Section R317-4-14 Appendix B.~~

~~e. If an alternative system is designed, include all pertinent information to allow plan review and permitting for compliance with this rule.~~

~~F. Plans Submitted.~~

~~1.~~] An[~~II~~] applicant[~~s~~] requesting plan approval for an onsite wastewater system shall submit [~~a sufficient number of~~]enough copies of [~~the above~~]required information to enable the regulatory authority to retain one copy as a permanent record.

(h)[~~2.~~] Any application[~~s~~] may be rejected if proper information is not submitted.

R317-4-6. Design Requirements.

[~~6.1. System Location.~~

~~A.~~](1) An [~~O~~]onsite wastewater system[~~s are~~] may not be suitable in some areas and situations. Location and installation of each system shall be such that with reasonable maintenance, it [~~will~~]shall function in a sanitary manner and [~~will~~]may not create a nuisance, public health hazard, or endanger the quality of any waters of the state.[

~~B.~~] In determining a suitable location for [~~the~~]each system, due consideration shall be given to such factors as:

[~~1.~~](a) the minimum setbacks in Section R317-4-13 Table 2;

[~~2.~~](b) size and shape of the lot;

[~~3.~~](c) slope of natural and final grade;

[~~4.~~](d) location of existing and future water supplies;

[~~5.~~](e) depth of ground water and bedrock;

[~~6.~~](f) soil characteristics and depth;

[~~7.~~](g) potential flooding or storm catchment;

[~~8.~~](h) possible expansion of the system; and

[~~9.~~](i) future connection to a public sewer system.

[~~6.2. Minimum Setback Distances.~~

~~All~~](2) Any onsite wastewater system[~~s~~], including the replacement area, shall conform to the minimum setback distances in Section R317-4-13 Table 2.

[~~6.3. Maximum Ground Slope.~~

~~All~~](3) Any absorption system[~~s~~], including the replacement area, shall conform to the ground slope requirements in Section R317-4-4.

[~~6.4 Estimates of Wastewater Quantity.~~](4) Any design for an onsite wastewater system shall include an estimate of wastewater quantity.

[~~A. Single Family Dwellings.~~

~~A~~](a) The wastewater quantity estimate for a single-family dwelling shall be a minimum of 300 gallons per day[~~,~~] for 1 or 2 bedroom, and 150 gallons per day for each additional bedroom[~~ shall be used~~].

[~~B. Non-Residential Facilities.~~

~~T~~](b) For any non-residential facility, the quantity of wastewater shall be determined accurately, preferably by actual measurement. Metered water supply figures for similar installations can usually be relied upon, providing the non-disposable consumption, if any, is subtracted. Where this data is not available, the minimum design flow figures in Section R317-4-13 Table 3 shall be used to make estimates of flow.

[~~C. Design Capacity.~~

]](c) In no event shall the anticipated maximum daily wastewater flow exceed the capacity for which a system is designed.

[~~6.5. Non-Domestic Effluent.~~

]](5) Effluent shall be treated to levels at or below the defined parameters of non-domestic effluent before being discharged into an absorption system.

[~~6.6.~~](6) Building [~~S~~]sewer shall meet the following requirements:[~~.~~]

[~~A.~~](a) The building sewer shall have a minimum inside diameter of 4 inches and shall comply with the minimum standards in Section R317-4-13 Table 4.[

~~1.~~] If the sewer leaving the house is [~~three~~]3 inches, the building sewer may be [~~three~~]3 inches.

[~~B.~~](b) Building sewers shall be laid on a uniform minimum slope of not less than 1/4 inch per foot or 2.08% slope.

[~~C.~~](c) The building sewer shall have a minimum of one cleanout and cleanouts every 100 feet.

[~~1.~~](i) A cleanout is also required for each aggregate horizontal change in direction exceeding 135 degrees.

[~~2.~~](ii) [~~Ninety~~]90 degree ells are not recommended.

[~~D.~~](d) [~~B~~]The building sewer[~~s~~] shall be separated from water service pipes in separate trenches, and by at least 10 feet horizontally, except that they may be placed in the same trench when all [~~of~~]the following conditions are met.

[~~1.~~](i) The bottom of the water service pipe, at all points, shall be at least 18 inches above the top of the building sewer.

[~~2.~~](ii) The water service pipe shall be placed on a solid shelf excavated at one side of the common trench with a minimum clear horizontal distance of at least 18 inches from the sewer or drain line.

[~~3.~~](iii) The number of joints in the water service pipe should be kept to a minimum, and the materials and joints of both the sewer and water service pipes shall be of strength and durability to prevent leakage under adverse conditions.

[~~4.~~](iv) If the water service pipe crosses the building sewer, it shall be at least 18 inches above the latter within 10 feet of the crossing. Joints in water service pipes should be located at least 10 feet from such crossings.

[~~E.~~](e) [~~B~~]Each building sewer placed under driveways or other areas subjected to heavy loads shall receive special design considerations to ensure against crushing or disruption of alignment.

[~~6.7. Septic Tank.~~

~~All~~](7) Each septic tank[~~s~~] shall meet the requirements of Subsection R317-4-14(1) Appendix A and be approved by the division. Septic tanks shall be constructed of sound, durable, watertight materials that are not subject to excessive corrosion, frost damage, or decay. They shall be designed to be watertight, and to withstand all expected physical forces.

[~~A. Liquid capacity.~~

~~1.~~](a) A septic tank that serves a non-residential facility shall have a liquid capacity of at least 1-1/2 times the designed daily wastewater flow. In all cases the capacity shall be at least 1,000 gallons.

[~~2.~~](b) The capacity of a septic tank that serves a single[-]-family dwelling shall be based on the number of bedrooms that can be anticipated in the dwelling served, including the unfinished space available for conversion as additional bedrooms. Unfinished basements shall be counted as a minimum of one additional bedroom.

[~~a.~~](i) The minimum liquid capacity of the tank shall be 1,000 gallons for up to three bedroom homes.

[~~b.~~](ii) The minimum liquid capacity of the tank shall be 1,250 gallons for four bedroom homes.

[~~c.~~](iii) Two hundred fifty gallons per bedroom shall be added to the liquid capacity of the tank for each additional bedroom over four bedrooms.

[~~3.~~](c) The regulatory authority may require a larger capacity than specified in this subsection as needed for unique or unusual circumstances.

[~~B. Tanks in S~~](d) Multiple septic tanks may be installed in series.

[~~1.~~](i) No tank in the series [~~shall~~]may be smaller than 1,000 gallons.

[~~2.~~](ii) The capacity of the first tank shall be at least two-thirds of the required total septic tank volume. If a compartmented tank[~~s are~~] is used, the compartment of the first tank shall have this two-thirds capacity. A membrane bioreactor system may include the balance tank as a second tank in series where the volume of the balance tank is included in the total required septic tank liquid storage capacity.

[~~3.~~](iii) The connecting pipe[~~s~~] between each successive tank shall meet the slope requirements of the building sewer and shall be unrestricted except for the inlet to the first tank and the outlet for the last tank.

[~~C. Maximum Number of Tanks or Compartments.~~

]](iv) The maximum number of tanks and compartments in series may not exceed three.

[~~D. Inlets and Outlets.~~

~~I~~](e) Each septic tank inlet or outlet device[~~s~~] shall conform to the following:

[~~1.~~](i) Approved tanks with offset inlets may be used where they are warranted by constraints on septic tank location.

[~~2.~~](ii) Multiple outlets from septic tanks shall be prohibited unless preauthorized by the regulatory authority.

[~~3.~~](iii) A gas deflector may be added at the outlet of the tank to prevent solids from entering the outlet pipe of the tank.

[~~E. Effluent Screens.~~

~~All~~](f) Any septic tank[~~s~~] may have an effluent screen installed at the outlet of the terminal tank. The screen shall prevent the passage of solid particles larger than a nominal 1/8 inch diameter sphere. The screen shall be easily removable for routine servicing by installing a riser to the ground surface, with an approved cover. [~~E~~]An effluent screen[~~s are~~] is required for each non-domestic

wastewater system[~~s~~], unless screening is achieved by some other means acceptable to the regulatory authority.

[~~F. Access to Tank Interior.~~

~~A~~](g) Adequate access to the tank shall be provided to facilitate inspection, pumping, servicing, and maintenance, and shall have no structure or other obstruction placed over it and shall conform to all [~~of~~]the following requirements.

[~~1. Riser Heights.~~

~~W~~](i) Watertight risers are required, extending to within 6 inches of the surface of the ground when soil covering the septic tank is greater than 6 inches. Preferably, the riser should be brought up to the final grade to encourage periodic servicing and maintenance.

[~~a.~~](A) If a septic tank is located under paving or concrete, risers shall be extended up through the paving or concrete.

[~~b.~~](B) If non-domestic wastewater is generated, risers shall be extended to the final grade.

[~~2. Riser Diameter.~~

](ii) The inside diameter of the riser shall be a minimum of 20 inches.

[~~3. Riser Covers.~~

~~R~~](iii) Each riser cover[~~s~~] shall be designed and constructed in such a manner that:

[~~a.~~](A) [~~they can~~]it may not pass through the access openings;

[~~b.~~](B) [~~when closed will~~]it shall be child-proof when closed;

[~~c.~~](C) [~~wi~~]it shall prevent entrance of surface water, dirt, or other foreign materials; and

[~~d.~~](D) it shall seal odorous gases in the tank.

[~~4. Riser Construction.~~

~~The~~](iv) Each riser[~~s~~] shall be constructed of durable, structurally sound materials that are approved by the regulatory authority and designed to withstand expected physical loads and corrosive forces.

[~~5. Multiple Risers Required.~~

](v) When [~~the~~] a septic tank capacity exceeds 3,000 gallons, a minimum of two access risers shall be installed.

[~~G. Other Requirements.~~

](h) [~~T~~]Each septic tank installation located in a high groundwater area shall conform to [~~all of~~]the following additional requirements:[~~.~~]

[~~1. Ground Water.~~

~~a.~~](i) [~~S~~]Each septic tank[~~s~~] located in a high groundwater area[~~s~~] shall be designed with the appropriate weighted or anti-buoyancy device to prevent flotation in accordance with the manufacturer's recommendations.

[~~b.~~](ii) The building sewer inlet of [~~the~~]a septic tank may not be installed at an elevation lower than the highest anticipated groundwater elevation.

[~~i.~~](A) If the tank serves a mound,[~~ or~~] packed bed, or membrane bioreactor alternative system and has an electronic control panel capable of detecting water intrusion, the building sewer inlet of the tank may be installed below the maximum anticipated groundwater elevation.

[~~(1)~~](B) Any component below the anticipated maximum ground water elevation shall be water tightness tested.

[~~2. Depth of Septic Tank.~~

]](i) The minimum depth of cover over [~~the~~]a septic tank shall be at least 6 inches and a maximum of 48 inches at final grading. For unusual situations, the regulatory authority may allow deeper burial provided the following conditions are met.

[~~a.~~](A) [~~The~~]Each septic tank shall be approved by the division for the proposed depth and burial cover load.

[~~b.~~](B) [~~R~~]Each riser[~~s~~] shall:

[~~i.~~](I) be installed over [~~the~~]each access opening[~~s~~] of the inlet and outlet baffles or sanitary tees; and

[~~ii.~~](II) conform to Subsection R317-4-6[~~.7.F~~](7)(g), except each riser[~~s~~] shall be at least 24 inches in diameter.

[~~6.8. Grease Interceptor Tanks.~~

]](8) A grease interceptor tank or automatic grease removal device may be required by the regulatory authority to receive the drainage from fixtures and equipment with grease-laden waste. It shall be sized according to the current Plumbing Code.

[~~A. Accessibility and Installation.~~

~~T~~]Any grease interceptor tank[~~s~~] or automatic grease removal device installed in the ground shall conform to Subsection R317-4-6[~~.7.F~~](7)(g) for accessibility and installation, except risers are required and shall be brought to the surface of the ground. [~~All~~]Each interior compartment[~~s~~] shall be accessible for inspecting, servicing, and pumping.

[~~6.9.~~](9) [~~P~~]Installation of each pump and [~~R~~]recirculation [~~T~~]tank[~~s.~~] shall conform to the following:

[~~A.~~](a) [~~T~~]Each pump or recirculation tank[~~s~~] shall be constructed of sound, durable, watertight materials that are not subject to excessive corrosion, frost damage, or decay. The[~~y~~] tank shall be designed to be watertight, and to withstand all expected physical forces;[~~.~~]

[~~B.~~](b) Pump tank volume shall have a liquid capacity adequate for the minimum operating volume that includes the dead space, dosing volume, and surge capacity, and shall have the emergency operation capacity of:

[~~1.~~](i) storage capacity for the system design daily wastewater flow;

[~~2.~~](ii) at least two independent power sources with appropriate wiring installed; or

[~~3.~~](iii) other design considerations approved by the regulatory authority that do not increase public health risks i[~~n the event o~~]f pump failure occurs.

[~~C. Accessibility and Installation.~~

]](c) Each t[~~T~~]ank[~~s~~] shall conform to Subsection R317-4-6[~~.7.F~~](7)(g) for accessibility and installation, except risers are required and shall be brought to the surface of the ground. [~~All~~]Each interior compartment[~~s~~] shall be accessible for inspecting, servicing, and pumping; and[~~.~~]

[~~D.~~](d) [~~O~~]Each outlet[~~s~~] of any septic tank[~~s~~] upstream of each pump tank[~~s~~] shall be fitted with an effluent screen, unless a pump vault is used in a pump tank.

[~~6.10. Pump Vaults.~~

~~P~~](10) A pump vault[~~s~~] may be used when approved by the regulatory authority.

[~~A.~~](a) The vault shall be constructed of durable material and resistant to corrosion.

[~~B.~~](b) The vault shall have an easily accessible screen with 1/8 inch openings or smaller.

[~~C.~~](c) [~~All~~]Each component[~~s~~] of the vault shall be accessible from the surface.

[~~D.~~](d) When a pump vault is used in a septic tank:

[~~1.~~](i) The tank size shall be increased by the larger of the following:

[~~a. t~~](A) two hundred fifty gallons; or

[~~b. t~~](B) ten percent of the required capacity of the tank.

[~~2.~~](ii) At least two independent power sources with appropriate wiring, or other design considerations approved by the regulatory authority that do not increase public health risks, shall be installed.

[~~3.~~](iii) The maximum drawdown within the tank shall be no more than 3 inches per dose.

[~~6.11. Pumps.~~

~~See~~](11) Each pump shall be designed as detailed in Subsection R317-4-14(2) Appendix B[~~ for details~~].

[~~6.12. Sampling Ports.~~

](12) When any onsite wastewater system is required to have effluent sampling or receives non-domestic wastewater, the system shall include a sampling port at an area approved by the regulatory authority capable of sampling effluent [~~prior to~~]before the absorption system.

[~~6.13.~~](13) Each effluent [~~S~~]sewer shall conform with the following:[~~.~~]

[~~A.~~](a) The effluent sewer shall have a minimum inside diameter of 4 inches and shall comply with the minimum standards in Section R317-4-13 Table 4;[~~.~~]

[~~B.~~](b) The effluent sewer shall extend at least 5 feet beyond the septic tank before entering the absorption system;[~~.~~]

[~~C.~~](c) [~~E~~]The effluent sewer[~~s~~] shall be laid on a uniform minimum slope of not less than 1/4 inch per foot or 2.08% slope. When it is impractical, due to structural features or the arrangement of any building, to obtain a slope of 1/4 inch per foot, a sewer pipe of 4 inches in diameter or larger may have a slope of not less than 1/8 inch per foot or 1.04% slope when approved by the regulatory authority;[~~.~~]

[~~D.~~](d) The effluent sewer line[~~s~~] shall have cleanouts at least every 100 feet; and[~~.~~]

[~~E.~~](e) Each effluent sewer placed under a driveway[~~s~~] or other area[~~s~~] subjected to heavy loads shall receive special design considerations to ensure against crushing or disruption of alignment.

[~~6.14.~~](14) An absorption [~~S~~]system[~~s~~] shall consist of one or more absorption trenches, absorption beds, deep wall trenches, or seepage pits.

[~~A. System Types.~~

~~1.~~]Absorption [~~T~~]trenches may be standard trenches, chambered trenches, or bundled synthetic aggregate trenches.

[~~a. Standard Trenches.~~

~~b. Chambered Trenches.~~

~~c. Bundled Synthetic Aggregate Trenches.~~

~~2. Absorption Beds.~~

~~3. Deep Wall Trenches.~~

~~4. Seepage Pits.~~

~~B.~~](a) Each absorption system shall meet [~~G~~]general [~~R~~]requirements.

[~~1.~~](i) [~~R~~]A replacement [~~A~~]area for each [~~A~~]absorption [~~S~~]system[~~s.~~

] shall have [~~A~~]adequate and suitable land which shall be reserved and kept free of permanent structures, traffic, or adverse soil modification for 100% replacement of each absorption system. If approved by the regulatory authority, the area between standard trenches or deep wall trenches may be regarded as replacement area.[

~~a.~~] In lieu of a replacement area, two complete absorption systems shall be installed with a diversion valve. The valve shall be accessible from the final grade. The valve should be switched at least annually.

[~~2. Protection of Absorption Systems.~~

](ii) The site of the initial and replacement absorption system shall be protected and may not be covered by asphalt, concrete,[~~ or~~] structures, or be subject to vehicular traffic, or other activity that would adversely affect the soil, such as construction material storage, or soils storage[~~, etc~~]. This protection applies before and after construction of the onsite wastewater system.

[~~3. Sizing Criteria for Absorption Systems.~~

~~A~~](iii) Each absorption system[~~s~~] shall be sized based on Section R317-4-13 Table 5 or R317-4-13 Table 6.

[~~4. Design Criteria for Absorption Systems.~~

](iv) Many different criteria [~~designs~~]may be used in [~~laying out~~]designing an absorption system[~~s~~], the choice depending on the size and shape of the available areas, the capacity required, and the topography of the dispersal area.

[~~a. Horizontal Setbacks.~~

](A) Each [~~A~~]absorption system[~~s~~] shall comply with the setbacks in Section R317-4-13 Table 2.

[~~b. Sloping Ground.~~

~~A~~](B) An absorption system[~~s~~] may be placed in sloping ground. Any absorption system placed in 10% or greater sloping ground shall be designed so that there is a minimum of 10 feet of undisturbed earth measured horizontally from the bottom of the distribution line to the ground surface. This requirement does not apply to drip irrigation.

[~~c. Undisturbed Natural Earth.~~

](C) That portion of the absorption system[~~s~~] below the top of distribution pipes shall be in undisturbed natural earth.

[~~d. Tolerance.~~

](D) All piping, chambers, and the bottoms of absorption system excavations shall be designed level.

[~~e. Distribution Pipe.~~

](E) Distribution pipe for gravity-flow absorption systems shall be 4 inches in diameter and shall comply with the minimum standards in Section R317-4-13 Table 4.

[~~i.~~](I) The pipe shall be penetrated by at least two rows of round holes, each 1/2 inch in diameter, and located at [~~approximately~~]about 6 inch intervals. The perforations should be located at about the five o'clock and seven o'clock positions on the pipe.

[~~ii.~~](II) The open ends of the pipes shall be capped.

[~~f. Absorption System Laterals.~~

](F) Absorption system laterals should be designed to receive proportional flows of wastewater.

[~~g. Drain Media Protection.~~

](G) Drain media shall be covered with a barrier material before being covered with earth backfill.

[~~h.~~](H) [~~P~~]The following prohibitions shall apply to the design of an absorption system:[~~.~~]

[~~i.~~](I) In any gravity-flow absorption system[~~s~~] with multiple distribution lines, the effluent sewer may not be in direct line with any one of the distribution pipes, except where drop boxes or distribution boxes are used.

[~~ii.~~](II) Any section of distribution pipe laid with non-perforated pipe may not be considered in determining the required absorption area.

[~~iii.~~](III) Perforated distribution pipe may not be placed under a driveway[s] or other area[~~s~~] subjected to heavy loads.[

~~i. Exceptions.~~

~~D~~] A deep wall trench[~~es and~~] or filled seepage pit[~~s~~] may be allowed beneath an unpaved driveway[~~s~~] on a case-by-case basis by the regulatory authority, if the top of the distribution pipe is at least 3 feet below the final ground surface.

[~~C.~~](b) Effluent [~~D~~]distribution [~~D~~]devices may be used to distribute effluent evenly throughout an absorption system.

[~~1. Distribution Boxes.~~

]~~(i)~~ A [~~D~~]distribution box[~~es~~] may be used on level or nearly level ground. [~~They~~]Each distribution box shall be watertight and constructed of durable, corrosion resistant material. [~~They~~]Each distribution box shall be designed to accommodate [~~the~~]an inlet pipe and the necessary distribution lines.

[~~a.~~](A) The outlet inverts of the distribution box [~~shall be~~]may not be less than 1 inch below the inlet invert.

[~~b.~~](B) [~~D~~]Each distribution box[~~es~~] shall have a riser[~~s~~] brought to final grade.

[~~2. Drop Boxes.~~

]~~(ii)~~ Each [~~D~~]drop boxes shall be watertight and constructed of durable, corrosion resistant material and may be used to distribute effluent within the absorption system and shall meet the following requirements:

[~~a.~~](A) Each [~~D~~]drop box[~~es~~] shall be designed to accommodate [~~the~~]an inlet pipe, an outlet pipe leading to the next drop box, except for the last drop box, and one or two distribution pipes leading to the absorption system.

[~~b.~~](B) The inlet pipe to the drop box shall be at least 1 inch higher than the outlet pipe leading to the next drop box.

[~~c.~~](C) The invert of the distribution pipes shall be 1 through 6 inches below the outlet invert. If there is more than one distribution pipe, their inverts shall be at exactly the same elevation.

[~~d.~~](D) Each [~~D~~]drop box[~~es~~] shall have a riser[~~s~~] brought to final grade.

[~~3.~~](iii) Effluent [~~P~~]may be pumped to an [~~A~~]absorption [~~S~~]system.

[~~a.~~](A) If a pump is used to lift effluent to an absorption system, the pump tank or pump vault shall meet the requirements of Subsection R317-4-6(9)[~~.9~~] or R317-4-6(10)[~~.10~~] and the pump and controls shall meet the requirements of Subsection R317-4-14(2) Appendix B.

[~~b.~~](B) Pumping to an absorption system may not warrant any reductions to the absorption area.

[~~4. Other Devices.~~

~~T~~](iv) Any tee[~~s~~], wye[~~s~~], ell[~~s~~], or other distributing device[~~s~~] may be used as needed to [~~permit~~]distribute proportional flow to the branches of the absorption system. A clean out or other means of access from the surface shall be provided for [~~these~~]any such device[~~s~~].

[~~D.~~](c) Effluent shall be [~~D~~]distributed[~~ion~~] evenly throughout an absorption system using various [~~M~~]methods.

[~~1. Closed Loop.~~

]~~(i)~~ In a location[~~s~~] where the slope of the ground over the absorption system area is relatively flat, [~~the~~]absorption trenches should be interconnected to produce a closed loop system and the trenches shall be installed at the same elevations.

[~~2. Non-Closed Loop.~~

]~~(ii)~~ If a non-closed loop design is used, effluent shall be proportionally distributed to each lateral.

[~~3. Serial or Sequential.~~

]~~(iii)~~ Serial or sequential distribution may be used in absorption systems designed for sloping areas, or where absorption system elevations are not equal.

[~~a.~~](A) Serial trenches shall be connected with a drop box or watertight overflow line in such a manner that a trench [~~will~~]shall be filled before the effluent flows to the next lower trench.

[~~b.~~](B) The overflow line shall be a 4-inch solid pipe with direct connections to the distribution pipes. It should be laid in a trench excavated to the exact depth required. Care must be exercised to ensure a block of undisturbed earth remains between trenches. Backfill should be carefully tamped.

[~~4.~~](iv) Pressure [~~D~~]distribution to an absorption system shall conform to the following general requirements:[~~.~~]

[~~a. General Requirements.~~

~~i. Conformance to Applicable Requirements.~~

]~~(A)~~ All requirements stated elsewhere in this rule for design, setbacks, construction and installation details, performance, repairs, and abandonment shall apply.

[~~ii. Design Criteria.~~

~~All~~](B) Each system[~~s~~] that uses this method shall be designed by a person certified at Level 3 in accordance with Rule R317-11.

[~~(1)~~](I) The designer shall submit details of all system components with the necessary calculations.

[(2)](II) The designer shall provide to the local health department and to the owner operation and maintenance instructions that include the minimum inspection levels in Section R317-4-13 Table 7 for the system.

[~~iii. Record in the Chain of Title.~~

]~~(C)~~ When a system utilizing pressure distribution exists on a property, notice of the existence of that system shall be recorded in the chain of title for that property.

[~~b. Design.~~

~~i.~~](D) Pressure distribution may be permitted on any site meeting the requirements for an onsite wastewater system if conditions in this rule can be met.[

~~ii.~~] Pressure distribution should be considered when:

[~~(1)~~](I) effluent pumps are used;

[~~(2)~~](II) the flow from the dwelling or structure exceeds 3,000 gallons per day;

[~~(3)~~](III) soils are a Type 1 or have a percolation rate faster than five minutes per inch; or

[~~(4)~~](IV) soils are a Type 5 or have a percolation rate slower than 60 minutes per inch.

[~~iii.~~](E) The Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document shall be used for design requirements, along with the following:

[~~(1)~~](I) Dosing pumps, controls and alarms shall comply with Subsection R317-4-14(2) Appendix B.

[(2)](II) Pressure distribution piping.[~~.~~

~~(a) All~~] pressure transport, manifold, lateral piping, and fittings shall meet PVC Schedule 40 standards or equivalent.

[~~(b)~~](III) The ends of lateral piping shall be constructed with sweep elbows or an equivalent method to bring the end of the pipe to final grade. The ends of the pipe shall be provided with threaded plugs, caps, or other devices acceptable to the regulatory authority to allow for access and flushing of the lateral.

[~~E.~~](d) [~~Design of~~]Each [~~A~~]absorption [~~S~~]system[~~s~~] shall be designed according to the requirements for the specific absorption method selected.

[~~i.~~](i) An absorption system shall be designed to [~~approximately~~]follow the ground surface contours so that variation in excavation depth [~~will~~]shall be minimized. The excavations [~~could~~]may be installed at different elevations, but the bottom of each individual excavation shall be level throughout its length.

[~~ii.~~](ii) [~~A~~]Each absorption system[~~s~~] should be constructed as shallow as is possible to promote treatment and evapotranspiration.

[~~iii.~~](iv) Observation ports may be placed to observe the infiltrative surfaces of the trenches or beds.

[~~1.~~](v) [~~Absorption Trenches.~~

~~a.~~]Absorption trenches shall conform to the following:

[~~i.~~](A) The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6.

[~~ii.~~](B) The effective absorption area of absorption trenches shall be calculated as the total bottom area of the excavated trench system in square feet.

[~~iii.~~](C) The [~~M~~]minimum number of absorption trenches shall be two.[~~: 2.~~]

[~~iv.~~](D) [~~M~~]The maximum length of an absorption trench[~~es~~], not including any connecting trench[~~es: ~~] shall be 150 feet.

[~~v.~~](E) [~~M~~]The minimum spacing of absorption trenches from wall to wall[~~:~~] shall be 7 feet.

[~~vi.~~](F) [~~M~~]The minimum width of each absorption trench excavation[~~s: ~~] shall be 24 inches.

[~~vii.~~](G) [~~M~~]The maximum width of each absorption trench excavation[~~s: ~~] shall be 36 inches.

[~~viii.~~](H) [~~M~~]The minimum depth of each absorption trench excavation[~~s~~] below the original, natural grade[~~:~~] shall be 10 inches.

[~~ix.~~](I) [~~M~~]The minimum depth of soil cover over [~~the~~]each absorption trench[~~es: ~~] shall be 6 inches.

[~~x.~~](J) [~~M~~]The minimum separation from the bottom of [~~the~~]each absorption trench[~~es~~] to:

[~~(1)~~](K) the anticipated maximum ground water table[~~:~~] shall be 24 inches; and

[~~(2)~~](L) to unsuitable soil or bedrock formations[~~:~~] shall be 48 inches.

[~~b. Standard Trenches.~~

]~~(vi)~~ Each [~~S~~]standard trench[~~es~~] shall conform to the following:

[~~i.~~](A) The top of any distribution pipe may not be installed above original, natural grade.

[~~ii.~~](B) The distribution pipe shall be centered in the absorption trench and placed the entire length of the trench.

[~~iii.~~](C) Drain media shall extend the full width and length of the trench[~~es~~] to a depth of at least[~~:~~] 12 inches.

[~~iv.~~](D) [~~M~~]The minimum depth of drain media under the distribution pipe[~~:~~] shall be 6 inches.

[~~v.~~](E) [~~M~~]The minimum depth of drain media over the distribution pipe[~~:~~] shall be 2 inches.

[~~vi.~~](F) [~~M~~]The minimum depth of cover over the barrier material[~~:~~] shall be 6 inches.

[~~c. Chambered Trenches.~~

]~~(vii)~~ Each [~~C~~]chambered trench[~~es~~] shall conform to the following:

[~~i.~~](A) [~~All~~]Each chamber[~~s~~] shall [~~meet~~]be certified under the International Association of Plumbing and Mechanical Officials (IAPMO) [~~S~~]standard[~~ PS 63-2005, which is hereby incorporated into this rule by reference~~] for plastic leaching chambers.

[~~ii.~~](B) The minimum required effective absorption area of chambered trenches shall be calculated:

[~~(1)~~](I) using 36 inches for Type A Chambers[~~ as: 36 inches;~~]; and

[~~(2)~~](II) using 24 inches for Type B Chambers.[~~ as: 24 inches;~~]

[~~(3)~~](C) The minimum required effective absorption area of chambered trenches shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6 and may be reduced by[~~:~~] 30%.

[~~iii.~~](D) The chambered trenches shall be designed and installed in conformance with manufacturer recommendations, as modified by this[~~ese~~] rule[~~s~~].

[~~iv.~~](E) Type A [~~C~~]chambers shall have:[~~:~~]

[~~(1) M~~](I) a minimum width of [~~chambers: ~~]30 inches; and[~~:~~]

[~~(2) M~~](II) a maximum trench excavation width of [~~trench excavations: ~~]36 inches.

[~~v.~~](F) Type B [~~C~~]chambers shall have:[~~:~~]

[~~(1) M~~](I) a minimum width of [~~chambers: ~~]22 inches; and[~~:~~]

[~~(2) M~~](II) a maximum trench excavation width of [~~trench excavations: ~~]24 inches.

[~~vi.~~](G) [~~M~~]The minimum elevation of the inlet pipe invert from the bottom of the chamber[~~:~~] shall be 6 inches.

[~~vii.~~](H) [~~All~~]Each chamber[~~s~~]ed trench shall have a splash plate under the inlet pipe or another design feature to avoid unnecessary channeling into the trench bottom.

[~~viii.~~](I) [~~I~~]Any inlet and outlet effluent sewer pipe[~~s~~] shall enter and exit the chamber endplate[~~s~~].

[~~ix.~~](J) [~~M~~]The minimum depth of cover over [~~the~~]any chamber[~~s: ~~] shall be 12 inches. [

]The depth of cover may be reduced to no less than 6 inches, if approved by the regulatory authority, considering the protection of absorption systems as required in Subsection R317-4-6(14)(a)(ii)[~~.14.B.2~~], and other activities, as determined by the authority.

[~~d. Bundled Synthetic Aggregate Trenches.~~

~~B~~](viii) Each bundled synthetic aggregate trench[~~es~~] shall conform to the following:[~~:~~]

[~~i.~~](A) [~~All~~]Each synthetic aggregate bundle[~~s~~] shall meet IAPMO Standards for the General, Testing and Marking and Identification of the guide criteria for Bundled Expanded Polystyrene Synthetic Aggregate Units.

[~~ii.~~](B) The effective absorption area of a bundled synthetic aggregate trench[~~es~~] shall be calculated as the total bundle length times the total bundle width in square feet.

[~~iii.~~](C) [~~The~~]Each bundled synthetic aggregate trench[~~es~~] shall be designed and installed in conformance with manufacturer recommendations, as modified by this[~~ese~~] rule[~~s~~].

[~~iv.~~](D) Only 12-inch diameter bundles are approved in this rule.

[~~(1)~~](E) For bundles with perforated pipe the minimum depth of synthetic aggregate under pipe[~~:~~] shall be 6 inches.

[~~v.~~](F) [~~W~~]The width of each bundled synthetic aggregate trench[~~es.~~] shall require:

[~~(1)~~](I) [~~When designed for a 3-foot wide trench, t~~]three bundles [~~are ~~]laid parallel to each other with the middle bundle containing perforated pipe when designed for a 3 foot trench[~~.~~]; or

[~~(2)~~](II) [~~When designed for a 2-foot wide trench, ~~]two bundles [~~are ~~]placed on the bottom, with [~~one~~]another bundle containing perforated pipe placed on top of the other two bundles.

[~~vi.~~](G) The [~~M~~]minimum depth of cover over the bundles[~~:~~] shall be 12 inches. [

]The depth of cover may be reduced to no less than 6 inches, if approved by the regulatory authority, considering the protection of absorption systems as required in Subsection R317-4-6(14)(a)(ii)[~~.14.B.2~~], and other activities, as determined by the authority.

[~~2. Absorption Beds.~~

~~A~~](ix) Each absorption bed[~~s~~] shall conform to the requirements applicable to absorption trenches, except for the following:[~~.~~]

[~~a.~~](A) The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6.

[~~b.~~](B) The effective absorption area of absorption beds shall be considered as the total bottom area of the excavated bed system in square feet.

[~~c.~~](C) [~~A~~]An absorption bed[~~s~~] may be built over naturally existing soil types per Section R317-4-13 Table 5 or R317-4-13 Table 6.

[~~d.~~](D) The bottom of the entire absorption bed shall be level.

[~~e.~~](E) The distribution pipes or chambers shall be interconnected to produce a closed loop distribution system.

[~~f.~~](F) [~~M~~]The minimum number of laterals in an absorption bed[~~:~~] shall be 2.

[~~g.~~](G) [~~M~~]The maximum length of laterals in an absorption bed[~~:~~] shall be 150 feet.

[~~h.~~](H) [~~M~~]The maximum distance between laterals[~~:~~] shall be 6 feet.

[~~i.~~](I) [~~M~~]The minimum distance between laterals and sidewalls[~~:~~] shall be 1 foot.

[~~j.~~](J) [~~M~~]The maximum distance between laterals and sidewalls[~~:~~] shall be 3 feet.

[~~k.~~](K) [~~M~~]The minimum distance between absorption beds[~~:~~] shall be 7 feet.

[~~l.~~](L) [~~M~~]The minimum depth of an absorption bed excavation from original, natural grade[~~:~~] shall be 10 inches.

[~~m.~~](M) Absorption beds with drain media shall conform to the following:

[~~i.~~](I) [~~M~~]The minimum depth of drain media under a distribution pipe[~~:~~] shall be 6 inches.

[~~ii.~~](II) [~~M~~]The minimum depth of drain media over a distribution pipe[~~:~~] shall be 2 inches.

[~~iii.~~](III) [~~M~~]The minimum depth of cover over the barrier material[~~:~~] shall be 6 inches.

[~~n.~~](N) [~~A~~]Each absorption bed[~~s~~] with chambers shall require:

[~~i.~~](I) Chambers shall be installed with sides touching, no separation allowed.

[~~ii.~~](II) All chambers shall be connected in a closed loop distribution system.

[~~iii.~~](III) The outlet side of the chamber runs shall be connected through the bottom port of the end plates.

[~~iv.~~](IV) No absorption area reduction factor shall be given for using chambers in absorption beds.

[~~v.~~](V) [~~M~~]The minimum depth of cover over the chambers[~~:~~] shall be 12 inches.

[~~3. Deep Wall Trenches.~~

]](x) Each [~~D~~]deep wall trench[~~es~~] shall conform to the following:

[~~a.~~](A) The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6.

[~~b.~~](B) The effective absorption area of deep wall trenches shall be calculated using the total trench vertical sidewall area below the distribution pipe. The bottom area and any highly restrictive or impervious strata or bedrock formations may not be considered in determining the effective sidewall absorption area.

[~~c.~~](C) If a percolation test[~~s are~~] is used, [~~they~~]it shall be conducted in accordance with Subsection R317-4-14(4) Appendix D and in the most restrictive soil horizon.

[~~d.~~](D) [~~M~~]The maximum length of any trench[~~es:~~], not including any connecting trench, shall be 150 feet.[

~~i. Does not include connecting trenches.~~

] [~~e.~~](E) [~~M~~]The minimum spacing of trenches from wall to wall[~~:~~] shall be 12 feet,[

] or three times the depth of the media under the distribution pipe, whichever is the larger distance.

[~~f. Vertical depth of t~~](F) Each deep wall trench[~~es.~~] shall:

[~~i. M~~](I) have a minimum effective sidewall[~~s:~~] depth of 2 feet;[~~.~~]

[~~ii. M~~](II) have a maximum effective sidewall[~~s:~~] depth of 10 feet; and[~~.~~]

[~~iii.~~](III) allow[~~Calculate using~~] only suitable soil formation depth when calculating the absorption area.

[~~g.~~](G) [~~M~~]The minimum width of each trench excavation[~~s:~~] shall be 24 inches.

[~~h.~~](H) [~~M~~]The minimum separation from the bottom of each deep wall trench to:

[~~i.~~](I) the anticipated maximum ground water table[~~:~~] shall be a minimum of 48 inches; and

[~~ii.~~](II) unsuitable soil or bedrock formations[~~:~~] shall be a minimum of 48 inches.

[~~i.~~](I) Drain media shall cover the coarse drain media to [~~permit~~]allow for leveling of the distribution pipe and shall extend the full width and length of the trench.[~~es.~~]

[~~i.~~](J) [~~M~~]The minimum depth of drain media[~~:~~] shall be 12 inches.

[~~ii.~~](K) [~~M~~]The minimum depth of drain media under the distribution pipe[~~:~~] shall be 6 inches.

[~~iii.~~](L) [~~M~~]The minimum depth of drain media over the distribution pipe[~~:~~] shall be 2 inches.

[~~j.~~](M) [~~M~~]The minimum depth of cover over the barrier material[~~:~~] shall be 6 inches.

[~~k.~~](N) The distribution pipe shall be centered in the trench and placed the entire length of the trench.

[~~l.~~](O) [~~S~~]The horizontal setback distance to any property line[~~s:~~] shall be a minimum of 10 feet.

[~~4. Seepage Pits.~~

~~S~~](xi) A seepage pit[~~s~~] shall be considered as a modified deep wall trench[~~es~~] and shall conform to the requirements applicable to deep wall trenches, except for the following:

[~~a.~~](A) The effective absorption area of a seepage pit[~~s~~] shall be calculated using the total pit vertical sidewall area below the distribution pipe. The bottom area and any highly restrictive or impervious strata or bedrock formations may not be considered in determining the effective sidewall absorption area.

[~~b.~~](B) [~~M~~]The minimum diameter of a seepage pit[~~s:~~] shall be 3 feet.

[~~c.~~](C) [~~Vertical depth of~~]Each seepage pit[~~s.~~] shall:

[~~i.~~](I) [~~M~~]have a minimum effective sidewall[~~s:~~] depth of 4 feet;[~~.~~]

[~~ii.~~](II) [~~M~~]have a maximum effective sidewall[~~s:~~] depth of 10 feet; and[~~.~~]

[~~iii.~~](III) allow[~~Calculate using~~] only suitable soil formation depth when calculating the absorption area.

[~~d. Filled Seepage Pits.~~

~~i.~~](D) In each pit[~~s~~] filled with coarse drain media, the perforated distribution pipe shall run across each pit. A layer of drain media shall be used for leveling the distribution pipe.[

~~ii.~~] The entire pit shall be completely filled with coarse drain media to at least the top of any permeable soil formation to be calculated as effective sidewall absorption area.

[~~e. Hollow-Lined Seepage Pits.~~

~~i.~~](E) Each hollow-lined seepage pit shall conform to the following:

(I) For each hollow-lined pit[~~s, the~~], an inlet pipe shall extend horizontally at least 1 foot into the pit.

[~~ii.~~](II) The annular space between the lining and excavation wall shall be filled with crushed rock or gravel ranging from 3/4 through 6 inches in diameter and free of fines, sand, clay or organic material. The maximum fines in the gravel shall be 2% by weight passing through a US Standard #10 mesh or 2.0 millimeter sieve.

[~~iii.~~](III) [~~M~~]The minimum width of annular space between lining and sidewall[~~:~~] shall be 12 inches.

[~~iv.~~](IV) [M]The minimum thickness of reinforced perforated concrete liner[~~:~~] shall be 2-1/2 inches.

[~~v.~~](V) [~~M~~]The minimum thickness of reinforced concrete top[~~:~~] shall be 6 inches.

[~~vi.~~](VI) [~~M~~]The minimum depth of drain media in the seepage pit bottom[~~:~~] shall be 6 inches.

[~~vii.~~](VII) Minimum depth of cover over seepage pit top[~~:~~] shall be 6 inches.

[~~viii.~~](VIII) A reinforced concrete top shall be provided.

[~~(1)~~](IX) When the cover over [~~the~~]any seepage pit top exceeds 6 inches, risers shall conform to Subsection R317-4-6(7)(g)[~~.7.F~~] for accessibility.

[~~6.15.~~](15) Alternative [~~S~~]onsite wastewater systems include at-grade, mound, packed media, sand lined trench, and membrane bioreactor systems. A packed bed media system may be an intermittent sand filter, a recirculating sand filter, a recirculating gravel filter, a textile filter or a peat filter.

[~~A. System Types.~~

~~1. At-Grade.~~

~~2. Mounds.~~

~~3. Packed Bed Media.~~

~~a. Intermittent Sand Filters.~~

~~b. Recirculating Sand Filters.~~

~~c. Recirculating Gravel Filters.~~

~~d. Textile Filters.~~

~~e. Peat Filters.~~

~~4. Sand Lined Trenches.~~

~~B. General Requirements.~~

~~1.~~](a) An alternative onsite wastewater system shall [~~C~~]conform[~~ance~~] to [~~A~~]applicable [~~Requirements.~~

~~All~~]requirements stated elsewhere in this rule for design, setbacks, construction and installation details, performance, repairs and abandonment shall apply unless stated differently for a given alternative system.

[~~2. Sizing Criteria for Alternative Systems.~~

~~]~~(i) An [~~A~~]absorption area for each alternative onsite wastewater system shall be sized based on Section R317-4-13 Table 5 or R317-4-13 Table 6 except as specified in this section.

[~~3. Design Criteria for Alternative Systems.~~

~~All~~](ii) Each alternative onsite wastewater system[~~s~~] shall be designed by a person certified at Level 3 in accordance with Rule R317-11.

[~~a.~~](A) The designer shall submit details of all system components with the necessary calculations.

[~~b.~~](B) The designer shall provide to the local health department and to the owner operation and maintenance instructions that include the minimum inspection levels in Section R317-4-13 Table 7 for the system.

[~~4. Record in the Chain of Title.~~

~~]~~(iii) When an alternative system exists on a property, notice of the existence of that system shall be recorded in the chain of title for that property.

[~~C. Design of Alternative Systems.~~](b) The design each alternative onsite wastewater system shall be designed according to the requirements for the specific alternative system selected.

[~~1. At-Grade Systems.~~

~~]~~(i) Absorption trenches and absorption beds may be used in an at-grade system[~~s~~]. [~~A~~]Each at-grade system[~~s~~] shall conform to the requirements applicable to absorption trenches and absorption beds, except for the following:

[~~a.~~](A) Horizontal setbacks in Section R317-4-13 Table 2 are measured from edge of trench sidewall, except at property lines, where the toe of the final cover shall be 5 feet or greater in separation distance to a property line.

[~~b.~~](B) [~~M~~]The minimum number of observation[~~s~~] ports provided within absorption area[~~:~~] shall be 2.[

~~i.~~] The ports shall be installed to the depth of the trench or bed.

[~~c.~~](C) [~~D~~]The depth of each absorption excavation[~~s~~] below natural grade[~~:~~] shall be 0-10 inches.

[~~d.~~](D) [~~M~~]The minimum cover over the absorption area[~~:~~] shall be 6 inches.

[~~e.~~](E) [~~M~~]The maximum slope of natural ground surface[~~:~~] shall be 4%.

[~~f.~~](F) The maximum side slope for above ground fill shall be four horizontal to one vertical[~~:~~] shall be a 25% slope.

[~~g.~~](G) Where final contours are above the natural ground surface, the cover shall extend from the center of the wastewater system at the same general top elevation for a minimum of 10 feet in all directions beyond the limits of the absorption area perimeter, before beginning the side slope.

[~~2. Mound Systems.~~

~~]~~(ii) Each [~~M~~]mound system[~~s~~] shall conform to the following:

[~~a.~~](A) The design shall generally be based on the Wisconsin Mound Soil Absorption System: Siting, Design and Construction Manual, January 2000 published by the University of Wisconsin-Madison Small-Scale Waste Management Project, with the following exceptions.

[~~i.~~](B) The minimum separation distance between the natural ground surface and the anticipated maximum ground water table[~~:~~] shall be 12 inches.

[~~ii.~~](C) [~~M~~]A mound system[~~s~~] may be built over naturally existing soil types per Section R317-4-13 Table 5 or R317-4-13 Table 6 provided the minimum depth of suitable soil is:

[~~(1)~~](I) 36 inches between the natural ground surface and bedrock formations or unsuitable soils[~~: 36 inches~~]; or

[~~(2)~~](II) 24 inches above soils that have a percolation rate faster than one minute per inch[~~: 24 inches~~].

[~~iii.~~](D) The minimum depth of sand media over natural soil[~~:~~] shall be 12 inches.

[~~iv.~~](E) The maximum slope of natural ground surface[~~:~~] shall be 25 %.

[~~v.~~](F) The separation distances in Section R317-4-13 Table 2 are measured from the toe of the final cover.

[~~vi.~~](G) The effluent loading rate at the sand media to natural soil interface shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6.

[~~vii.~~](H) The effluent entering a mound system shall be at levels at or below the defined parameters of non-domestic effluent.

[~~viii.~~](I) The minimum thickness of aggregate media around the distribution pipes of the absorption system shall be the sum of 6 inches below the distribution pipe, the diameter of the distribution pipe and 2 inches above the distribution pipe or 10 inches, whichever is larger.

[~~ix.~~](J) The cover may not be less than 6 inches in thickness, and shall provide protection against erosion, frost, storm water infiltration and support vegetative growth and aeration of distribution cell.

[~~x.~~](K) A minimum of three observation ports shall be located within the mound at each end and the center of the distribution cell.[

~~(1)~~] At least one port shall be installed at the gravel-sand interface, and one port at the sand-soil interface.

[~~b.~~](L) Mounds shall use pressure distribution.[

~~i.~~] The Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document and Subsection R317-4-6(14)(c)(iv)[~~.14.D.4~~] shall be used for design requirements.[

~~(1)~~] See Subsection R317-4-14(2) Appendix B for pump and control requirements.

[~~3. Packed Bed Media Systems.~~

](iii) Each [~~P~~]packed bed media system[~~s~~] shall conform to the following design criteria:

[~~a. System Design Criteria.~~

~~i. Wastewater Design Flows.~~

~~(1)~~](A) For a single-family dwelling[~~s~~] the design shall be based on a minimum of 300 gallons per day for two bedrooms and 100 gallons per day for each additional bedroom.

[~~(2)~~](B) All other flow estimates shall be based on Subsection R317-4-6(4)[~~.4~~].

[~~(3)~~](C) Special design considerations shall be given for non-domestic effluent.

[~~ii. Effluent Distribution.~~

]~~(D)~~ Effluent shall be uniformly distributed over the filter media using pressure distribution.

[~~b. Absorption System Requirements.~~

~~Absorption systems shall conform to the following:~~

~~i. Siting Conditions.~~

]~~(E)~~ A [~~P~~]packed bed media absorption system[~~s~~] may be [~~sited under the following conditions:~~

~~(1) T~~]placed where the minimum separation distance between the natural ground surface and the anticipated maximum ground water table[~~:~~] is 12 inches.

[~~(2)~~](F) [~~P~~]A packed bed media absorption system[~~s~~] may be built over naturally existing soil types per Section R317-4-13 Table 5 or R317-4-13 Table 6 provided the minimum depth of suitable soils:

[~~(a)~~](I) above soils that have a percolation rate faster than one minute per inch[~~:~~] is at least 24 inches; and

[~~(b)~~](II) at least 36 inches between the natural ground surface and bedrock formations or unsuitable soils[~~: 36 inches~~]; or

[~~(c)~~](III) there is at least 18 inches between the natural ground surface and bedrock formations or unsuitable soils,[~~: 18 inches based on~~]determined by an evaluation of infiltration rate and hydrogeology from a professional geologist or engineer that is certified at the appropriate level to perform onsite wastewater system design and having sufficient experience in geotechnical engineering based on the detailed subsurface geology of the vicinity, the hydrogeology of the vicinity, and the cumulative hydrogeological effect of all existing and future onsite wastewater systems within the area.[~~:~~

~~(i) type, extent of fractures, presence of bedding planes, angle of dip;~~

~~(ii) hydrogeology of surrounding area; and~~

~~(iii) cumulative effect of all existing and future systems within the area for any localized mounding or surfacing that may create a public health hazard or nuisance, description of methods used to determine infiltration rate and evaluations of surfacing or mounding conditions.~~]

[~~(3)~~](G) A non-chemical disinfection unit, capable of meeting laboratory testing parameters in Table 7.3, and a maintenance schedule consistent to Section R317-4-13 Table[~~s~~] 7.1 and R317-4-13 Table 7.3, shall be used in excessively permeable soils.

[~~(4)~~](H) Conformance with the minimum setback distances in Section R317-4-13 Table 2, except for the following that require a minimum of 50 feet of separation:

[~~(a)~~](I) watercourses, lakes, ponds, reservoirs;

[~~(b)~~](II) non-culinary springs or wells;

[~~(c)~~](III) foundation drains, curtain drains; or

[~~(d)~~](IV) non-public culinary grouted wells, constructed as required by Title R309.

[~~ii. Sizing Criteria.~~

]~~(I)~~ The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6 and may be reduced by[~~:~~] 30%.[

~~(1)~~] The use of chambered trenches with a packed bed media system may not receive additional reductions as allowed in Subsection R317-4-6(14)(d)(v).[~~14.E.1.c.~~]

[~~iii. Separation from Ground Water Table.~~

]~~(J)~~ The bottom of the absorption system shall have a vertical separation distance of at least 12 inches from the anticipated maximum ground water table.

[~~iv. Observation Ports.~~

]~~(K)~~ A minimum of two observation ports shall be provided within the absorption area.

[~~v. Drip Irrigation.~~

]~~(L)~~ Drip irrigation absorption may be used for packed bed media absorption system effluent dispersal based on type of soil and drip irrigation manufacturer's recommendations.

[~~(1)~~](I) Materials shall be specifically designed and manufactured for onsite wastewater applications.

[~~(2)~~](II) Non-absorption components shall be installed per Section R317-4-6 and Section R317-4-13 Table 2.

[~~c.~~](iv) [~~I~~]Each intermittent [~~S~~]sand [~~F~~]filter [~~S~~]system[~~s~~] shall conform to the following:[~~.~~]

[~~i. Media.~~

]~~(A)~~ Either sand media or sand fill [~~as described below~~]may be used.

[~~(1) Minimum depth of sand media: 24 inches.~~

~~(2)~~](I) [~~M~~]The minimum depth of sand media or sand fill[~~:~~] shall be 24 inches.

[~~(a)~~](II) [~~E~~]The effective size[~~:~~] of the sand media or sand fill shall be 0.35-0.5 millimeters.

[~~(b)~~](III) [~~U~~]The uniformity coefficient[~~:~~] of the sand media or sand fill shall be less than 4.0.

[~~(c)~~](IV) [~~M~~]The maximum fines passing through #200 sieve[~~:~~] shall be 1%.

[~~ii.~~](B) [~~M~~]The maximum application rate per day per square foot of media surface area shall be:

[~~(1)~~](I) [~~S~~]1.0 gallons for sand media; or[~~: 1.0 gallons.~~]

[~~(2)~~](II) [~~S~~]1.2 gallons for sand fill[~~: 1.2 gallons~~].

[~~iii.~~](C) [~~M~~]The maximum dose volume through any given orifice for each dosing[~~:~~] shall be 2 gallons.

[~~iv.~~](D) Effluent entering an intermittent sand filter shall be at levels at or below the defined parameters of non-domestic effluent.

[~~e.~~](v) [~~R~~]Each recirculating [~~S~~]sand [~~F~~]filter [~~(RSF)~~ ~~S~~]system[~~s~~] shall conform to the following:[~~.~~]

[~~i. Media.~~

~~(1)~~](A) [~~M~~]The minimum depth of washed sand[~~:~~] shall be 24 inches.

[~~(2)~~](B) [~~E~~]The effective size[~~:~~] of the media shall be 1.5-2.5 millimeters.

[~~(3)~~](C) [~~U~~]The uniformity coefficient[~~:~~] shall be less than 3.0.

[~~(4)~~](D) [~~M~~]The maximum fines passing through a #50 sieve[~~:~~] shall be 1%.

[~~ii.~~](E) [~~M~~]The maximum application rate per day per square foot of media surface area[~~:~~] shall be 5 gallons.

[~~d.~~](vi) [~~R~~]Each recirculating [~~G~~]gravel [~~F~~]filter[~~ (RGF)~~] [~~S~~]system[~~s~~] shall conform to the following:[~~.~~]

[~~i. Media.~~

~~(1)~~](A) [~~M~~]The minimum depth of washed gravel[~~:~~] shall be 36 inches.

[~~(2)~~](B) [~~E~~]The effective size[~~:~~] of the media shall be 2.5-5.0 millimeters.

[~~(3)~~](C) [~~U~~]The uniformity [~~C~~]coefficient[~~:~~] shall be less than 2.0.

[~~(4)~~](D) [~~M~~]The maximum fines passing through a #16 sieve[~~:~~] shall be 1%.

[~~ii.~~](E) [~~M~~]The maximum application rate per day per square foot of media surface area[~~:~~] shall be 15 gallons.

[~~e.~~](vii) [~~T~~]Each textile [~~F~~]filter [~~S~~]system[~~s.~~] shall conform to the following:

[~~i.~~](A) Media shall be an approved geotextile fabric.[~~, AdvanTex, or an approved equal.~~]

[~~ii.~~](B) [~~M~~]The maximum application rate per day per square foot of media surface area[~~:~~] shall be 30 gallons.

[~~f.~~](viii) [~~P~~]Each peat [~~F~~]filter [~~S~~]system[~~s.~~] shall conform to the following:

[~~i.~~](A) [~~M~~]The minimum depth of peat media[~~:~~] shall be 24 inches.

[~~ii.~~](B) [~~M~~]The maximum application rate per day per square foot of media surface area[~~:~~] shall be 5 gallons.

[~~4. Sand Lined Trench Systems.~~

]](ix) Each [~~S~~]sand lined trench system[~~s~~] shall conform to the following:

[~~a. Siting Conditions.~~

~~i.~~](A) The minimum depth of suitable soil or saprolite between the sand media in trenches and the anticipated maximum ground water table[~~:~~] shall be 12 inches.

[~~ii.~~](B) [~~S~~]Each sand lined trench system[~~s~~] may be built over naturally existing:

[~~(1)~~](I) soil types 1 through 4; or

[~~(2)~~](II) soils or saprolite with a percolation rate between 1 and 60 minutes per inch.

[~~iii.~~](C) The minimum depth of suitable soil or saprolite [~~is~~]shall be:

[~~(1)~~](I) 36 inches between the sand media in trenches and bedrock formations or unsuitable soils[~~: 36 inches~~]; or

[~~(2)~~](II) 24 inches above soils or saprolite that have a percolation rate faster than one minute per inch[~~: 24 inches~~].

[~~c. Trench Requirements.~~

]](D) Each [~~S~~]sand lined trench[~~es~~] shall conform to the requirements applicable to absorption trenches except for the following:

[~~i.~~](I) [~~T~~]For each trench[~~es~~] in [~~S~~]suitable [~~S~~]soil, [~~. T~~]the minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6.

[~~ii.~~](II) [~~T~~]For each trench[~~es~~] in [~~S~~]saprolite, [~~. T~~]the minimum required effective absorption area shall be based on percolation rate using Section R317-4-13 Table 5.[

~~(1)~~] This rate shall be determined by conducting percolation tests. The soil shall be allowed to swell not less than 24 hours or more than 30 hours;[~~.~~]

[~~iii.~~](III) The use of chambered trenches with a sand media system may not receive additional reductions as allowed in Subsection R317-4-6(14)(d)(v).[~~.14.E.1.c.~~]

[~~iv.~~](IV) [~~W~~]The maximum width of an absorption trench excavation[~~s.~~] shall be 36 inches.

[~~v.~~](V) The entire trench sidewall shall be installed in natural ground. [~~A~~]An at-[~~G~~]grade system design[~~s are~~] may not be allowed.

[~~vi.~~](VI) [~~M~~]The minimum depth of sand media[~~:~~] shall be 24 inches.

[~~vii.~~](VII) [~~S~~]Each sand lined trench[~~es~~] with drain media[~~. (1) M~~] shall have a minimum depth of 6 inches of drain media under the pressure lateral distribution pipe.[~~: 6 inches.~~]

[~~(2)~~](VIII) [~~M~~]Each sand lined trench with drain media shall have a minimum depth of 2 inches of drain media over pressure lateral distribution pipe.[~~: 2 inches.~~]

[~~(3)~~](IX) [~~M~~]The minimum depth of soil cover or saprolite over drain media[~~:~~] shall be 6 inches.

[~~viii.~~](X) [~~S~~]For each sand lined trench[~~es~~] with Type A chambers.[

~~(1) M~~] the minimum depth of soil cover or saprolite over chambers[~~:~~] shall be 12 inches.

[~~ix.~~](XI) [~~M~~]The minimum number of observation ports per trench[~~:~~] shall be 1.

[~~e. Effluent Distribution.~~

]](E) Effluent shall be uniformly distributed over the sand media using pressure distribution.[

~~i. D~~] Pressure distribution design shall generally be based on the Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document.

(x) Each membrane bioreactor system installed as part of an alternative onsite wastewater system is intended to be installed as a complete unit. The design of any the treatment tank and all accessory components, treatment pods, aerators, blowers, pumps, membranes, and control panel shall conform to manufacturer specifications specific to the daily flows and wastewater strength proposed to be treated. Each membrane bioreactor system shall conform to the following:

(A) For a single-family dwelling the design shall be based on a minimum of 300 gallons per day for two bedrooms and 100 gallons per day for each additional bedroom.

(B) All other flow estimates shall be based on Subsection R317-4-6(4).

(C) Special design considerations shall be given for non-domestic effluent.

(D) Each membrane bioreactor system installed shall meet the requirements listed in Subsection R317-4-6(7).

(E) Each septic, equalization, recirculation, pump, or other tanks used in conjunction with any membrane bioreactor system shall meet the requirements listed in Section R317-4-6.

(F) MBR tank volume shall have a liquid capacity adequate for the minimum operating volume that includes the dead space, dosing volume, and surge capacity, and shall have the emergency operation capacity of:

(I) storage capacity for the system design daily wastewater flow;

(II) at least two independent power sources with appropriate wiring installed; or

(III) other design considerations approved by the regulatory authority that do not increase public health risks if pump failure occurs.

(G) Each membrane bioreactor system shall have a minimum of two membrane filter units installed in a manner that any unit can be maintained independently of other filter membrane units.

(H) Each membrane bioreactor overflow shall discharge directly to the septic tank.

(I) Each membrane bioreactor unit shall be installed according to manufacturer's specifications.

(J) Any membrane bioreactor system constructed above ground shall be housed in an easily accessible service building that is climate controlled. The service building shall meet the appropriate permitting and setback distances required by the building authority.

(K) Each membrane bioreactor absorption system shall conform to the following:

(I) The minimum separation distance between the natural ground surface and the anticipated maximum groundwater table shall be 12 inches.

(II) An absorption system receiving effluent from a membrane bioreactor may be built over naturally existing soil types per Section R317-4-13 Table 5 or R317-4-13 Table 6 provided the minimum depth of suitable soils above soils that have a percolation rate faster than one minute per inch is 24 inches.

(III) An absorption system receiving effluent from a membrane bioreactor may be built over naturally existing soil types per Section R317-4-13 Table 5 or R317-4-13 Table 6 provided the minimum depth of suitable soils between the natural ground surface and bedrock formations or unsuitable soils is 36 inches.

(IV) An absorption system receiving effluent from a membrane bioreactor may be built over naturally existing soil types per Section R317-4-13 Table 5 or R317-4-13 Table 6 provided the minimum depth of suitable soils between the natural ground surface and bedrock formations or unsuitable soils is at least 18 inches between the natural ground surface and bedrock formations or unsuitable soils determined by an evaluation of infiltration rate and hydrogeology from a professional geologist or engineer that is certified at the appropriate level to perform onsite wastewater system design and having sufficient experience in geotechnical engineering based on the subsurface geology of the vicinity, the hydrogeology of the vicinity, and the cumulative hydrogeological effect of all existing and future onsite wastewater systems within the area.

(L) A non-chemical disinfection unit, capable of meeting laboratory testing parameters in Table 7.3, and a maintenance schedule consistent to Sections R317-4-13 Table 7.1 and R317-4-13 Table 7.3, shall be used in excessively permeable soils.

(M) Conformance with the minimum setback distances in Section R317-4-13 Table 2, except for the following that require a minimum of 50 feet of separation:

(I) watercourses, lakes, ponds, reservoirs;

(II) non-culinary springs or wells;

(III) foundation drains, curtain drains; or

(IV) non-public culinary grouted wells, constructed as required by Title R309.

(N) The minimum required effective absorption area for an absorption system receiving effluent from a membrane bioreactor system shall be calculated using Section R317-4-13 Table 5 or R317-4-13 Table 6 and may be reduced by 30%.

(O) The use of chambered trenches with any membrane bioreactor system may not receive additional reductions as allowed in Subsection R317-4-6(14)(d)(vii)(C).

(P) The bottom of the absorption system shall have a vertical separation distance of at least 12 inches from the anticipated maximum groundwater table.

(Q) A minimum of two observation ports shall be provided within the absorption area.

(R) Drip irrigation absorption may be used for membrane bioreactor absorption system effluent dispersal based on type of soil and drip irrigation manufacturer's recommendations.

(S) Materials shall be specifically designed and manufactured for onsite wastewater applications.

(T) Non-absorption components shall be installed per Sections R317-4-6 and R317-4-13 Table 2.

(U) A membrane bioreactor manufacturer shall submit NSF/ANSI Standard 40 - Residential Wastewater Treatment Systems certification for any model proposed to be approved for use in Utah. The division may approve any membrane bioreactor model as equivalent to an NSF certified model, if the manufacturer submits a written recommendation bearing the seal of a professional engineer licensed to practice in Utah who is certified as a Level 3 Onsite Professional as defined in Rule R317-11.

R317-4-7. Construction and Installation.

[~~7.1. System Installation.~~

~~A.~~](1) [~~A~~]Each onsite wastewater system shall be constructed and installed in compliance with approved [~~P~~]plans.

(a) The installer may not deviate from the approved plans or conditions of the construction permit without the approval of the designer and the reviewing regulatory authority.

[~~B. Installation Restrictions.~~

]](b) A regulatory authority may limit the time period or area in which a system can be installed to ensure that soil conditions, weather, groundwater, or other conditions do not adversely affect the reliability of the system.

[~~C.~~](c) Construction and installation of each onsite wastewater system shall conform to the following [~~G~~]general [~~R~~]requirements:[~~.~~]

[~~1.~~](i) [~~Prior to~~]Before installation, all minimum setback distances shall be field verified.

[~~2.~~](ii) [~~All~~]Each absorption area[~~s~~] shall be protected [~~prior to~~]before and during site construction.

[~~3.~~](iii) The regulatory authority may require a temporary barrier around the absorption area, including the replacement area for additional protection [~~prior to~~]before and during any site construction. If necessary, a more permanent barrier may be required following construction.

[~~4.~~](iv) All absorption excavations and piping shall be level within a tolerance of plus or minus 1 inch. The overall slope from effluent entry to terminus shall be no more than 4 inches per hundred feet.

[~~5.~~](v) Absorption system excavations shall be made such that the soil in the bottom and sides of the excavation is not

compacted. Strict attention shall be given to the protection of the natural absorption properties of the soil.

[~~6.~~](vi) Any absorption system[~~s~~] may not be excavated when the soil is wet enough to smear or compact easily.

[~~7.~~](vii) [~~All~~]Any smeared or compacted surfaces should be raked to a depth of 1 inch, and loose material removed before the absorption system components are placed in the excavation.

[~~8.~~](viii) Any [~~O~~]open absorption system excavation[~~s~~] shall be protected from surface runoff to prevent the entrance of silt and debris.

[~~9.~~](ix) Each [~~A~~]absorption system[~~s~~] shall be backfilled with earth that is free from stones 10 inches or more in diameter.

[~~10.~~](x) Distribution pipe[~~s~~] may not be crushed or misaligned during backfilling. When backfilling, the earth shall be mounded slightly above the surface of the ground to allow for settlement and prevent depressions for surface ponding of water.

[~~11.~~](xi) Final grading shall prevent ponding throughout the entire system area and promote surface water runoff.

[~~12.~~](xii) Heavy wheeled equipment may not be driven in or over any absorption system[~~s~~] [~~prior to~~]before or during construction or backfilling.

[~~D. Building and Effluent Sewer.~~

~~1.~~](d) Pipe, pipe fittings, and similar materials comprising building and effluent sewers shall conform to the applicable standards as outlined in Section R317-4-13 Table 4.

[~~2.~~](i) Each length of pipe shall be stamped or marked as required by the International Plumbing Code.

[~~3.~~](ii) Where two different sizes or types of pipe are connected, a proper type of fitting or conversion adapter shall be used.

[~~4.~~](iii) [~~All~~]Each building sewer[~~s~~]:

[~~a.~~](A) shall have watertight, root-proof joints; and

[~~b.~~](B) may not receive any ground water or surface runoff.

[~~5.~~](iv) Pipes shall be installed on a foundation of undisturbed earth, or stabilized earth that is not subject to settling.

[~~E. Tanks.~~

~~~~]~~(e) Tank installation shall conform to the following requirements.

[~~1.~~](i) [~~All~~]Each tank[~~s~~] shall be installed on a level, stable base that [~~will~~]may not settle.

[~~2.~~](ii) The hole to receive the tank shall be large enough to permit the proper placement of the tank and backfill.

[~~3.~~](iii) Where ground water, rock or other undesirable protruding obstructions are encountered, the bottom of the hole shall be excavated an additional 6 inches, and backfilled with sand, crushed stone, or gravel to the proper grade.

[~~4.~~](iv) [~~B~~]backfill around and over the septic tank shall be placed in such a manner as to prevent undue strain or damage to the tank or connected pipes.

[~~F.~~](f) Absorption [~~S~~]system[~~s~~] construction and installation shall conform to the following:[~~.~~]

[~~1.~~](i) Cover shall be evenly graded over the entire absorption area.

[~~2.~~](ii) Distribution [~~and~~]or [~~D~~]drop [~~B~~]box[~~es.~~

~~a. The~~] inlet and outlet piping shall be sealed watertight to the sidewalls of the box.

[~~b. The~~](iii) Each distribution or drop box shall be provided with a means of access. Access shall be brought to final grade.

[~~c.~~](iv) The lid of the riser shall be adequate to prevent entrance of water, dirt or other foreign material, but made removable for observation and maintenance of the system.

[~~d.~~](v) The top of the box shall be at least 6 inches below final grade.

[~~e.~~](vi) The box shall be installed on a level, stable base to ensure against tilting or settling, and to minimize movement from frost action.

[~~f.~~](vii) [~~U~~]Each unused knock-out hole[~~s~~] in any box[~~es~~] shall be sealed watertight.

[~~3.~~](g) The solid and distribution pipes shall be bedded true to line and grade, uniformly and continuously supported by firm, stable material.

[~~4.~~](h) No cracked, weakened, modified or otherwise damaged chamber or bundled synthetic aggregate units [~~shall~~]may be used in any installation.

[~~G.~~](i) Pressure [~~D~~]distribution[~~.~~

~~1. I~~] installation practices shall follow the approved design.

[~~G.~~](j) Alternative [~~S~~]system[~~s~~] construction and installation practices shall follow the approved design.

[~~1.~~](i) [~~A~~]For each at-[~~G~~]grade [~~and~~]or [~~M~~]mound [~~S~~]system[~~s.~~] installation:

[~~a.~~](A) The site shall be cleared of surface vegetation, without removing soil, and scarified to an approximate depth of 6 inches. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.[

~~i.~~] Rotary tilling [~~is~~]shall be prohibited for scarification.

[~~b.~~](B) The system may not be installed in wet or moist soil conditions.

[~~c.~~](C) No equipment [~~shall~~]may be driven over the scarified area.

[~~d.~~](D) The site shall be graded such that surface water drains away from the system and adjoining area.

[~~2.~~](ii) Packed [~~B~~]bed [~~M~~]media, [~~and S~~]sand [~~L~~]lined [~~T~~]trench, and membrane bioreactor [~~S~~]system[~~s.~~

~~I~~] installation practices shall follow the approved design.

R317-4-8. Final Inspections.

[~~8.1. Final Inspections.~~

~~~~]~~(1) The regulatory authority shall inspect the entire installation before backfilling to determine compliance with this rule. Some components or system types require additional testing or inspection methods as outlined in the following.

[~~A. Tank Water Tightness Testing.~~

~~~~]~~(a) Each tank shall be tested for water tightness [~~prior to~~]before backfilling.

[~~1.~~](i) [~~The~~]Each tank[~~s~~] shall be filled 24 hours before the inspection to allow stabilization of the water level. Considering water absorption by the concrete, there may not be a change in the water level nor any water moving visibly into or out of the tank. Testing shall be supervised by the regulatory authority. Tanks exhibiting obvious defects or leaks may not be approved unless such deficiencies are repaired to the satisfaction of the regulatory authority.

[~~a.~~](A) The regulatory authority may allow two piece tanks, with the joint below the water level, to be backfilled up to 3 inches below the joint to provide adequate support to the seam of the tank.

[~~b.~~](B) [~~P~~]Any polyethylene or fiber[~~-~~]glass tank[~~s~~] may be backfilled as per manufacturers' recommendations.

[~~2.~~](ii) If ground water elevations inhibit the ability to visibly inspect the exterior of the tank, the tank[~~s~~] may be tested by [~~their~~]its ability to exclude water.

[~~B. Distribution and Drop Boxes.~~
~~~~

~~1.~~](b) [~~D~~]Each distribution [~~and~~]or drop box[~~es~~] should be installed level and the flow distribution lines shall be checked by filling the box[~~es~~] with water up to the outlets.

[~~C. Pressure Distribution, Effluent Pumps.~~

~~1.~~](c) Any pump, controls, or alarms shall have its [~~Verify the~~]correct operation verified.[~~of the pump, controls, and alarm.~~]

[~~D. Deep Wall Trenches, Seepage Pits.~~

~~1.~~](d) [~~Verify~~]Any deep wall trench or seepage pit shall have the depth of the trench excavation verified.

[~~E.~~](e) For each [~~At-G~~]at-grade [~~and~~]or [~~M~~]mound [~~S~~]system:[~~s.~~

~~1. Verify t~~](i) the preparation of the original ground before the placement of fill shall be verified; and[~~.~~

~~2. Verify that t~~](ii) the final cover shall meet[~~s~~] requirements.

[~~E.~~](f) [~~A~~]For each alternative [~~and~~]or [~~E~~]experimental [~~S~~]system[~~s.~~

~~1. All~~], additional inspections [~~will~~]shall be dictated by the complexity of the system and absorption system type as identified by the regulatory authority.[

~~G. Final Approval.~~]

(g) Final approval shall be issued by the regulatory authority [~~prior to~~]before operation of [~~the~~]any system, and shall include an as-built drawing of the completed system.

R317-4-9. Experimental Systems.

[~~9.1. Administrative Requirements.~~

~~A.~~](1) Where unusual conditions exist, an experimental method[~~s~~] of onsite wastewater treatment [~~and~~]or dispersal may be employed provided [~~they are~~]the method is acceptable to the division and to the local health department having jurisdiction.

[~~B.~~](a) When considering any proposal[~~s~~] for an experimental onsite wastewater system[~~s~~], the division or the local health departments may not be restricted by this rule provided that:

[~~1.~~](i) the experimental system proposed is attempting to resolve an existing pollution or public health hazard, or when the experimental system proposal is for new construction, it has been predetermined that an acceptable back-up wastewater system [~~will~~]shall be installed in event of failure of the experiment;

[~~2.~~](ii) the proposal for an experimental onsite wastewater system shall be in the name of and bear the signature of the person who [~~will~~]shall own the system; and

[~~3.~~](iii) the person proposing to utilize an experimental system has the responsibility to maintain, correct, or replace the system in event of failure of the experiment.

[~~C.~~](b) When sufficient, successful experience is established with an experimental onsite wastewater system[~~s~~], the division may designate [~~them~~]that system as an approved alternative onsite wastewater system[~~s~~].

[~~D.~~](c) Following [~~this~~]the approval of an alternative onsite wastewater system[~~s~~], the division may initiate rulemaking.

[~~9.2. General Requirements.~~

~~A. All~~](2) Each experimental system[~~s~~] shall be designed, installed and operated under the following conditions:

[~~1.~~](a) The ground water requirements shall be determined as described in Subsection R317-4-4(1)(d).[~~1.B.3.~~]

[~~2.~~](b) The local health department shall advise the owner of the system of the experimental status of that type of system. The advisory shall contain information concerning risk of failure, level of maintenance required, financial liability for repair, modification or replacement of a failed system and periodic monitoring requirements that are all specific to the type of system to be installed.

[~~3.~~](c) The local health department and the owner shall be provided with sufficient design, installation and operating information to produce a successful, properly operating installation.

[~~4.~~](d) The local health department is responsible for provision of, or oversight of an approved installation, inspection and maintenance and monitoring program for the systems. Such programs shall include approved procedures for complete periodic maintenance and monitoring of the systems.

[~~5.~~](e) The local health department may impose more stringent design, installation, operating and monitoring conditions than those required by the division.

[~~6.~~](f) [~~All~~]Any failure[~~s~~], repair[~~s~~] or alteration[~~s~~] shall be reported to the local health department. [~~All~~]Each repair[~~s~~] or alteration[~~s~~] shall be approved by the local health department.

[~~B.~~](3) When an experimental wastewater system exists on a property, notification of the existence of that system shall be recorded in the chain of title for that property.

R317-4-10. Wastewater Holding Tanks Administrative, Design, and Installation.

[~~10.1. Administrative Requirements.~~

~~A.~~](1) [~~R~~]Each request[~~s~~] for the use of a wastewater holding tank[~~s~~] shall receive the written approval of the local health department [~~prior to~~]before the installation of the holding tank and be administered under an annual operating permit.

[~~B.~~](a) [~~W~~]A wastewater holding tank[~~s are~~] shall only be permitted:

[~~1.~~](i) where an absorption system for an existing dwelling has failed and installation of a replacement absorption system is not practicable;

[~~2.~~](ii) as a temporary, not to exceed one year, wastewater system for a new dwelling until a connection is made to an approved sewage collection system;

[~~3.~~](iii) as a temporary, not to exceed one year, wastewater system that may include construction sites, labor camps, temporary mass gatherings, or emergency refuge sheltering; or

[~~4.~~](iv) for other essential and any unusual situation[~~s~~] where both the division and the local health department having jurisdiction concur that the proposed holding tank [~~will~~]shall be designed, installed and maintained in a manner that provides long term protection of the waters of the state.[

~~a. R~~] Each request[~~s~~] for the use of a wastewater holding tank[~~s~~] in this instance shall receive the written approval of both agencies [~~prior to~~]before the installation of such device[~~s~~].

[~~C.~~](b) Except on those lots recorded and approved for wastewater holding tanks [~~prior to~~]before May 21, 1984, a wastewater holding tank[~~s are~~] may not be permitted for use in any new housing subdivision[~~s~~], or commercial, institutional, and recreational development[~~s~~] except in those instances where these devices are part of a specific watershed protection program acceptable to the division and the local health department having jurisdiction.

[~~10.2. General Requirements.~~

]](2) The design, site placement, installation, and maintenance of [~~all~~]each wastewater holding tank[~~s~~] shall comply with the following:

[~~A.~~](a) No wastewater holding tank [~~shall~~]may be installed and used unless plans and specifications covering its design and construction have been submitted to and approved by the appropriate regulatory authority.

[~~B.~~](b) A statement accompanying the application, that a contract with an approved pumper per Rule R317-550 [~~will~~]shall be

obtained stating that the tank [~~will~~]shall be pumped out periodically at regular intervals or as needed, and contents [~~will~~]shall be disposed in an approved manner.

[~~C.~~](c) If authorization is necessary for disposal of wastewater at certain facilities, evidence of such authorization [~~must~~]shall be submitted for review.

[~~10.3. Basic Plan Information Required.~~

](3) Depending on the individual site and circumstances, or as determined by the regulatory authority, some or all [~~of~~]the following plan information may be required.

[~~A. Applicant Information.~~

~~1.~~](a) The name, current address, and telephone number of the applicant.

[~~2.~~](b) Complete address, legal description of the property, or both, to be served by this [~~onsite wastewater system.~~]holding tank.

[~~B.~~](c) A plot or site plan showing:

[~~1.~~](i) [~~d~~]the direction of North;

[~~2.~~](ii) [~~d~~]the estimated daily wastewater flow;

[~~3.~~](iii) [~~l~~]the location and liquid capacity of the wastewater holding tank;

[~~4.~~](iv) [~~s~~]the source and location of the water supply;

[~~5.~~](v) [~~l~~]the location of any water service line and building sewer; and

[~~6.~~](vi) [~~l~~]the location of [~~streams, ditches, watercourses, ponds, etc.,~~]any surface water feature near the property.

[~~C.~~](d) Plan detail of wastewater holding tank and high wastewater level warning device.

[~~D.~~](e) Relative elevations of:

[~~1.~~](i) building floor drain;

[~~2.~~](ii) building sewer;

[~~3.~~](iii) invert of inlet for tank;

[~~4.~~](iv) lowest plumbing fixture or drain in building served; and

[~~5.~~](v) the maximum liquid level of the tank.

[~~E.~~](f) Statement indicating the maximum anticipated ground water table.

[~~10.4. Construction.~~

~~A.~~](4) The tank shall be constructed of sound and durable material not subject to excessive corrosion and decay and designed to withstand hydrostatic and external loads. [~~All~~]Each wastewater holding tank[~~s~~] shall comply with the manufacturing materials and construction requirements specified for septic tanks.

[~~B.~~](a) Construction of the tank shall be such as to assure water tightness and to prevent the entrance of rainwater, surface drainage or ground water.

[~~C.~~](b) [~~T~~]Each tank[~~s~~] shall be provided with a maintenance access manhole at the ground surface or above and of at least 18 inches in diameter. Access covers shall have adequate handles and shall be designed and constructed in such a manner that they cannot pass through the access opening, and when closed [~~will~~]shall be child-proof and prevent entrance of surface water, dirt, or other foreign material, and seal the odorous gases in the tank.

[~~D.~~](c) A high water warning device shall be installed on each tank to [~~indicate~~]show when it is within 75% of being full.

[~~1.~~](i) This device shall be either an audible or a visual alarm.[

~~a. If the latter, it~~] Any visual alarm shall be conspicuously mounted.

[~~2.~~](ii) [~~All w~~]Wiring and mechanical parts of such devices shall be corrosion resistant.

[~~3.~~](iii) [~~All~~]Any conduit passage way[~~s~~] through the tank top or wall[~~s~~] shall be water and vapor tight.

[~~E.~~](d) No overflow, vent, or other opening [~~shall~~]may be provided in the tank other than the inlet sewer pipe[~~ose described above~~].

[~~F.~~](e) The regulatory authority may require that any wastewater holding tank[~~s~~] be filled with water and allowed to stand overnight to check for leaks. [~~T~~]Each tank[~~s~~] exhibiting obvious defects or leaks may not be approved unless such deficiencies are repaired to the satisfaction of the regulatory authority.

[~~G.~~](f) The building sewer shall comply with this rule.

[~~H. A~~](g) Any above ground holding tank[~~s~~] shall be clearly labeled as "Sewage".

[~~10.5. Capacity.~~

](5) The liquid capacity of the wastewater holding tank shall be based on wastewater flows for the type of dwelling or facility being served as identified in Section R317-4-13 Table 3 and on the desired time period between each pumping.[

~~A.~~] The minimum capacity of each underground wastewater holding tank[~~s~~] shall be 1,000 gallons.

[~~10.6. Location.~~

](6) Any wastewater holding tank [~~must~~]shall be located:

[~~A.~~](a) in an area readily accessible to the pump truck in any type of weather that is likely to occur during the period of use;

[~~B.~~](b) in accordance with the requirements for septic tanks as specified in Section R317-4-13 Table 2; and

[~~C.~~](c) where it [~~will~~]may not tend to float out of the ground due to a high ground water table or a saturated soil condition, since it will be empty or only partially full most of the time. In an area[~~s~~] where the ground water table may be high enough to float the tank out of the ground when empty or partially full, adequate ground anchoring procedures shall be provided.

[~~10.7. Management.~~

~~A.~~](7) [~~W~~]Each wastewater holding tank[~~s~~] shall be pumped periodically, at regular intervals or as needed, and the wastewater contents shall be disposed of in a manner and at a facility meeting the approval of the appropriate regulatory authority.

[~~B.~~](a) [~~W~~]Each wastewater holding tank[~~s~~] for a seasonal dwelling[~~s~~] should be pumped out before each winter season to prevent freezing and possible rupture of the tank.

[~~C.~~](b) A record of the liquid waste hauler, pumping dates, and amounts pumped shall be maintained and made available to the appropriate regulatory authorities upon request.

[~~D.~~](c) [~~W~~]Each wastewater holding tank[~~s~~] shall be checked at frequent intervals by the owner or occupant and if leakage is detected it shall be immediately reported to the regulatory authority.

[~~E.~~](d) [~~R~~]Any repair[~~s~~] or replacement[~~s~~] shall be conducted under the direction of the regulatory authority.

[~~F.~~](e) Improper location, construction, operation, or maintenance of a particular holding tank may result in appropriate legal action against the owner by the regulatory authority having jurisdiction.

[~~G.~~](f) Each holding tank installed under this rule, shall be inspected upon renewal of the operating permit.

R317-4-11. Operation and Maintenance of Systems.

[~~11.1. Purpose.~~

](1) The purpose of this section is to diminish the possibility of onsite wastewater system failures by informing the owners of required periodic maintenance, servicing, and monitoring. [~~M~~]Any more complex system[~~s~~] [~~will~~]shall require a higher level of operation and maintenance.

[~~11.2. Conventional Systems.~~

](2) Each[~~All~~] conventional system[~~s~~] should be assessed after the first year of operation, and thereafter at the following minimum frequency.

[~~A. S~~](a) Any system[~~s~~] with daily flows between 1 and 3,000 gallons[~~:~~] should be assessed every three years.

[~~B. S~~](b) Any system[~~s~~] with daily flows between 3,001 and 5,000 gallons[~~:~~] should be assessed every two years.

[~~C. S~~](c) Any system[~~s~~] with non-domestic wastewater flows[~~:~~] should be assessed yearly.

[~~11.3. Pressure Distribution.~~

~~A.~~](3) Each system utilizing pressure distribution shall be inspected as outlined in Sections R317-4-13 Table[~~s~~] 7.1 and R317-4-13 Table 7.2.

[~~11.4. Alternative Systems.~~

~~A.~~](4) Each alternative system shall be inspected as outlined in Sections R317-4-13 Table[~~s~~] 7.1 and R317-4-13 Table 7.2.

[~~B.~~](a) Each packed bed media system shall be sampled a minimum of every six months as outlined in Section R317-4-13 Table 7.3.

[~~1.~~](i) The grab sample shall be taken before discharge to an absorption system.

[~~2.~~](ii) Effluent not meeting the standards of Section R317-4-13 Table 7.3 shall be followed with two successive weekly tests of the same type within a 30-day period from the first exceedance.

[~~3.~~](iii) If two successive samples exceed the minimum standards, the system shall be [~~deemed to be~~]considered as malfunctioning, and shall require further evaluation and a corrective action plan, see Subsection R317-4-3(11).[~~.11.~~

~~a.~~] Effluent quality testing shall continue every two weeks until three successive samples are found to be in compliance.

(b) Each membrane bioreactor system shall be sampled a minimum of every three months as outlined in Section R317-4-13 Table 7.3.

(i) Any grab sample shall be taken before discharge to an absorption system.

(ii) Effluent not meeting the standards of Section R317-4-13 Table 7.3 shall be followed with two successive weekly tests of the same type within a 30-day period from the first exceedance.

(iii) If two successive samples exceed the minimum standards, the system shall be considered as malfunctioning, and shall require further evaluation and a corrective action plan, see Subsection R317-4-3(11) Effluent quality testing shall continue every two weeks until three successive samples are found to be in compliance.

[~~11.4. Tank Servicing.~~

](5) For recommended tank servicing see Subsection R317-4-14(5) Appendix E.

[~~11.5. Distribution and Drop Box Maintenance.~~

](6) Each [~~D~~]distribution [~~and~~]or drop box[~~es~~], if provided, should be inspected and cleaned periodically.

[~~11.6. Repair of a Malfunctioning System.~~

](7) If corrective action is required for any malfunctioning system, see Subsection R317-4-3(11).[~~11.~~]

R317-4-12. Variance to Design Requirements.

[~~12.1. Reasons for a Variance.~~

](1) An applicant may request a variance from requirements of this rule only when a property has been deemed not feasible for the design or construction of an onsite wastewater system. A variance may not be granted for separation distances from public culinary water sources.

[~~12.2. Conditions for a Variance.~~

](2) A variance [~~will~~]may not be approved unless the applicant demonstrates that all [~~of~~]the following conditions are met:

[~~A.~~](a) An onsite wastewater system consistent with this rule and local health department requirements cannot be constructed and a connection to a public or community-based sewerage system is not available or practicable. This determination [~~will~~]shall be made by the local health department.

[~~B.~~](b) Wastewater from the proposed onsite wastewater system [~~will~~]may not:

[~~1.~~](i) contaminate ground water or surface water; and

[~~2.~~](ii) surface or move off site before it is adequately treated to protect public health and the environment.

[~~C.~~](c) The proposed system [~~will~~]shall result in equal or greater protection of public health and the environment than is required by meeting the minimum standards and intent of this rule.

[~~D.~~](d) An [~~A~~]adjacent property[~~ies~~], including the current and reasonably anticipated use[~~s~~] of any adjacent property[~~ies~~], [~~will~~]may not be jeopardized if the proposed system is constructed, operated, and maintained.

[~~12.3. Procedure for Requesting a Variance.~~

~~A.~~](3) A variance request shall include the information and documentation described in Subsection R317-4-12(5).[~~5.~~

~~B.~~] The local health department shall review the variance request and prepare a written determination outlining the conditions of approval or denial of the request. The review shall identify the factors considered in the process and specify the basis for the determination.

[~~12.4. Variance Approvals.~~

~~A.~~](4) A variance [~~will~~]may not be approved unless the applicant demonstrates that all [~~of~~]the conditions in Subsection R317-4-12(2)[~~.2~~] are met.

[~~B.~~](a) A local health department may not issue an approval or an operating permit for an onsite wastewater system that does not comply with this rule unless a variance has been approved.

[~~C.~~](b) Notice of the conditions shall be recorded in the chain of title for the property in the office of the county recorder. The notice shall include:

[~~1.~~](i) the description of the system and variance conditions;

[~~2.~~](ii) operation and maintenance requirements;

[~~3.~~](iii) permission for the regulatory authority to access the property for[~~ the purpose of~~] inspecting[~~on~~] and monitoring[~~ of~~] the system; and

[~~4.~~](iv) owner responsibilities to correct, repair, or replace the system at the direction of the regulatory agency.

[~~12.5. Application Requirements.~~

](5) The variance application shall include all information and documentation necessary to ensure that the standards in Subsection R317-4-12(2)[~~.2 will~~] shall be met.[

~~A.~~] As appropriate, the information required under this section shall be submitted in a report by a professional engineer or a professional geologist that is certified at the appropriate level to perform onsite wastewater system design. An engineer or geologist who submits a report shall be licensed to practice in Utah and shall have sufficient experience and expertise to make the determinations in the report. Any such report shall include the engineer's or geologist's name and registration number, and a summary of qualifications. The report shall be imprinted with the engineer's or geologist's registration seal and signature. Information shall include at least the following:[~~.~~]

[~~1.~~](a) Information demonstrating that connection to a public or community-based sewerage system is not available or practicable.

[~~2.~~](b) Technical justification and appropriate engineering, geotechnical, hydrogeologic, and reliability information justifying the request for a variance and how the conditions in 12.2 [~~will~~]shall be met.

[~~3.~~](c) A detailed description of the proposed system, including a detailed explanation of wastewater treatment technologies allowed by this rule that have been considered for use, and that [~~will~~]shall provide the best available treatment.

[~~4.~~](d) A statement of alternatives considered in lieu of a variance.

[~~5.~~](e) An operation, maintenance, and troubleshooting plan to keep the installed system operating as described in the application.

[~~6.~~](f) Documentation provided by the local health department that the adjoining land owners have been notified and provided opportunity for comment on the proposed variance.

R317-4-13. Tables.

[~~TABLE 1.1~~

~~Minimum Lot Size (a) by Soil Type and Culinary Water Source~~

~~Soil Type~~	~~Public Water Supply~~	~~Non-public Water Supply (b)~~
~~1~~	~~12,000 sq. ft.~~	~~1 Acre~~
~~2~~	~~15,000 sq. ft.~~	~~1.25 Acres~~
~~3~~	~~18,000 sq. ft.~~	~~1.5 Acres~~
~~4~~	~~20,000 sq. ft.~~	~~1.75 Acres~~
~~5 (c)~~	~~20,000 sq. ft. (c)~~	~~1.75 Acres (c)~~

~~TABLE 1.2~~

~~Soil Type Key (d)~~

~~Soil Type~~	~~Soil Texture (e)~~	~~Soil Structure~~	~~Percolation Rate (minutes per inch)~~
~~1~~	~~Coarse Sand, Sand, Loamy Coarse Sand, Loamy Sand~~	~~Single Grain~~	~~1-10~~
~~2~~	~~Fine Sand, Very Fine Sand, Loamy Fine Sand, Loamy Very Fine Sand~~	~~Single Grain~~	~~11-20~~
~~3~~	~~Coarse Sandy Loam, Sandy Loam~~	~~Prismatic, Blocky, Granular~~	~~21-40~~
~~4~~	~~Coarse Sandy Loam, Sandy Loam~~	~~Massive, Platy~~	~~41-60~~
	~~Fine Sandy Loam, Very Fine Sandy Loam, Loam, Silt Loam~~	~~Prismatic, Blocky, Granular~~	
~~5~~	~~Fine Sandy Loam, Very Fine Sandy Loam, Loam, Silt Loam,~~	~~Massive, Platy~~	~~61-120~~
	~~Sandy Clay Loam, Clay Loam, Silty Clay Loam~~	~~Massive~~	
	~~Sandy Clay Loam, Clay Loam, Silty Clay, Silt~~	~~Prismatic, Blocky, Granular~~	
	~~Loam, Sandy Clay, Clay, Silty Clay, Silt~~		
~~6 (f)~~	~~Sandy Clay Loam, Clay Loam, Silty Clay Loam~~	~~Platy~~	~~>120~~
	~~Sandy Clay, Clay, Silty Clay, Silt~~	~~Massive, Platy~~	

~~NOTES~~

~~(a) Excluding public streets and alleys or other public rights-of-way, lands or any portion thereof abutting on, running through or within a building lot for a single-family dwelling. These minimum lot size requirements do not apply to building lots that have received final local health department approval prior to the adoption of this rule.~~

~~Lots that are part of subdivisions that have received final local health department approval prior to the adoption of this rule are only exempt from the minimum lot size requirements if the developer has and is proceeding with reasonable diligence. Notwithstanding this grandfather provision for approved lots, the minimum lot size requirements are applicable if compelling or countervailing public health interests would necessitate application of these more stringent requirements. The shape of the lot shall also be acceptable to the regulatory authority.~~

~~(b) See the separation requirements in Section R317-4-13 Table 2.~~

~~(c) Packed bed media systems are required for this soil type.~~

~~(d) When there is a substantial discrepancy between the percolation rate and the soil classification, it shall be resolved to the satisfaction of the regulatory authority, or the soil type requiring the largest lot shall be used.~~

~~(e) See the USDA soil classification system for a more detailed description.~~

~~(f) These soils are unsuitable for any absorption system.~~

~~TABLE 2~~

~~Minimum Separation Distances in Feet (a)~~

~~Item Requiring Setback~~	~~From Building Sewers and Effluent Sewers~~	~~From Septic, Pump, and Other Tanks~~	~~Absorption Area and Replacement Area~~
~~Absorption and Replacement Areas~~	~~5~~	~~(b)~~	
~~Public Culinary Water Sources~~	~~(c)~~	~~100 (c)~~	~~100 (c)~~
~~Individual or Non-public Culinary Water Sources (d)~~	~~25~~	~~50~~	~~100 (e)~~
~~Culinary Water Supply Line~~	~~(f)~~	~~10 (f)~~	~~10 (f)~~
~~Non-culinary Well or Spring~~	~~10~~	~~25~~	~~100~~
~~Lake, Pond, Reservoir (a)~~	~~10~~	~~25~~	~~100~~
~~Watercourse (live or ephemeral stream,~~		~~25~~	~~100 (g)~~

~~river, subsurface drain, canal, storm water drainage systems, etc.)~~

~~Building Foundation Without foundation drain 5 5 (h)~~
~~With foundation drain 10 100 (i)~~

~~Curtain drains 10 10 100 (i)~~

~~Dry washes, gulches, and gullies 25 50~~

~~Swimming pool, below ground 3 10 25~~

~~Dry wells, catch basins 5 25~~

~~Down slopes that exceed 35%. This includes all natural slopes or escarpments and any manmade cuts, retaining walls, or embankments. 10 50 (j)~~

~~Property line 5 5 5~~

~~NOTES~~
~~(a) All distances are from edge to edge. Where surface waters are involved, the distance shall be measured from the high water line.~~
~~(b) See Subsection R317-4-6.14 for setback requirements.~~
~~(c) All distances shall be consistent with Rules R309-600 and R309-605.~~
~~(d) Compliance with separation requirements does not guarantee acceptable water quality in every instance. Where geological or other conditions warrant, greater distances may be required by the regulatory authority.~~
~~(e) For ungrouted wells and springs the distance shall be 200 feet. A private or individual well is considered to be grouted if it meets the construction standards required in Section R655-4-11, which requires a minimum 30-foot deep grout surface seal. Private or individual wells not constructed to this minimum standard are considered to be ungrouted. Although this distance shall be generally adhered to as the minimum required separation distance, exceptions maybe approved by the regulatory authority, taking into account geology, hydrology, topography, existing land use agreements, consideration of the drinking water source protection requirements, protection of public health and potential for pollution of water source. Any person proposing to locate an absorption system closer than 200 feet to an individual or nonpublic ungrouted well or spring must submit a report to the regulatory authority that considers the above items. In no case shall the regulatory authority grant approval for an onsite wastewater system to be closer than 100 feet from an ungrouted well or a spring.~~
~~(f) If the water supply line is for a public water supply, the separation distance shall comply with the requirements of Rule R309-550. No culinary water service line shall pass through any portion of an absorption area.~~
~~(g) Lining or enclosing watercourses with an acceptable impervious material may permit a reduction in the separation requirement. In situations where the bottom of a canal or watercourse is at a higher elevation than the ground in which the absorption system is to be installed, a reduction in the distance requirement may be justified, but each case shall be decided on its own merits by the regulatory authority.~~
~~(h) Horizontal setback between a deep wall trench or seepage pit and a foundation of any building is at least 20 feet.~~
~~(i) The regulatory authority may reduce the separation distance, if it can be shown that the effluent will not enter the drain, but each case must be decided on its own merits by the regulatory authority. In no case shall the regulatory authority grant approval for an absorption area to be closer than 20 feet.~~
~~(j) This setback may be reduced if a 53 foot reference line originating at the bottom of the distribution pipe, sloped at 35% below horizontal, will not daylight or intersect the ground surface.~~

~~TABLE 3~~

~~Estimated Flow Rates of Wastewater (a)~~

~~Type of Establishment Gallons per Day~~

~~Airports~~
~~a. per passenger 3~~
~~b. per employee 15~~

~~Boarding and Rooming Houses~~
~~a. for each resident boarder and employee 50 per person~~
~~b. additional for each nonresident boarder 10 per person~~

~~Bowling Alleys, not including food service 85 per alley~~

~~Camps~~
~~a. developed with flush toilets and showers 30 per person~~
~~b. developed with flush toilets 20 per person~~
~~c. developed with no flush toilets 5 per person~~

~~Churches, per person 5~~

~~Condominiums, Multiple Family Dwellings, or Apartments 150 per bedroom~~

~~Dentist's Office~~
~~a. per chair 200~~
~~b. per staff member 35~~

~~Doctor's Office~~
~~a. per patient 10~~
~~b. per staff member 35~~

~~Fairgrounds 1 per person~~

~~Fire Stations~~
~~a. with full-time employees and food preparation 70 per person~~
~~b. with no full-time employees and no food preparation 5 per person~~

~~Food Service Establishment (b)~~
~~a. ordinary restaurants, not 24 hour service 35 per seat~~
~~b. 24 hour service 50 per seat~~
~~c. single service customer utensils only 2 per customer~~
~~d. or, per customer served, includes toilet and Kitchen wastes 10~~

~~Gyms~~
~~a. participant and staff member 25 per person~~
~~b. spectator 4 per person~~

~~Hairdresser, per chair 65~~

~~Highway Rest Stops, improved with restroom facilities 5 per vehicle~~

~~Hospitals 250 per bed space~~

~~Hotels, Motels, and Resorts 125 per unit~~

~~Industrial Buildings, exclusive of industrial waste~~
~~a. with showers, per 8 hour shift 35 per person~~
~~b. with no showers, per 8 hour shift 15 per person~~

~~Labor or Construction Camps 50 per person~~
~~Launderette 580 per washer~~

~~Mobile Home Parks 400 per unit~~

~~Movie Theaters~~
~~a. auditorium 5 per seat~~
~~b. drive-in 10 per car space~~

~~Nursing Homes 200 per bed space~~

~~Office Buildings and Business Establishments, not including 15 per employee food service, per eight hour shift~~

~~Picnic Parks, toilet wastes only 5 per person~~

~~Recreational Vehicle Parks~~
~~a. temporary or transient with no sewer connections 50 per space~~
~~b. temporary or transient with sewer connections 125 per space~~

~~Recreational Vehicle Dump Station, per self-contained vehicle 50~~

~~Schools~~
~~a. boarding 75 per person~~
~~b. day, without cafeteria, gymnasiums or showers 15 per person~~
~~c. day, with cafeteria, but no gymnasiums and showers 20 per person~~
~~d. day, with cafeteria, gymnasium and showers 25 per person~~

~~Service Stations, per day, per pump 250~~

~~Skating Rink, Dance Halls, Ski Areas, etc. 10 per person~~

~~Stores, including Convenience Stores~~
~~a. per public toilet room 500~~
~~b. per employee 11~~

~~Swimming Pools and Bathhouses, Using Maximum Bather Load 10 per person~~

~~Taverns, Bars, Cocktail lounges with No Food Service 20 per seat~~

~~Visitor Centers 5 per visitor~~

~~NOTES~~
~~(a) When more than one use will occur, the multiple use shall be considered in determining total flow. Small industrial plants maintaining a cafeteria or showers and club houses or motels maintaining swimming pools or laundries are typical examples of multiple uses. Uses other than those listed above shall be considered in relation to established flows from known or similar installations.~~
~~(b) No commercial food waste disposal unit shall be connected to an onsite wastewater system unless first approved by the regulatory authority.~~

~~TABLE 4~~

~~Minimum Standards for Building Sewer, Effluent Sewer, and Distribution Pipe Materials (a)~~

~~Acceptable Building Sewer and Effluent Sewer Materials~~

~~Type of Pipe~~	~~Minimum Standard~~
~~Acrylonitrile-Butadiene Styrene (ABS)~~	~~ASTM (b) D-2680 (c), D-2751, F-628~~
~~Polyvinyl Chloride (PVC)~~	~~ASTM D-2665, D-3033, D-3034~~

~~Acceptable Distribution Pipe Materials~~

~~Type of Pipe~~	~~Minimum Standard~~
~~ABS~~	~~ASTM D-2661, D-2751~~
~~Polyethylene (PE), Smooth Wall~~	~~ASTM D-3350~~
~~PVC~~	~~ASTM D-2665, D-3033, D-3034, D-2729 (d)~~

~~NOTES~~
~~(a) Each length of building sewer, effluent sewer, and distribution pipe shall be stamped or marked.~~
~~(b) American Society for Testing and Materials.~~
~~(c) For domestic wastewater only, free from industrial wastes.~~
~~(d) Although perforated PVC, ASTM D-2729 is approved for absorption system application, the solid-wall version of this pipe is not approved for any application.~~

~~TABLE 5~~

~~Maximum Hydraulic Loading Rates for Percolation Testing~~

~~Percolation Rate (Minutes per Inch)~~	~~Absorption Systems Hydraulic Loading Rates (a) (gal/ft²/day) (c)(d)(e)~~	~~Absorption Beds and Mound Systems Hydraulic Loading Rates (b) (gal/ft²/day) (c)(d)(f)~~
~~0-10 (g)~~	~~0.90~~	~~0.45~~
~~11-20~~	~~0.70~~	~~0.35~~
~~21-30~~	~~0.60~~	~~0.3~~
~~31-40~~	~~0.55~~	~~0.27~~
~~41-50~~	~~0.50~~	~~0.25 (h)~~
~~51-60~~	~~0.45~~	~~0.22 (h)~~
~~61-90 (i)~~	~~0.40~~	~~(j)~~
~~91-120 (i)~~	~~0.35~~	~~(j)~~

~~NOTES~~
~~(a) The following formula may be used in place of the values in this table: q = 2.35 divided by the square root of the percolation rate and then add 0.15 where q is the hydraulic loading rate. In no case shall the loading rate be greater than 1.0.~~
~~(b) The following formula may be used in place of the values in this table: q = 1.2 divided by the square root of the percolation rate and then add 0.08 where q is the hydraulic loading rate. In no case shall the loading rate be greater than 0.5.~~
~~(c) Minimum absorption area is equal to the actual or estimated wastewater flow in gallons per day shown in Section R317-4-13 Table 3, divided by the hydraulic loading rate within the applicable percolation rate category.~~
~~(d) For non-residential facilities, if a garbage grinder is not used, the absorption area may be reduced by 10% (0.9 multiplier). If any automatic sequence washer is not used, the absorption area may be reduced by 30% (0.7 multiplier).~~

~~If both of these appliances are not used, the absorption area may be reduced by 40% (0.6 multiplier).~~
~~(e) For non-residential facilities, a minimum of 150 square feet of trench bottom or sidewall absorption area shall be provided.~~
~~(f) For non-residential facilities, a minimum of 300 square feet of absorption area shall be provided.~~
~~(g) Soils with a percolation rate faster than 1 minute per inch are only acceptable with the use of an alternative packed bed media system with a disinfection unit.~~
~~(h) Not suitable for absorption beds.~~
~~(i) Acceptable for alternative packed bed media systems only.~~
~~(j) Not suitable for absorption beds or mounds.~~

~~TABLE 6~~

~~Maximum Hydraulic Loading Rates for Soil Classification~~

~~Texture~~	~~Structure~~	~~Absorption Systems (a)(b)(c)~~	~~Absorption Beds and Mound Systems Hydraulic Loading Rate (gal/ft²/day) (a)(b)(d)~~
~~Coarse sand, sand, loamy sand~~	~~Single grain~~	~~0.9 (e)~~	~~0.45 (e~~
~~Fine sand, very fine sand, loamy fine sand, loamy very fine sand~~	~~Single grain~~	~~0.7~~	~~0.35~~
~~Coarse sandy loam, sandy loam~~	~~Massive~~	~~0.45~~	~~0.22 (f)~~
	~~Platy~~	~~0.5~~	~~0.25 (f)~~
	~~Prismatic, blocky, granular~~	~~0.65~~	~~0.32~~
~~Fine sandy loam, very fine sandy loam~~	~~Massive~~	~~0.4~~	~~(g)~~
	~~Platy~~	~~0.35~~	~~(g)~~
	~~Prismatic, blocky, granular~~	~~0.5~~	~~0.25 (f)~~
~~Loam~~	~~Massive~~	~~0.4~~	~~(g)~~
	~~Platy~~	~~(e)~~	~~(g)~~
	~~Prismatic, blocky, granular~~	~~0.5~~	~~0.25 (f)~~
~~Silt loam~~	~~Massive~~	~~(e)~~	~~(g)~~
	~~Platy~~	~~(e)~~	~~(g)~~
	~~Prismatic, blocky, granular~~	~~0.45~~	~~0.22 (f)~~
~~Sandy clay loam, clay loam, silty clay loam~~	~~Massive~~	~~(e)(h)~~	~~(g)~~
	~~Platy~~	~~(i)~~	~~(i)~~
	~~Prismatic, blocky, granular~~	~~0.4 (e)(h)~~	~~(g)~~
~~Silt, silty clay, sandy clay, clay~~	~~Massive~~	~~(i)~~	~~(i)~~
	~~Platy~~	~~(i)~~	~~(i)~~
	~~Prismatic, blocky, granular~~	~~0.35 (e)(h)~~	~~(g)~~

~~NOTES~~
~~(a) Minimum absorption area is equal to the actual or estimated wastewater flow in gallons per day, using Section R317-4-13 Table 3, divided by the hydraulic loading rate within the applicable soil texture and structure category.~~
~~(b) For non-residential facilities, if a garbage grinder is not used, the absorption area may be reduced by 10% (0.9 multiplier). If any automatic sequence washer is not used, the absorption area may be reduced by 30% (0.7 multiplier). If both of these appliances are not used, the absorption area may be reduced by 40% (0.6 multiplier).~~
~~(c) For non-residential facilities, a minimum of 150 square feet of trench bottom or sidewall absorption area shall be provided.~~
~~(d) For non-residential facilities, a minimum of 300 square feet of absorption area shall be provided.~~
~~(e) These soils are usually considered unsuitable for absorption systems, but may be suitable, depending upon the percentage and type of fines in coarse grained porous soils, and the percentage of sand and structure in fine grained soils. Percolation testing shall be used for further evaluation.~~
~~(f) Not suitable for absorption beds.~~
~~(g) Not suitable for absorption beds or mounds.~~
~~(h) These soils may be permissible for packed bed media absorption systems only.~~
~~(i) These soils are unsuitable for any absorption system.~~

~~TABLE 7: Minimum Inspection Frequency, Components, and Effluent Sampling Parameters~~

~~TABLE 7.1~~

~~Minimum Inspection Frequency (a)~~

~~Type of System~~	~~Annual~~	~~Semi-annual~~
~~Pressure Distribution~~	~~X~~	
~~At Grade (first 5 years only)~~	~~X~~	
~~Mound~~	~~X~~	
~~Packed Bed Media~~		~~X~~
~~Sand Lined Trench~~	~~X~~	
~~Holding Tank~~	~~X~~	
~~Experimental System~~		~~X~~

~~NOTES (a) Or more frequently as directed by the regulatory authority.~~

~~TABLE 7.2~~

~~Components (a)~~

~~Type of System~~	~~Septic Tank~~	~~Distribution Boxes~~	~~Pumps, Float and Settings, Other~~	~~Pressure Laterals, Drop Settings, Absorption Tanks (if accessible)~~	~~Disinfection Unit (c) Control Panel~~
~~Pressure Distribution~~	~~X~~		~~X~~	~~X~~	
~~At Grade~~	~~X~~	~~X~~	~~X~~	~~X~~	
~~Mound~~	~~X~~		~~X~~	~~X~~	
~~Packed Bed Media~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~
~~Sand Lined Trench~~	~~X~~		~~X~~	~~X~~	
~~Holding Tank (b)~~	~~X~~		~~X~~		
~~Experimental~~	~~X~~	~~X~~	~~X~~	~~X~~	

~~NOTES~~
~~(a) Inspect other components as directed by the regulatory~~

~~authority.~~
~~(b) Including pumping records.~~
~~(c) Required for absorption systems installed in excessively permeable soils, or as directed by the regulatory authority.~~

~~TABLE 7.3~~

~~Effluent Sampling Parameters~~
~~Packed Bed Media System Routine Sampling Parameters~~
~~Must sample Turbidity, or BOD5 and TSS.~~

~~Field Testing Laboratory Testing~~
~~Turbidity BOD5 TSS COD (a) E. coli~~
~~=<20 NTU =<25 mg/l =<25 mg/l =<75 mg/l <126/100 ml (b)~~
~~NOTES~~
~~(a) Chemical oxygen demand (COD) may be used in place of BOD5.(b) E. coli testing required when a disinfection unit is installed.~~]

TABLE 1.1
Minimum Lot Size (a) by Soil Type and Culinary Water Source

Soil Type	Public Water Supply	Non-public Water Supply (b)
1	12,000 sq. ft.	1.00 Acre
2	15,000 sq. ft.	1.25 Acres
3	18,000 sq. ft.	1.50 Acres
4	20,000 sq. ft.	1.75 Acres
5 (c)	20,000 sq. ft. (c)	1.75 Acres (c)

TABLE 1.2
Soil Type Key (d)

Soil Type	Soil Texture (e)	Soil Structure	Percolation Rate (minutes per inch)
1	Coarse Sand, Sand, Loamy Coarse Sand, Loamy Sand	Single Grain	1-10
2	Fine Sand, Very Fine Sand, Loamy Fine Sand, Loamy Very Fine Sand	Single Grain	11-20
3	Coarse Sandy Loam, Sandy Loam	Prismatic, Blocky, Granular	21-40
4	Coarse Sandy Loam, Sandy Loam Fine Sandy Loam, Very Fine Sandy Loam, Loam, Silt Loam	Massive, Platy Prismatic, Blocky, Granular	41-60
5	Fine Sandy Loam, Very Fine Sandy Loam, Loam, Silt Loam Sandy Clay Loam, Clay Loam, Silty Clay Loam Sandy Clay Loam, Clay Loam, Silty Clay Loam, Sandy Clay, Clay, Silty Clay, Silt	Massive, Platy Massive Prismatic, Blocky, Granular	61-120
6 (f)	Sandy Clay Loam, Clay Loam, Silty Clay Loam Sandy Clay, Clay, Silty Clay, Silt	Platy Massive, Platy	>120

NOTES

(a) Excluding public streets and alleys or other public rights-of-way, lands or any portion thereof abutting on, running through or within a building lot for a single-family dwelling. These minimum lot size requirements do not apply to building lots that have received final local health department approval before the adoption of this rule.

Any lot that is part of a subdivision that has received final local health department approval before the adoption of this rule is only exempt from the minimum lot size requirements if the developer has and is proceeding with reasonable diligence. Notwithstanding this grandfather provision for approved lots, the minimum lot size requirements are applicable if compelling or countervailing public health interests would require application of these more stringent requirements. The shape of the lot shall also be acceptable to the regulatory authority.

(b) See the separation requirements in Section R317-4-13 Table 2.

(c) A packed bed media or membrane bioreactor system is required for this soil type.

(d) When there is a substantial discrepancy between the percolation rate and the soil classification, it shall be resolved to the satisfaction of the regulatory authority, or the soil type requiring the largest lot shall be used.

(e) See the USDA soil classification system for a more detailed description.

(f) These soils are unsuitable for any absorption system.

TABLE 2
Minimum Separation Distances in Feet (a)

Item Requiring Setback	From Building Sewer or Effluent Sewer	From Septic, Pump, or Other Tank	From Absorption Area or Replacement Area
Absorption or Replacement Area		5	(b)
Public Culinary Water Source	(c)	100 (c)	100 (c)
Individual or Non-public Culinary Water Source (d)	25	50	100 (c)
Culinary Water Supply Line	(f)	10 (f)	10 (f)
Lake, Pond, Reservoir (a)	10	25	100
Watercourse (live or ephemeral stream, river, subsurface drain, or canal, storm water drainage systems)		25	100 (g)
Building Foundation Without foundation drain With foundation drain		5 10	5 (h) 100 (i)
Curtain Drain	10	10	100 (i)
Dry wash, gulch, or gully		25	50 (j)
Swimming pool, below ground	3	10	25
Dry wells, basins		5	25
Down slope that exceed 35%. This includes any all natural slope or escarpment and any artificial cut, retaining wall, or embankment.		10	50 (j)
Property line	5	5	5

NOTES

(a) All distances are from edge to edge. Where surface waters are involved, the distance shall be measured from the high water line.

(b) See Subsection R317-4-6(14) for setback requirements.

(c) All distances shall be consistent with Rules R309-600 and R309-605.

(d) Compliance with separation requirements does not guarantee acceptable water quality in every instance. Where geological or other conditions warrant, greater distances may be required by the regulatory authority.

(e) For an ungrouted well or spring the distance shall be 200 feet. A private or individual well is considered to be grouted if it meets the construction standards required in Section R655-4-11, which requires a minimum 30-foot deep grout surface seal. Any private or individual well not constructed to this minimum standard is considered to be ungrouted. Although this distance shall be generally adhered to as the minimum required separation distance, exceptions maybe approved by the regulatory authority, taking into account geology, hydrology, topography, existing land use agreements, consideration of the drinking water source protection requirements, protection of public health and potential for pollution of water source. Any person proposing to locate an absorption system closer than 200 feet to an individual or non-public ungrouted well or spring must submit a report to the regulatory authority that considers the above items. In no case may the regulatory authority grant approval for an onsite wastewater system to be closer than 100 feet from an ungrouted well or a spring.

(f) If the water supply line is for a public water supply, the separation distance shall comply with the requirements of Rule R309-550. No culinary water service line may pass through any portion of an absorption area.

(g) Lining or enclosing any watercourse with an acceptable impervious material may permit a reduction in the separation requirement. In any situation where the bottom of a canal or watercourse is at a higher elevation than the ground in which the absorption system is to be installed, a reduction in the distance requirement may be justified, but each case shall be decided on its own merits by the regulatory authority.

(h) Horizontal setback between a deep wall trench or seepage pit and a foundation of any building is at least 20 feet.

(i) The regulatory authority may reduce the separation distance, if it can be shown that the effluent will not enter the drain, but each case must be decided on its own merits by the regulatory authority. In no case may the regulatory authority grant approval for an absorption area to be closer than 20 feet.

(j) This setback may be reduced if a 53 foot reference line originating at the bottom of the distribution pipe, sloped at 35% below horizontal, will not daylight or intersect the ground surface.

TABLE 3
Estimated Flow Rates of Wastewater (a)

Type of Establishment	Gallons per Day

Airports a. per passenger b. per employee	 3 15
Boarding and Rooming Houses a. for each resident boarder and employee b. additional for each nonresident boarder	 50 per person 10 per person
Bowling Alleys, not including food service	85 per alley
Camps a. developed with flush toilets and showers b. developed with flush toilets c. developed with no flush toilets	 30 per person 20 per person 5 per person
Churches, per person	5
Condominiums, Multiple Family Dwellings, or Apartments	150 per bedroom
Dentist's Office a. per chair b. per staff member	 200 35
Doctor's Office a. per patient b. per staff member	 10 35
Fairgrounds	1 per person
Fire Stations a. with full-time employees and food preparation b. with no full-time employees and no food preparation	 70 per person 5 per person
Food Service Establishment (b) a. ordinary restaurants, not 24 hour service b. 24 hour service c. single service customer utensils only d. or, per customer served, includes toilet and kitchen wastes	 35 per seat 50 per seat 2 per customer 10
Gyms a. participant and staff member b. spectator	 25 per person 4 per person
Hairdresser, per chair	65
Highway Rest Stops, improved with restroom facilities	5 per vehicle
Hospitals	250 per bed space
Hotels, Motels, and Resorts	125 per unit
Industrial Buildings, exclusive of industrial waste a. with showers, per 8 hour shift b. with no showers, per 8 hour shift	 35 per person 15 per person
Labor or Construction Camps	50 per person
Launderette	580 per washer
Mobile Home Parks	400 per unit
Movie Theaters a. auditorium b. drive-in	 5 per seat 10 per car space
Nursing Homes	200 per bed space
Office Buildings and Business Establishments, not including food service, per eight hour shift	15 per employee
Picnic Parks, toilet wastes only	5 per person
Recreational Vehicle Parks a. temporary or transient with no sewer connections b. temporary or transient with sewer connections	 50 per space 125 per space
Recreational Vehicle Dump Station, per self-contained vehicle	50
Schools a. boarding b. day, without cafeteria, gymnasiums or showers c. day, with cafeteria but no gymnasiums and showers d. day, with cafeteria, gymnasium and showers	 75 per person 15 per person 20 per person 25 per person
Service Stations, per day, per pump	250
Skating Rink, Dance Halls, Ski Areas, or other recreation facility	10 per person
Stores, including Convenience Stores a. per public toilet room b. per employee	 500 11
Swimming Pools and Bathhouses, Using Maximum Bather Load	10 per person
Taverns, Bars, Cocktail lounges with No Food Service	20 per seat
Visitor Centers	5 per visitor

NOTES

(a) When more than one use will occur, the multiple use shall be considered in determining total flow. Small industrial plants maintaining a cafeteria or showers and club houses or motels maintaining swimming pools or laundries are typical examples of multiple uses. Uses other than those listed above shall be considered in relation to established flows from known or similar installations.

(b) No commercial food waste disposal unit shall be connected to an onsite wastewater system unless first approved by the regulatory authority.

TABLE 4
Minimum Standards for Building Sewer, Effluent Sewer, and Distribution Pipe Materials (a)

Acceptable Building Sewer and Effluent Sewer Materials

Type of Pipe	Minimum Standard
Acrylonitrile-Butadiene Styrene (ABS)	ASTM (b) D-2680 (c), D-2751, F-628
Polyvinyl Chloride (PVC)	ASTM D-2665, D-3033, D-3034

Acceptable Distribution Pipe Materials

Type of Pipe	Minimum Standard
ABS	ASTM D-2661, D-2751
Polyethylene (PE), Smooth Wall	ASTM D-3350
PVC	ASTM D-2665, D-3033, D-3034, D-2729 (d)

NOTES

(a) Each length of building sewer, effluent sewer, and distribution pipe shall be stamped or marked.
(b) American Society for Testing and Materials.
(c) For domestic wastewater only, free from industrial wastes.
(d) Although perforated PVC, ASTM D-2729 is approved for absorption system application, the solid-wall version of this pipe is not approved for any application.

TABLE 5
Maximum Hydraulic Loading Rates for Percolation Testing

Percolation Rate (Minutes per Inch)	Absorption Systems Hydraulic Loading Rates (a) (gal/ft2/day) (c)(d)(e)	Absorption Beds and Mound Systems Hydraulic Loading Rates (b) (gal/ft2/day) (c)(d)(f)
0-10 (g)	0.90	0.45
11-20	0.70	0.35
21-30	0.60	0.30
31-40	0.55	0.27
41-50	0.50	0.25 (h)
51-60	0.45	0.22 (h)
61-90 (i)	0.40	(j)
91-120 (i)	0.35	(j)

NOTES

(a) The following formula may be used in place of the values in this table: q = 2.35 divided by the square root of the percolation rate and then add 0.15 where q is the hydraulic loading rate. In no case may the loading rate be greater than 1.0.
(b) The following formula may be used in place of the values in this table: q = 1.2 divided by the square root of the percolation rate and then add 0.08 where q is the hydraulic loading rate. In no case may the loading rate be greater than 0.5.
(c) Minimum absorption area is equal to the actual or estimated wastewater flow in gallons per day shown in Section R317-4-13 Table 3, divided by the hydraulic loading rate within the applicable percolation rate category.
(d) For non-residential facilities, if a garbage grinder is not used, the absorption area may be reduced by 10% (0.9 multiplier). If any automatic sequence washer is not used, the absorption area may be reduced by 30% (0.7 multiplier). If both of these appliances are not used, the absorption area may be reduced by 40% (0.6 multiplier).
(e) For any non-residential facility, a minimum of 150 square feet of trench bottom or sidewall absorption area shall be provided.
(f) For any non-residential facility, a minimum of 300 square feet of absorption area shall be provided.
(g) Soils with a percolation rate faster than 1 minute per inch are only acceptable with the use of an alternative packed bed media or membrane bioreactor system with a disinfection unit.
(h) Not suitable for absorption beds.
(i) Acceptable for alternative packed bed media or membrane bioreactor system only.
(j) Not suitable for absorption beds or mounds.

TABLE 6
Maximum Hydraulic Loading Rates for Soil Classification

Texture	Structure	Absorption Systems Hydraulic Loading Rate (gal/ft2/day) (a)(b)(c)	Absorption Beds and Mound Systems Hydraulic Loading Rate (gal/ft2/day) (a)(b)(d)
Coarse sand, sand, loamy coarse sand, loamy sand	Single grain	0.90 (e)	0.45 (e)
Fine sand, very fine sand, loamy fine sand, loamy very fine sand	Single grain	0.70	0.35
Coarse sandy loam, sandy loam	Massive Platy Prismatic, blocky, granular	0.45 0.50 0.65	0.22 (f) 0.25 (f) 0.32 (f)
Fine sandy loam, very fine sandy loam	Massive Platy Prismatic, blocky, granular	0.40 0.35 0.50	(g) (g) 0.25 (f)
Loam	Massive Platy Prismatic, blocky, granular	0.40 (e) 0.50	(g) (g) 0.25 (f)
Silt loam	Massive Platy Prismatic, blocky, granular	(e) (e) 0.45	(g) (g) 0.22 (f)
Sandy clay loam, clay loam, silty clay loam	Massive Platy Prismatic, blocky,	(e)(h) (i) 0.40 (e)(h)	(g) (i) (g)

	granular		
Silt, silty clay, sandy clay, clay	Massive Platy Prismatic, blocky, granular	(i) (i) 0.35 (e)(h)	(i) (i) (g)

NOTES

(a) Minimum absorption area is equal to the actual or estimated wastewater flow in gallons per day, using Section R317-4-13 Table 3, divided by the hydraulic loading rate within the applicable soil texture and structure category.
(b) For any non-residential facility, if a garbage grinder is not used, the absorption area may be reduced by 10% (0.9 multiplier). If any automatic sequence washer is not used, the absorption area may be reduced by 30% (0.7 multiplier). If both of these appliances are not used, the absorption area may be reduced by 40% (0.6 multiplier).
(c) For any non-residential facility, a minimum of 150 square feet of trench bottom or sidewall absorption area shall be provided.
(d) For any non-residential facility, a minimum of 300 square feet of absorption area shall be provided.
(e) These soils are usually considered unsuitable for absorption systems, but may be suitable, depending upon the percentage and type of fines in coarse grained porous soils, and the percentage of sand and structure in fine grained soils. Percolation testing shall be used for further evaluation.
(f) Not suitable for absorption beds.
(g) Not suitable for absorption beds or mounds.
(h) These soils may be permissible for a packed bed media or membrane bioreactor absorption system only.
(i) These soils are unsuitable for any absorption system.

TABLE 7.1
Alternative Onsite Wastewater System
Minimum Inspection Frequency(a)

Type of System	Annual	Semi-annual	Quarterly
Pressure Distribution	X		
At-Grade (first 5 years only)	X		
Mound	X		
Packed Bed Media		X	
Sand Lined Trench	X		
Membrane Bioreactor			X
Holding Tank	X		
Experimental System		X	

NOTES

(a) Or more frequently as directed by the regulatory authority.

TABLE 7.2
Components

Type of System	Septic Tank and	Distribution or	Pumps, floats settings	Pressure Laterals,	Disinfection Unit (c)	Other Tanks	Drop Boxes (if accessible)	, Control Panel	Absorption Area	
Pressure Distribution	X		X	X						
At-Grade	X	X	X	X						
Mound	X		X	X						
Packed Bed Media	X	X	X	X	X					
Sand-Lined Trench	X		X	X						
Membrane Bioreactor	X		X	X	X					
Holding Tank	X	X	X	X						
Experimental	X	X	X	X	X					

NOTES

(a) Inspect other components as directed by the regulatory authority.
(b) Including pumping records.
(c) Required for absorption systems installed in excessively permeable soils, or as directed by the regulatory authority.

TABLE 7.3
Effluent Sampling Parameters

Packed Bed Media and Membrane Bioreactor System
Routine Sampling Parameters
Must sample Turbidity, or BOD5 and TSS.

Field Testing	Maximum Value
Turbidity	=<20 NTU
Laboratory Testing	**Maximum Value**
BOD5	=<25 mg/l
TSS	=<25 mg/l
COD (a)	=<75 mg/l
E. coli (b)	26/100 ml

NOTES

(a) Chemical oxygen demand (COD) may be used in place of BOD5.
(b) E. coli testing required when a disinfection unit is installed.

R317-4-14. Appendices.

(1) Appendix A. Septic Tank Construction.

[~~1.1. Plans for Tanks Required.~~

~~————~~](a) Plans for [~~all~~]each septic tank[~~s~~] [~~and~~]or underground holding tank[~~s~~] shall be submitted to the division for approval. Such plans shall show all dimensions, capacities, reinforcing, maximum depth of soil cover, and such other pertinent data as may be required. [~~All~~]Each tank[~~s~~] shall conform to the design drawing and shall be constructed under strict, controlled supervision by the manufacturer.

[~~A.~~](i) Each [~~P~~]precast [~~R~~]reinforced [~~C~~]concrete [~~T~~]tank[~~s.~~] shall conform to the following:

[~~1.~~](A) The walls and base of each precast tank[~~s~~] shall be securely bonded together and the walls shall be of monolithic or keyed construction.

[~~2.~~](B) The sidewalls and bottom of such a tank[~~s~~] shall be at least 3 inches in thickness.

[~~3.~~](C) The top shall have a minimum thickness of 4 inches.

[~~4.~~](D) [~~Such~~]Each tank[~~s~~] shall have reinforcing of at least 6 inch x 6 inch No. 6, welded wire fabric, or equivalent. Exceptions to this reinforcing requirement may be considered by the division based on an evaluation of acceptable structural engineering data submitted by the manufacturer.

[~~5.~~](E) All concrete used in each precast tank[~~s~~] shall be Class A, at least 4,000 pounds per square inch, and shall be vibrated or well-rodded to minimize honeycombing and to assure water tightness.

[~~6.~~](F) Precast sections shall be set evenly in a full bed of sealant. If grout is used it shall consist of two parts plaster sand to one part cement with sufficient water added to make the grout flow under its own weight.

[~~7.~~](G) [~~E~~]Any excessively mortared joint[~~s~~] should be trimmed flush.

[~~8.~~](H) The inside and outside of each mortar joint shall be sealed with a waterproof bituminous sealing compound.

[~~9.~~](I) For[~~ the purpose of~~] early reuse of forms, the concrete may be steam cured. Other curing by [~~means of~~]water spraying or a membrane curing compound may be used and shall comply to best acceptable methods as outlined in Guide to Curing Concrete, ACI308R-01, by American Concrete Institute, Farmington Hills, Michigan.

[~~B.~~](ii) Each [~~P~~]poured-[~~I~~]in-[~~P~~]place [~~C~~]concrete [~~S~~]septic [~~T~~]tank[~~s.~~] shall conform to the following:

[~~1.~~](A) The top of each poured-in-place septic tank[~~s~~] with a liquid capacity of 1,000 to 1,250 gallons shall be a minimum of 4 inches thick, and reinforced with 3/8 inch reinforcing rods 12 inches on center both ways, or equivalent.

[~~2.~~](B) The top of each tank[~~s~~] with a liquid capacity of greater than 1,250 gallons shall be a minimum of 6 inches thick, and reinforced with 3/8 inch reinforcing rods 8 inches on center both ways, or equivalent.

[~~3.~~](C) The walls and floor shall be a minimum of 6 inches thick. The walls shall be reinforced with 3/8 inch reinforcing rods 8 inches on center both ways, or equivalent. Inspections by the regulatory authority may be required of the tank reinforcing steel before any concrete is poured.

[~~4.~~](D) A 6 inch water stop shall be used at the wall-floor juncture to ensure water tightness.

[~~5.~~](E) All concrete used in poured-in-place tanks shall be Class A, at least 4,000 pounds per square inch, and shall be vibrated or well-rodded to minimize honeycombing and to ensure water tightness.

[~~6.~~](F) Curing of concrete shall comply with the requirements in Subsection R317-4-14(1)(a)(i)(II)[~~ Appendix A.1.2~~].

[~~C.~~](iii) [~~F~~]Each fiberglass [~~T~~]tank[~~s.~~] shall conform to the following:

[~~1. F~~](A) Each fiberglass tank[~~s~~] shall comply with one of the following criteria for acceptance:[~~.~~]

[~~a.~~](I) The Interim Guide Criteria for Glass-Fiber-Reinforced Polyester Septic Tanks, International Association of Plumbing and Mechanical Officials Z1000-2007. The identifying seal of the International Association of Plumbing and Mechanical Officials shall be permanently embossed in the fiberglass as evidence of compliance.

[~~b.~~](II) Manufactured to meet the structural requirements of Underwriters Laboratories (UL) Standard 1316.

[~~c.~~](III) Professionally engineered plans demonstrating compliance to tank configuration requirements of this rule including acceptable structural calculations or other pertinent data as may be required.

[~~2.~~](B) [~~I~~]Each inlet [~~and~~]or outlet tee[~~s~~] shall be attached to the tank by a rubber or synthetic rubber ring seal and compression plate, or in some other manner approved by the division.

[~~3.~~](C) [~~The~~]Each tank shall be installed in accordance with the manufacturer's recommendations.

[~~D.~~](iv) [~~P~~]Each polyethylene [~~T~~]tank[~~s.~~] shall conform to the following:

[~~1.~~](A) [~~P~~]Each polyethylene tank[~~s~~] shall comply with the criteria for acceptance established in Prefabricated Septic Tanks and Wastewater Holding Tanks, Can3-B66-10 by the Canadian Standards Association, Ontario, Canada.

[~~2.~~](B) [~~I~~]Each inlet [~~and~~]or outlet tee[~~s~~] shall be attached to the tank by a rubber or synthetic rubber ring seal and compression plate, or in some other manner approved by the division.

[~~3.~~](C) [~~The~~]Each tank shall be installed in accordance with the manufacturer's recommendations.

[~~1.2. Identifying Marks.~~

~~A. All~~](b) Each prefabricated or precast tank[~~s~~] that [~~are~~]is commercially manufactured shall be plainly, legibly, and permanently marked or stamped with:

[~~1.~~](i) the manufacturer's name and address, or nationally registered trademark;

[~~2.~~](ii) the liquid capacity of the tank in gallons on the exterior at the outlet end within 6 inches of the top of the wall; and

[~~3.~~](iii) the inlet and outlet of all such tanks shall be plainly marked as "IN" or "OUT" respectively.

[~~1.3. Inlets and Outlets.~~

~~————~~](c) Each [~~I~~]inlet[~~s and~~], outlet[~~s of tanks~~], or tank compartment[~~s thereof~~] shall meet the minimum diameter requirements for building sewers.

[~~A.~~](i) Only one inlet or outlet is allowed, unless preauthorized by the regulatory authority.

[~~B.~~](ii) An [~~I~~]inlet[~~s~~] and outlet[~~s~~] shall be located on opposite ends of [~~the~~]each tank.

[~~1.~~](A) The invert of flow line of the inlet shall be located at least 2 inches, above the invert of the outlet to allow for momentary rise in liquid level during discharge to the tank.

[~~2.~~](B) An approved tank[~~s~~] with offset inlets may be used when approved by the regulatory authority.

[~~C.~~](iii) [~~All~~]Each inlet[~~s~~] and outlet[~~s~~] shall have a baffle or sanitary tee.

[~~1.~~](A) An inlet baffle or sanitary tee of wide sweep design shall be provided to divert the incoming wastewater downward. This baffle or tee is to penetrate at least 6 inches below the liquid level, but the penetration is not to be greater than that allowed for the outlet device.

[~~2.~~](B) For each tank[~~s~~] with vertical sides, the outlet baffle[~~s~~] or sanitary tee[~~s~~] shall extend below the liquid surface a distance equal to [~~approximately~~]about 40% of the liquid depth. For each horizontal cylindrical tank[~~s and~~] or tank[~~s~~] of any other shape[~~s~~], that distance shall be reduced to [~~approximately~~]about 35% of the liquid depth.

[~~3.~~](C) [~~All~~]Each baffle[~~s~~] shall be constructed from sidewall to sidewall or shall be designed as a conduit.

[~~4.~~](D) [~~All~~]Each sanitary tee[~~s~~] shall be permanently fastened in a vertical, rigid position.

[~~D.~~](iv) [~~I~~]Each inlet and outlet pipe connection[~~s~~] to the septic tank shall be sealed and adhere to the tank and pipe[~~s~~] to form a watertight connection[~~s~~] with a bonding compound or sealing ring[~~s~~].

[~~E.~~](v) [~~I~~]Any inlet [~~and~~]or outlet device[~~s~~] may not include any design feature[~~s~~] preventing free venting of gases generated in the tank or absorption system back through the roof vent in the building plumbing system. The top of [~~the~~]each baffle[~~s~~] or sanitary tee[~~s~~] shall extend at least 6 inches above the liquid level[~~ in order~~] to provide scum storage, but no closer than 1 inch to the inside top of the tank.

[~~1.4. Liquid Depth of Tanks.~~

](d) Liquid depth of each tank[~~s~~] shall be at least 30 inches. Depth [~~in excess of~~]greater than 72 inches may only be considered in calculating liquid volume required in Subsection R317-4-6(7)[~~.6~~] if the tank length is at least two times the liquid depth.

[~~1.5. Burial Depth.~~

](e) The maximum burial depth shall be stated on the plans submitted.

[~~1.6. Tank Compartments.~~

](f) [~~S~~]Any septic tank[~~s~~] may be divided into compartments provided the[~~y~~] tank meets the following:

[~~A.~~](i) The volume of the first compartment shall equal or exceed two-thirds of the total required septic tank volume.[~~;~~]

[~~B.~~](ii) No compartment [~~shall~~]may have an inside horizontal dimension less than 24 inches.[~~;~~]

[~~C.~~](iii) Each [~~I~~]inlet[~~s and~~] or outlet[~~s~~] shall be designed as specified for tanks, except that when a partition wall is used to form a multi-compartment tank, an opening in the partition may serve for flow between compartments provided the minimum dimension of the opening is 4 inches, the cross-sectional area is not less than that of a 6 inch diameter pipe (28.3 square inches), and the mid-point is below the liquid surface a distance [~~approximately~~]about equal to 40% of the liquid depth of the tank.

[~~1.7. Scum Storage.~~

](g) Scum storage volume shall consist of 15% or more of the required liquid capacity of the tank and shall be provided in the space between the liquid surface and the top of inlet and outlet devices.

[~~1.8. Access to Tank Interior.~~

](h) Adequate access to [~~the~~]each tank shall be provided to facilitate inspection, servicing and maintenance, and shall have no structure or other obstruction placed over it and shall conform to the following requirements:

[~~A.~~](i) Access to each compartment of [~~the~~]any tank shall be provided through properly placed manhole openings not less than 18 inches in diameter, in minimum horizontal dimension or by[~~ means of~~] an easily removable lid section.

[~~B.~~](ii) [~~All~~]Each access cover[~~s~~] shall be designed and constructed in such a manner that [~~they~~]it [~~can~~]may not pass through the access openings, and when closed [~~will~~]shall be child-proof and prevent entrance of surface water, dirt, or other foreign material, and seal the odorous gases in the tank. [~~C~~]Each concrete access cover[~~s~~] for a manhole opening[~~s~~] shall have adequate handles.

[~~C.~~](iii) Access to each inlet [~~and~~]or outlet device[~~s~~] shall be provided through a properly spaced opening[~~s~~] not less than 12 inches in minimum horizontal dimension or by[~~ means of~~] an easily removable lid section.

(2) Appendix B. Pressure Distribution, Pumps, Controls, and Alarms.

[~~1.1.~~](a) [~~D~~]Each absorption system designed to use pressure distribution shall conform to the following:[~~.~~]

(i) Pressure distribution[~~The~~] design shall generally be based on the Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document with the following exceptions:

[~~A.~~](A) Design and equipment shall emphasize ease of maintenance, longevity, and reliability of components and shall be proven suitable by operational experience, test, or analysis, acceptable to the regulatory authority.

[~~B.~~](B) Electrical disconnects shall be provided that are appropriate for the installation and shall have gas-tight junction boxes or splices. Each electrical component[~~s~~] used in an onsite wastewater system[~~s~~] shall comply with applicable requirements of the State of Utah Electrical Code.

[~~C.~~](C) [~~All~~]Each component[~~s~~] shall be constructed and installed to facilitate ease of service without having to alter any other part.

[~~1.2. Pumps, Controls, and Alarms.~~

](ii) [~~Prior to~~]Before final approval for operation, [~~all~~]each pump[~~s~~], control[~~s~~] and related apparatus shall be field tested and found to operate as designed.

[~~A.~~](A) When a duplex pump system is designed, controls shall be provided that an alarm [~~will~~]shall signal when one of the pumps malfunctions.

[~~B.~~](B) Where multiple pumps are operated in series, controls shall be installed to prevent the operation of a pump or pumps preceding a station that experiences a high level alarm event.

[~~C.~~](C) Controls shall be capable of controlling all functions incorporated or required in the design of the system.

[~~1.~~](I) The control panel for [~~all~~]each pressure distribution system[~~s~~] shall include a pump run-time hour meter and a pump event counter or other acceptable flow measurement method.

[~~2.~~](II) The control panel shall be installed within sight of the access risers.[

~~a.~~] [~~O~~]An other location[~~s~~] may be approved by the regulatory authority.

[~~3.~~](III) Supporting hydraulic calculations and pump curve analysis shall be submitted to the regulatory authority with the design.

(3) Appendix C. Soil Exploration Pits, Soil Logs, Soil Evaluations.

[~~1.1. Soil Exploration Pit Construction.~~

](a) Soil conditions shall be obtained from a soil exploration pit[~~(s)~~] dug to a depth of 10 feet in the absorption area, or to the ground water table if it is shallower than 10 feet below ground surface. If[~~n the event that~~] an absorption system excavation[~~s~~] will be deeper than 6 feet, the soil exploration pit[~~s~~] shall extend to a depth of at least 4 feet below the bottom of the proposed absorption system excavation.[

~~A.~~] [~~S~~]Each soil exploration pit[~~s~~] shall be constructed in a manner to reduce potential for physical injury. One end of each pit should be sloped gently or "stair-stepped" to permit easy entry if necessary.

[~~1.2. Soil Logs.~~

~~A.~~](b) The soil log shall contain the following information.

[~~1.~~](i) A signed statement certifying that the log[~~s were~~] was evaluated and recorded in accordance with this rule.

[~~2.~~](ii) The names of all qualified individuals per Rule R317-11 conducting the tests.

[~~3.~~](iii) The location of the property.

[~~4.~~](iv) The location of the soil exploration pit on the property.

[~~5.~~](v) The date of the log.

[~~6.~~](vi) A description and depths of the soil horizons throughout the soil exploration pit to include:

[~~a.~~](A) soil texture and structure using the USDA system of classification;

[~~b.~~](B) estimated volume percentage of coarse fragments defined as:

[~~i.~~](I) "Gravel" means a rock fragment from 0.1 inches to 3 inches in diameter;

[~~ii.~~](II) "Cobble" means rock fragment from 3 inches to 10 inches in diameter;

[~~iii.~~](III) "Stone" means a rock fragment greater than 10 inches in diameter;

[~~c.~~](C) the presence and abundance of mottling defined as:

[~~i.~~](I) "Few" when less than 2% of the exposed surface is occupied by mottles;

[~~ii.~~](II) "Common" when from 2% to 20% of the exposed surface is occupied by mottles; and

[~~iii.~~](III) "Many" when more than 20% of the exposed surface is occupied by mottles;

[~~d.~~](D) depth to groundwater or bedrock, if encountered, and maximum anticipated groundwater table; and

[~~e.~~](E) any other pertinent information.

[~~1.3. Soil Evaluation.~~

](c) Soils shall be evaluated using the USDA Soil Texture Classification method.[

~~A.~~] The soil horizon with the lowest loading rate shall be used in calculating the required absorption area.

(4) Appendix D. Percolation Method.

[~~1.1. Percolation Test Requirements.~~

](a) Each [~~P~~]percolation test[~~s~~] shall be completed by an individual certified per Rule R317-11 and shall be conducted in accordance with the instructions in this appendix.

[~~A. Typical Areas.~~

](b) When a percolation test[~~s are~~] is conducted, [~~such~~]the test[~~s~~] shall be conducted at a point[~~s~~] and elevation[~~s~~] selected as typical of the area in which the absorption system [~~will~~]shall be located.

[~~B. Percolation Test Certificate.~~

](c) Percolation test results shall be submitted on a signed "Percolation Test Certificate". The test certificate shall contain the following:

[~~1.~~](i) A signed statement certifying that the test[~~s were~~] was conducted in accordance with this rule.

[~~2.~~](ii) The names of all individuals per Rule R317-11 conducting the test[~~s~~].

[~~3.~~](iii) The location of the property.

[~~4.~~](iv) The location of the percolation test[~~s~~] on the property.

[~~5.~~](v) The depth to the bottom of the percolation test hole from the existing grade.

[~~6.~~](vi) The final stabilized percolation rate of each test in minutes per inch.

[~~7.~~](vii) The date of the test[~~s~~].

[~~8.~~](viii) Any o[~~O~~]ther pertinent information.

[~~C. Specific Requirements.~~

](d) Each [~~P~~]percolation test[~~s~~] shall be conducted at the owner's expense and in accordance with the following:

[~~1. Conditions Prohibited for Test Holes.~~

~~P~~](i) A percolation test[~~s~~] may not be conducted in any test hole[~~s~~] that extends into ground water, bedrock, or frozen ground. Where shrink-swell clays, fissured soil formations, or saprolite is encountered, each test[~~s~~] shall be made under the direction of the regulatory authority.

[~~2. Soil Exploration Pit Prerequisite to Percolation Tests.~~

](ii) Since the appropriate percolation test depth depends on the soil conditions at a specific site, the percolation test shall be conducted only after the soil exploration pit has been dug and examined for suitable and porous strata and ground water table information. Percolation test results should be related to the soil conditions found.

[~~3. Test Holes to Commence in Specially Prepared Excavations.~~

~~All~~](iii) Each percolation test hole[~~s~~] should [~~commence~~]begin in a specially prepared larger excavation[~~s~~], preferably made with a backhoe, of sufficient size that extend to a depth [~~approximately~~]about 6 inches above the strata to be tested.

[~~4. Type, Depth, and Dimensions of Test Holes.~~

~~T~~](iv) Each test hole[~~s~~] shall be dug or bored, preferably with hand tools such as shovels or augers,[~~ etc.,~~] and shall have horizontal dimensions ranging from 4 to 18 inches, preferably 8 to 12 inches. The vertical sides shall be at least 12 inches deep, terminating in the soil at an elevation 6 inches below the bottom of the proposed onsite wastewater system. In testing individual soil strata for deep wall trenches and seepage pits, the percolation test hole shall be located entirely within the strata to be tested, if possible.

[~~5. Preparation of Percolation Test Hole.~~

](v) Each percolation test hole shall be properly prepared. Carefully remove any smeared soil surfaces to provide an open, natural soil interface into that water may percolate. Remove all loose soil from the bottom of the hole. Add 2 to 3 inches of clean pea gravel to protect the bottom from scouring or sealing with sediment when water is added. Caving or sloughing in some test holes can be prevented by placing in the test hole a wire cylinder or perforated pipe surrounded by clean pea gravel.

[~~6. Saturation and Swelling of the Soil.~~

](vi) Adequate saturation and swelling of the soil shall be completed. It is important to distinguish between saturation and swelling. Saturation means that the void spaces between soil particles are full of water. This can be accomplished in a relatively short period[~~ of time~~]. Swelling is a soil volume increase caused by intrusion of water into the individual soil particles. This is a slow process, especially in clay-type soil, and is the reason for requiring a prolonged swelling period.

[~~7. Placing Water in Test Holes.~~

](vii) Water should be placed carefully into the test hole[~~s by means of~~] using a small diameter siphon hose or other suitable method to prevent washing down the side of the hole.

[~~8. Percolation Rate Measurement, General.~~

](viii) Necessary equipment for measuring the percolation rate should consist of a tape measure with at least 1/16 inch calibration or float gauge, and a time piece or other suitable equipment. All measurements shall be made from a fixed reference point near the top of the test hole to the surface of the water.

[~~9. Percolation Test Procedure.~~

]_____(ix) Each percolation test shall follow a consistent procedure. The hole shall be carefully filled with clear water and a minimum depth of 12 inches shall be maintained above the gravel for at least a four hour period by refilling when[~~ever~~] necessary. Water remaining in the hole after four hours may not be removed. Immediately following the saturation period, the soil shall be allowed to swell not less than 16 hours or more than 30 hours. Immediately following the soil swelling period, the percolation rate measurements shall be made as follows:

[~~a.~~](A) Any soil that has sloughed into the hole shall be removed and water shall be adjusted to 6 inches over the gravel.

[~~b.~~](B) Thereupon, from the fixed reference point, the water level shall be measured and recorded at [~~approximately~~]about 30 minute intervals for a period of four hours.

[~~i.~~](I) If 6 inches of water seeps away in less than 30 minutes, a shorter time interval of 15 minutes between measurements may be used.

[~~ii.~~](II) If 6 inches of water seeps away in less than 15 minutes, a shorter time interval of 5 minutes between measurements may be used.

[~~iii.~~](III) Eight consecutive time intervals shall be recorded unless two successive water level drops do not vary more than 1/16 of an inch and [~~indicate~~]show that an approximate stabilized rate has been obtained.

[~~c.~~](C) The hole shall be filled with 6 inches of clear water above the gravel after each time interval.

[~~d.~~](D) In no case [~~shall~~]may the water depth exceed 6 inches above the gravel.

[~~e.~~](E) The final water level drop shall be used to calculate the percolation rate.[

_____~~i.~~] If no stabilized rate is achieved, the smallest drop shall be used to make this calculation.

[~~f.~~](F) Precautions shall be taken to prohibit water or soil from freezing during the test procedure.

[~~10.~~](x) The percolation test [~~P~~]procedure for Type 1 [~~and~~]or Type 2 [~~S~~]soils shall follow a separate procedure.[

_____]_The hole shall be carefully filled with clear water to a minimum depth of 12 inches over the gravel and the time for this amount of water to seep away shall be determined. The procedure shall be repeated and if the water from the second filling of the hole at least 12 inches above the gravel seeps away in 10 minutes or less, the test may proceed immediately as follows:

[~~a.~~](A) Water shall be added to a point not more than 6 inches above the gravel.

[~~b.~~](B) Thereupon, from the fixed reference point, water levels shall be measured at 10 minute intervals for a period of one hour.

[~~i.~~](I) If 6 inches of water seeps away in less than 10 minutes, a shorter time interval of 5 minutes between measurements may be used.

[~~ii.~~](II) Six consecutive time intervals shall be recorded unless two successive water level drops do not vary more than 1/16 of an inch and [~~indicate~~]show that an approximate stabilized rate has been obtained.

[~~c.~~](C) The hole shall be filled with 6 inches of clear water above the gravel after each time interval.

[~~d.~~](D) In no case shall the water depth exceed 6 inches above the gravel.

[~~e.~~](E) The final water level drop shall be used to calculate the percolation rate.[

_____~~i.~~] If no stabilized rate is achieved, the smallest drop shall be used to make this calculation.

[~~11. Calculation of Percolation Rate.~~

_____](xi) The percolation rate is equal to the time elapsed in minutes for the water column to drop, divided by the distance the water dropped in inches and fractions thereof.

[~~12. Using Percolation Rate to Determine Absorption Area.~~

_____](xii) The minimum or slowest percolation rate shall be used in calculating the required absorption area.

(5) Appendix E. Septic Tank Operation and Maintenance.

[~~1.1. Maintenance of Septic Tanks.~~

_____~~A.~~](a) [~~S~~]Each septic tank[~~s~~] shall be emptied before too much sludge or scum is allowed to accumulate and seriously reduce the tank volume settling depth. If either the settled solids or floating scum layer accumulate too close to the bottom of the outlet baffle or bottom of the sanitary tee pipe in the tank, solid particles [~~will~~]may overflow into the absorption system and eventually clog the soil and ruin its absorption capacity.

[~~B.~~](b) A septic tank that receives normal loading should be inspected as [~~indicat~~]stated in Section R317-4-11 to determine if it needs emptying. Although there are wide differences in the rate that sludge and scum accumulate in tanks, a septic tank for a private residence [~~will generally~~]requires emptying every three to five years. Actual measurement of scum and sludge accumulation is the only sure way to determine when a tank needs to be emptied. Experience for a particular system may [~~indicate~~]show the desirability of longer or shorter intervals between inspections.

[~~C.~~](c) The tank should be completely emptied if either the bottom of the floating scum mat is within 3 inches of the bottom of the outlet baffle or tee or the sludge level has built up to [~~approximately~~]about 12 inches from the bottom of the outlet baffle or tee, or the scum and sludge layers together equal 40% or more of the tank volume. All scum and solids should be washed out and removed from the tank.

[~~D.~~](d) If multiple tanks or tanks with multiple compartments are provided, care should be taken to ensure that each tank or compartment is inspected and emptied.

[~~E.~~](e) Septic tank wastes contain disease causing organisms and shall be disposed of only in areas and in a manner that is acceptable to local health authorities and consistent with state rules.

[~~F.~~](f) Immediate replacement of any damaged inlet or outlet fitting[~~s~~] in the septic tank is essential for effective operation of the system.

[~~G. Effluent screens or filters.~~

_____](g) Remove [~~the~~]any effluent screen or filter in a manner that prevents solids from passing to the absorption system. Wash the filter over the inlet side of septic tank. Replace the cleaned filter back into the outlet tee.

[~~H.~~](h) When the tank is empty, the interior surfaces of the tank should be inspected for leaks or cracks using a strong light.

[~~I.~~](i) A written record of [~~all~~]any maintenance of the septic tank and absorption system should be kept by the owner of that system.

[~~J.~~](j) The functional operation of a septic tank[~~s~~] is not improved by the addition of yeasts, disinfectants, additives or other chemicals; therefore, use of these materials is not recommended.

[~~K.~~](k) The advice of [~~your~~]the regulatory authority should be sought before chemicals arising from a hobby or home industry or other unusual activities are discharged into a septic tank system.

[~~L.~~](l) Economy in the use of water helps prevent overloading of a septic tank system that could shorten its life and [~~necessitate~~]require expensive repairs. The plumbing fixtures in the building should be checked regularly to repair any leaks that can add

substantial amounts of water to the system. Industrial wastes and other liquids that may adversely affect the operation of the onsite wastewater system should not be discharged into such a system. Paper towels, facial tissue, disinfectant wipes, newspaper, wrapping paper, disposable diapers, sanitary napkins, coffee grounds, rags, sticks, and similar materials should also be excluded from the septic tank since they do not readily decompose and can lead to clogging of both the plumbing and the absorption system.

[~~1.2. Maintenance of Other Tanks.~~

~~A. Other Tanks.~~

](m) Any measurable amount of sludge or scum present in any other tank[~~s~~] should be removed.[

~~B.~~] If an effluent screen or filter is present, it should be [~~rinsed and~~]cleaned over the [~~opening~~]inlet side of the septic tank.

KEY: waste water, onsite wastewater systems, alternative onsite wastewater systems, septic tanks
Date of Last Change: [~~January 1, 2016~~]2023
Notice of Continuation: January 13, 2020
Authorizing, and Implemented or Interpreted Law: 19-5-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R384-415**	**Filing ID: 55390**

Agency Information

1. Department:	Health and Human Services	
Agency:	Disease Control and Prevention, Health Promotion	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142106	
City, state and zip:	Salt Lake City, UT 84114-2106	
Contact persons:		
Name:	**Phone:**	**Email:**
Braden Ainsworth	801-538-6187	tobaccorulescomments@utah.gov
McKenna Christensen	801-538-6260	tobaccorulescomments@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R384-415. Requirements to Sell Electronic Cigarette Products

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The proposed rule amendment to Rule R384-415 revises the rule to align with decisions made by the Food and Drug Administration (FDA) through the Premarket Tobacco Product Application (PMTA) application and approval process. While reviewing PMTA applications, FDA considers (per Section 910(c)(4) of the Federal Food, Drug, and Cosmetic (FD&C) Act): the risks and benefits to potential users and nonusers of the proposed product; the impact on quit attempts or product switching of current tobacco users if the proposed product became available; the impact on the likelihood of current tobacco nonusers to begin using tobacco products if the proposed product became available; and the details of how the proposed product is manufactured, processed, and packed. The PMTA application requires scientific data that demonstrates a product is appropriate for the protection of public health, as well as an environmental assessment. The PMTA application and approval process is rigorous, including meetings between the applicant and FDA and multiple rounds of review to ensure the product falls under the Center for Tobacco Products jurisdiction, determine whether the application contains sufficient information to continue the process, and evaluate the scientific information and data in the application along with recommendations from the Tobacco Product Scientific Advisory Committee (in cases where an application was referred to that Committee for assessment). The FDA requires a showing that permitting the marketing of a new tobacco product would have a net benefit to public health based upon the risks and benefits to the population as a whole, which includes youth, young adults, and other vulnerable populations. In determining whether permitting would result in a net public health benefit, the FDA weighs the potential negative public health impacts (e.g. harm from initiation and use among nonusers, particularly youth) against the potential positive public health impacts (e.g. benefit from adult users of more harmful tobacco products completely switching). If the review process results in a marketing granted order letter, then the applicant is responsible for postmarket compliance requirements, including establishing and maintaining records and making reports. The FDA uses those reports to determine whether the product can continue to be sold or if the marketing granted order should be withdrawn or temporarily suspended. Due to the extensive measures that the FDA goes through to review these products, the Department of Health and Human Services (Department) wishes to better align Utah practices with FDA decisions, as FDA's process is more robust than what is feasible for the Department to undertake.

This proposed rule amendment also includes nonsubstantive changes that reflect recodification of statutes from Title 26 into Title 26B and nonsubstantive grammatical changes.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The proposed rule amendment to Rule R384-415 revises the rule to permit the sale of non-manufacturer sealed electronic cigarette products and manufacturer sealed electronic cigarette products of any nicotine concentration which have received a PMTA approval from the FDA or permission to sell during the pendency of an appeal if permitted by the FDA or court order.

In addition, this amendment revises this rule to prohibit the sale of electronic cigarette products that have received a PMTA denial from the FDA.

Furthermore, the sale of all other manufacturer sealed electronic cigarette products that have a pending PMTA application with the FDA are limited to 5% by weight per container and do not exceed a 59mg/mL concentration of nicotine and the sale of non-manufacturer sealed electronic cigarette substances that have a pending PMTA application are limited to 360 mg nicotine per container and do not exceed a 24mg/mL concentration of nicotine.

Furthermore, this amendment revises this rule to prohibit the sale of electronic cigarette products that have received a PMTA denial from the FDA.

The proposed rule amendment also includes nonsubstantive changes that reflect recodification of statutes from Title 26 into Title 26B and nonsubstantive grammatical changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

Enactment of this proposed rule amendment is expected to have no fiscal impact to the state budget. The FDA PMTA approved electronic cigarette products have the potential to benefit adult smokers who are not pregnant if used as a complete substitute for regular cigarettes and other smoked tobacco products, by offering lower toxicant exposure than combustible cigarettes.

According to the U.S. Centers for Disease Control, combustible cigarettes contain over 7,000 chemicals, of which hundreds are considered to be toxic, and 70 are known to cause cancer. The long term health effects of electronic cigarette use are not yet known. It is known that electronic cigarettes contain ultrafine particles, heavy metals, cancer-causing chemicals, and volatile and organic compounds, though at lesser amounts than combustible cigarettes, which have the potential to lead to adverse health effects. Electronic cigarettes also contain nicotine at varying levels, with some products containing amounts greater than combustible cigarettes. (In 2022, the FDA issued PMTA approvals for several electronic products, with nicotine concentrations ranging from 1.5%-6%).

While the health care costs currently and ongoing related to the use of electronic cigarettes are unknown and inestimable, the FDA has determined that approved electronic cigarette products, when considering potential benefits and harms, provide a net public health benefit. In addition, if consumers increase participation in cessation programs in response to the proposed change, state funding already allocated to cessation programs is sufficient to provide significant additional support.

In addition, allowing the FDA PMTA granted products on the market in Utah could increase the revenue to the Electronic Cigarette Substance and Nicotine Product Restricted Account, Section 59-14-807, which funds state cessation and prevention programs, as well as state enforcement activities and local health department enforcement and grant programs.

B) Local governments:

Enactment of this proposed rule amendment is not expected to have any fiscal impact on the local governments, as local health departments will continue to conduct retail observations and investigations in accordance with respective state tobacco control laws, state administrative rules, and local health department regulations using existing allocated resources to enforce the amended rule.

The FDA publishes a list that identifies products where a PMTA application was submitted to the FDA, allowing Utah's enforcement agencies the ability to research products with approved, pending, or denied PMTA applications.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The proposed rule amendment is not expected to have any direct fiscal cost to small businesses that employ fewer than 50 employees and choose to sell manufacturer sealed electronic cigarette products. The proposed rule amendment is not expected to have any direct fiscal cost to small businesses that primarily rely on the sale of tobacco products (retail tobacco specialty businesses) and operate under the North American Industry Classification System (NAICS) codes of 453991 and 424940.

The proposed rule amendment is not expected to have any direct fiscal cost to other small businesses that sell manufacturer sealed electronic cigarette products among other products they choose to sell (including (445120) convenience stores, (447110) gas stations with convenience stores, (445110) supermarkets and other

grocery stores, (452319) general merchandise and discount stores, (447190) other gasoline stations, (453991) tobacco stores, (424940) tobacco product merchant wholesalers, (453220) gift, novelty, and souvenir stores, (721110) hotels, (813410) civic and social organizations). It is very likely small businesses will see a positive direct fiscal impact by selling electronic cigarette products which have received premarket authorization from the FDA for sale under 21 U.S.C. 387j(c)(1)(A)(i), 21 U.S.C. 387j(a)(2)(A)(i), or 21 U.S.C. 387j(a)(2)(A)(ii).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The proposed rule amendment is not expected to have any direct fiscal cost to non-small businesses that employ more than 50 employees and choose to sell manufacturer sealed electronic cigarette products. The proposed rule amendment is not expected to have any direct fiscal cost to non-small businesses that sell manufacturer sealed electronic cigarette products among other products they choose to sell (including (445120) convenience stores, (447110) gas stations with convenience stores, (445110) supermarkets and other grocery stores, (452319) general merchandise and discount stores, (447190) other gasoline stations, and (453220) gift, novelty, and souvenir stores).

It is very likely non-small businesses will see a positive direct fiscal impact by selling electronic cigarette products which have received premarket authorization from the FDA for sale under 21 U.S.C. 387j(c)(1)(A)(i), 21 U.S.C. 387j(a)(2)(A)(i), or 21 U.S.C. 387j(a)(2)(A)(ii).

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The proposed rule amendment to Rule R384-415 may result in an indirect cost or indirect benefit to persons. In Utah as of 2021, approximately 160,000 adults and 21,000 youth (13-17 years old) are current electronic cigarette users. The indirect costs or indirect benefits to consumers are unknown and inestimable, as consumers may choose to vape electronic cigarettes approved through the FDA PMTA process with a higher nicotine concentration as a result of enactment of this proposed rule amendment, while other consumers may partially or completely switch from combustible tobacco to electronic cigarettes.

There are inestimable costs to Utahns who use electronic cigarettes, particularly to youth as nicotine use during adolescence interferes with brain development, affects attention and learning, and increases susceptibility to nicotine dependence and addiction to other substances.

Likewise, the indirect benefits to persons employed at tobacco retail businesses are unknown and inestimable, who may be employed at either small businesses or non-small businesses which could be impacted as indicated in boxes 5C. and 5D as a result of enactment of this proposed rule amendment.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The rule amendment to Rule R384-415 is not expected to have any compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 26B-7-505		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/01/2023

R384. Health and Human Services, Disease Control and Prevention, Health Promotion.
R384-415. Requirements to Sell Electronic Cigarette Products.
R384-415-1. Authority and Purpose.

(1) This rule is authorized by Section [~~26-57-103~~]26B-7-505.

(2) The purpose of this rule is to establish requirements to sell an electronic cigarette product regarding labeling, nicotine content, packaging, and product quality for non-manufacturer sealed electronic cigarette substances and manufacturer sealed electronic cigarette products.

(3) A person may only sell an electronic cigarette substance[,] that is not a manufacturer sealed electronic cigarette substance[,] that is compliant with the established requirements set forth in this rule.

(4) Beginning on July 1, 2021, a person may only sell a manufacturer sealed electronic cigarette product that is compliant with the established requirements set forth in this rule.

(5) A product in compliance with this rule is not endorsed as safe.

R384-415-2. Definitions.

As used in this rule:

(1) "Child resistant" means the same as the term "special packaging" is defined in 16 C.F.R 1700.1(a)(4) and is tested in accordance with the method described in 16 C.F.R. 1700.20.

(2) "Department" means the Utah Department of Health and Human Services.

(3) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

(4) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(5) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.

(6) "Local health department" means the same as that term is defined in Subsection 26A-1-102(5).

(7) "Industrial hemp product" means the same as that term is defined [~~is~~]in Section 4-41-102.

(8) "Manufacture" means the same as that term is defined in Section [~~26-57-102~~]26B-7-501.

(9) "Manufacturer" means the same as that term is defined in Section [~~26-57-102~~]26B-7-501.

(10) "Manufacturer sealed electronic cigarette substance" means the same as that term is defined in Section [~~26-57-102~~]26B-7-501.

(11) "Mg/mL" means milligrams per milliliter, a ratio for measuring an ingredient, in liquid form, where accuracy is measured in milligrams per milliliter, or a percentage equivalent.

(12) "Manufacturer sealed electronic cigarette product" means the same as that term is defined in Section [~~26-57-102~~]26B-7-501.

(13) "Nicotine" means the same as that term is defined in Section 76-10-101.

(14) "Non-manufacturer sealed electronic cigarette substance" means:

(a) an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance; and

(b) an electronic cigarette substance container the electronic cigarette manufacturer does intend for a consumer to open or refill.

(15) "Package" or "packaging" means a pack, box, carton, or container of any kind, or if no other container, any wrapping, in which an electronic cigarette substance or a manufacturer sealed electronic cigarette product is offered for sale, sold, or otherwise distributed to consumers.

(16) "Permit" means the same as that term is defined in Section 26B-7-501.[~~26-62-101.~~]

(17) "Retailer" means any person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product to a consumer. This definition is without regard to the quantity of a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product sold, offered for sale, exchanged, or offered for exchange.

(18) "Transaction statement" means a statement, in paper or electronic form, in which the manufacturer transferring ownership of the product certifies that the non-manufacturer sealed electronic cigarette substance or the manufacturer sealed electronic cigarette product is in compliance with the requirements in this rule.

R384-415-3. Labeling.

(1) The retailer shall ensure that a nicotine containing non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product offered for sale to the consumer features on the product package label the required safety warning stating "WARNING: This product contains nicotine. Nicotine is an addictive chemical."

(2) Consistent with 21 C.F.R. 1143.3, the safety warning statements required in Subsection (1), the required safety warning statement must appear directly on the package and [~~must be~~]shall be clearly visible underneath any cellophane or other clear wrapping as follows:

(a) be located in a conspicuous and prominent place on the two principal display panels of the package and the warning area

must comprise at least 30%[~~ percent~~] of each of the principal display panels;

(b) be printed in at least 12-point font size and ensures that the required warning statement occupies the greatest possible proportion of the warning area set aside for the required text;

(c) be printed in conspicuous and legible Helvetica bold or Arial bold type, or other sans serif fonts, and in black text on a white background or white text on a black background in a manner that contrasts by typography, layout, or color, with[~~ all~~] other printed material on the package;

(d) be capitalized and punctuated as indicated in Subsection (1); and

(e) be centered in the warning area in which the text is required to be printed and positioned such that the text of the required warning statement and the other information on the principal display panel have the same orientation.

(3) The retailer shall ensure that a non-manufacturer sealed electronic cigarette substance marketed as nicotine-free and offered for sale to the consumer features a safety warning stating "WARNING: Keep away from children and pets."

(4) The safety warning statements required in Subsection (3)[~~, the required safety warning statement~~] must appear directly on the package and must be clearly visible underneath any cellophane or other clear wrapping as follows:

(a) be located in a conspicuous and prominent place on the two principal display panels of the package and the warning area must comprise at least 30%[~~ percent~~] of each of the principal display panels;

(b) be printed in at least 12-point font size and ensures that the required warning statement occupies the greatest possible proportion of the warning area set aside for the required text;

(c) be printed in conspicuous and legible Helvetica bold or Arial bold type, or other sans serif fonts, and in black text on a white background or white text on a black background in a manner that contrasts by typography, layout, or color, consistent with the other printed material on the package;

(d) be capitalized and punctuated as indicated in Subsection (3); and

(e) be centered in the warning area in which the text is required to be printed and positioned such that the text of the required warning statement and the other information on the principal display panel have the same orientation.

(5) A retailer will not be in violation of this section for packaging that:

(a) contains a health warning;

(b) is supplied to the retailer by the electronic cigarette product manufacturer, importer, or distributor, who has the required state, local, or tobacco tax license or permit, if applicable; and

(c) is not altered by the retailer in a way that is material to the requirements of this section.

(6) A non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product package that would otherwise be required to bear the safety warning in Subsection (1) or (3) but is too small or otherwise unable to accommodate a safety warning label with sufficient space to bear such information is exempt from compliance with the requirement provided that:

(a) the information and specifications required in Subsections (1) and (3) appear on the carton or other outer container or wrapper if the carton, outer container, or wrapper has sufficient space to bear the information; or

(b) appear on a tag otherwise firmly and permanently affixed to the non-manufacturer sealed electronic- cigarette substance package or the manufacturer sealed electronic cigarette product package.

(7) In the case of Subsection (6)(a) or (b), the carton, outer container, wrapper, or tag will serve as the location of the principal display panels.

(8) The retailer shall ensure that an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp and Section R68-26-5, unless:

(a) an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance marketed as containing nicotine and offered for sale or an industrial hemp product that is a manufacturer sealed electronic cigarette product marketed as containing nicotine and offered for sale is in compliance with the safety warning requirements in Subsections (1) and (2); or

(b) an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance marketed as nicotine-free and offered for sale is exempt from the safety warning requirements in Subsections (3) and (4)[~~;~~] if the product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp and Section R68-26-5.

R384-415-4. Prohibited Sales.

(1) The retailer shall be prohibited from selling a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product that is labeled as containing:

(a) additives that create the impression that a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product has a health benefit;

(b) additives that are associated with energy and vitality;

(c) illegal or controlled substances as identified in Section 58-37-3; and

(d) additives having coloring properties for emissions.

(2) The retailer shall be prohibited from selling an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product unless it is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp; Section R68-26-5; and Section R68-33-5.

(3) The retailer shall be prohibited from selling an electronic cigarette substance or an electronic cigarette product that has received a Premarket Tobacco Product Application (PMTA) denial from the U.S. Food and Drug Administration (FDA), if:

(a) no appeal of the PMTA denial was filed; or

(b) all appeals have been exhausted and the PMTA denial was affirmed.

R384-415-5. Nicotine Content.

(1) The retailer shall be prohibited from selling a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product to the consumer if the product is not compliant with one of the following:

(a) the nicotine concentration for an electronic cigarette product or substance that is not subject to a PMTA order from the FDA:

(i) for a non-manufacturer sealed electronic cigarette substance is limited to 360 mg nicotine per container, or does not exceed a 24mg/mL concentration of nicotine; [~~and~~]or

(ii) for a manufacturer sealed electronic cigarette product is limited to 5% by weight per container and does not exceed a 59mg/mL concentration of nicotine;

(b) the electronic cigarette product or substance received a PMTA denial from the FDA, but FDA or a court orders or otherwise permits ongoing sales during the pendency of an appeal; or[~~the nicotine concentration for a manufacturer sealed electronic cigarette product is limited:~~

~~(i) to 5% nicotine by weight per container, or does not exceed a 59mg/mL concentration of nicotine, effective July 1, 2021; and~~

~~(ii) to 3% nicotine by weight per container, or does not exceed a 36mg/mL concentration of nicotine, effective September 1, 2021.~~]

(c) the electronic cigarette product or substance received a PMTA approval from FDA.

R384-415-6. Packaging.

(1) The retailer shall ensure that the packaging of a non-manufacturer sealed electronic cigarette substance intended for sale to a consumer is certified as child resistant, and compliant with federal standards and law concerning child nicotine poisoning prevention.

(2) The retailer shall sell non-manufacturer sealed electronic cigarette substances and manufacturer sealed electronic cigarette products in the product's original packaging.

(3) The retailer shall be prohibited from repackaging or dispensing any non-manufacturer sealed electronic cigarette substance or any manufacturer sealed electronic cigarette product for retail sale.

(4) The retailer shall be prohibited from refilling a manufacturer sealed electronic cigarette product that is not intended to be opened by a retailer or a consumer.

(5) The retailer shall ensure that an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp; and Rule R68-26.

R384-415-7. Product Quality.

(1) Consistent with 21 U.S.C 387j, no manufacturer or retailer shall sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance unless the product complies with each of the relevant electronic cigarette product standards established by the U.S. Food and Drug Administration under 21 U.S.C. 387g(3).

(2) No manufacturer or retailer shall sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance unless the product has received marketing authorization from the U.S. Food and Drug Administration (FDA) under 21 U.S.C. 387j(c)(1)(A)(i), 21 U.S.C. 387j(a)(2)(A)(i), or 21 U.S.C. 387j(a)(2)(A)(ii) and related FDA regulations, policies, or actions.

(3) A manufacturer or retailer will not be in violation of Subsection (2) and may continue to sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance if:

(a) the manufacturer or retailer only sells, offers for sale, or distributes an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance that is compliant with the requirements set forth in this rule;

(b) the manufacturer submitted a timely [~~Pre-Market~~]Premarket Tobacco application or Substantial Equivalent application to the FDA by September 9, 2020, verified by being listed on the FDA's website as a deemed new tobacco product with timely application; and

(c) the FDA has not issued a written marketing order and therefore the product's [~~Pre-Market~~]Premarket Tobacco application or Substantial Equivalent application is pending review by the FDA.

(4) This section will take effect on the date that manufacturers are required to secure marketing orders from the FDA to continue marketing their products in the United States.

R384-415-8. Record Keeping and Testing.

(1) The retailer shall provide the non-manufacturer sealed electronic cigarette substance transaction statements or manufacturer sealed electronic cigarette product transaction statements to the [~~D~~]department or the local health department within 14 calendar days of a request. The retailer shall ensure that the transaction statement includes manufacturer certifications that:

(a) the labeling requirements are compliant with Section R384-415-3;

(b) the nicotine content of a non-manufacturer sealed electronic cigarette substance is compliant with Subsection R384-415-5(1)(a) and the nicotine content of a manufacturer sealed electronic cigarette product is compliant with Subsection R384-415-5(1)(b);

(c) the packaging requirements are compliant with Section R384-415-6; and

(d) the product quality requirements are compliant with Section R384-415-7.

(2) The retailer shall provide evidence that supports the documents described in Subsection R384-415-8(1) to the [~~D~~]department or the local health department within 14 calendar days of a request.

(3) The retailer shall have access to the documents described in Subsections R384-415-8(1) and R384-415-8(2) for a period of two years after the retailer purchases the non-manufacturer sealed electronic cigarette substance or the manufacturer sealed electronic cigarette product.

R384-415-9. Enforcement.

[~~(1)~~]In enforcing or seeking penalties of any violation as set forth in this rule or Section [~~26-57-103~~]26B-7-505, the [~~D~~]department and local health departments shall comply with the enforcement requirement in Sections 26B-7-514 through 26B-7-520.[~~Title 26, Chapter 62, Part 3, Enforcement.~~]

KEY: electronic cigarettes, nicotine, Electronic Cigarette Product and Nicotine Product Regulation Act
Date of Last Change: 2023[~~September 9, 2021~~]
Notice of Continuation: December 8, 2020
Authorizing, and Implemented or Interpreted Law: [~~26-57-103~~]26B-7-505

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R414-14	Filing ID: 55386

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R414-14. Home Health Services

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this change is to implement liability requirements for home health agencies in accordance with Section 26B-3-116.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment includes new provisions of liability coverage for home health agency services. It also makes other technical changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Department of Health and Human Services will see neither costs nor revenue as there is no direct impact on payments and services.

B) Local governments:

Local governments will see neither costs nor revenue as they neither fund nor provide home health services under the Medicaid program.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

Small businesses will see neither costs nor revenue as there is no direct impact on payments and services.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

Non-small businesses will see neither costs nor revenue as there is no direct impact on payments and services.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Other persons or entities will see neither costs nor revenue as there is no direct impact on payments and services.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs as there is no direct impact on payments and services.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0

Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis.

Businesses will see neither costs nor revenue as this change does not directly affect payments and services.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26B-3-108	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	05/01/2023

R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.
R414-14. Home Health Services.
R414-14-1. Introduction and Authority.

(1) Home health services are part-time intermittent health care services [~~that are~~]based on medical necessity and provided to eligible persons in their places of residence when the home is the most appropriate and cost-effective setting [~~that is~~]consistent with the [~~client's~~]member's medical need. The goals of home health care are to minimize the effects of disability or pain[~~;~~], [~~promote,~~]maintain[~~,~~] or protect health[~~;~~], and prevent premature or inappropriate institutionalization.

(2) This rule is authorized under Section 26B-[~~18~~]3-[~~3~~]108 and governs the services allowed under 42 CFR 440.70 and 42 CFR, Part 484. 42 U.S.C. Secs. 1395u, 1395x, and 1395y also authorize home health services.

R414-14-2. Definitions.

[~~The following definition applies to home health services. In addition, the Department adopts the definitions in the Home Health Agencies Utah Medicaid Provider Manual and incorporates them by reference in Section R414-1-5.~~]

(1) "Plan of [~~C~~]care" means a written plan developed cooperatively by home health agency staff and [~~the~~]an attending physician. The plan is designed to meet specific needs of an individual, is based on orders written by [~~the~~]an attending physician, and is approved and periodically reviewed and updated by [~~the~~]an attending physician.

(2) "Home health services" as defined in 42 CFR 440.70(b).

(3) "Home health agency visit" means a personal contact in the member's place of residence to provide a covered service.

(4) "Home health agency" means a public agency or private organization licensed to provide home health services.

(5) "Home health aide" means an individual who meets state and federal requirements of a home health aide, including those outlined in this rule, Rule R432-725, 42 CFR 440.70 and 484.80, and Sections R432-700-22 through R432-700-23.

(6) "Home health assessment visit" means a visit by a registered nurse initially or at recertification to assess the member's overall condition to determine the adaptability of the member's place of residence for the provision of health care and the capability of the member to participate in self-care. The visit also identifies family support systems or individuals willing to assume responsibility for care when the member cannot.

(7) "Skilled nursing" means services used in the treatment of an acute illness, injury, or exacerbation of a chronic illness.

(8) "Supervision" means authoritative procedural guidance by a qualified healthcare professional for the accomplishment of a function or activity.

(9) "Supportive maintenance home health" means a level of hands-on service that requires minimal assistance, observation, teaching, or follow-up essential to health care.

R414-14-3. [~~Client~~]Member Eligibility Requirements.

Home health services are available to categorically eligible and medically needy individuals.

R414-14-4. Program Access Requirements.

(1) A home health agency may only provide [~~H~~]home health services [~~shall be provided only~~]to an individual who is under the care of a physician. [~~The~~]An attending physician shall write the orders on which a plan of care is established and certify the necessity for home health services.

(2) [~~The~~]A home health agency may only accept a [~~recipient~~]member for home health services [~~only~~]if there is a reasonable expectation the agency can meet[~~that a recipient's~~] the member's needs[~~ can be met~~].

(3) The attending physician and home health agency personnel must review and sign a total plan of care as often as the severity of the [~~patient's~~]member's condition requires, but at least once every 60 days in accordance with 42 CFR 440.70.

(4) The home health agency must provide quality, cost-effective care and a safe environment in the home through registered or licensed practical nurses who have adequate training, knowledge, judg[~~e~~]ment, and skill.

(5) The home health agency may only provide [~~H~~]home health aide services [~~may only be provided~~]pursuant to written instructions and under the supervision of a registered nurse by a person selected and trained to assist with routine care not requiring specialized nursing skills.

(6) Over the long-~~-~~term service period, the cost to provide the required service in the [~~patient's~~]member's home must be no greater than the cost to meet the [~~client's~~]member's medical needs in an alternative setting.

(7) A home health agency may provide an initial assessment visit without prior authorization to assess the [~~patient's~~]member's needs and establish a plan of care. After the initial visit, [~~all~~]home health care and service must be based on prior authorization.

(8) The home health agency must meet the face-to-face requirement, as stated in Section R414-1-30, or the Department may deny or recover reimbursement.

R414-14-5. Service Coverage.

(1) The Department covers the following [~~T~~]two levels of home health services[~~ are covered~~]:

(a) [~~S~~]skilled [~~H~~]home [~~H~~]health [~~S~~]services; and

(b) [~~S~~]supportive [~~M~~]maintenance [~~H~~]home [~~H~~]health [~~S~~]services.

(2) Skilled nursing services encompass[~~es~~] the expert application of nursing theory, practice and techniques by a registered professional nurse to meet the needs of [~~patients~~]members in their place of residence through professional judgments, through independently solving [~~patient~~]member care problems, and through application of standardized procedures and medically delegated techniques.

(3) Home health aide service encompasses assistance with, or direct provision of, routine care not requiring specialized nursing skill. The home health aide is closely supervised by a registered, professional nurse to assure competent care. The aide works under written instructions and provides necessary care for the [~~patient~~]member.

(4) Supportive maintenance home health care serves [~~those patients who have~~]members with a stabilized medical condition[~~ which has stabilized, but~~] who continue to demonstrate [~~continuing~~]health problems [~~requiring~~]that require minimal assistance, observation, teaching, or follow-up. A certified home health agency may provide [~~T~~]this assistance [~~can be provided by a certified home health agency~~]through the knowledge and skill of a licensed practical nurse (LPN) or a home health aide with periodic supervision by a registered nurse. A physician continues to provide direction.

(5) Home health agencies provide IV therapy, enteral and parenteral nutrition therapy [~~are provided as a home health service~~]either in conjunction with skilled or maintenance care or as the only service to be provided. Specific policy is outlined in the Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, and [~~all~~]requirements of the home health program must be met in relation to orders, plan of care, and 60-day review and recertification.

(6) Physical therapy and speech-language pathology services are occasionally indicated and approved for [~~the patient~~]a member [~~needing~~]who needs home health services. Any therapy services offered by the home health agency directly or under arrangement must be ordered by a physician and provided by a qualified licensed therapist in accordance with the plan of care. Occupational therapy and speech-language pathology services in the home are available only to [~~clients~~]members who are pregnant women or who are eligible under the Early and Periodic Screening, Diagnos[~~is~~]tic and Treatment Program (EPSDT).

(7) Medical supplies utilized for home health service must be consistent with physician orders, and approved as part of the plan of care.

(8) Medical supplies provided by the home health agency do not require prior approval, but are limited to:

(a) supplies used during the initial visit to establish the plan of care;

(b) supplies that are consistent with the plan of care; and

(c) non-durable medical equipment.

(9) Supportive maintenance home health services [~~is~~]are limited in time equal to one visit [~~per~~]a day determined by care needs and care[-]giver participation.

(10) A registered nurse employed by an approved, certified home health agency must supervise [~~all~~]home health services. An appropriate licensed professional must provide [~~N~~]nursing [~~service~~]and [~~all~~]approved therapy services[~~ must be provided by the appropriate licensed professional~~].

(11) Only one home health provider [~~(agency)~~]may provide service to a [~~patient~~]member during any period[~~ of time~~]. [~~However, a~~]A subcontractor of a home health provider, however, may provide services if the original agency is the only provider that bills for services. The Department shall deny [~~A~~]a second provider or agency [~~requesting~~]that requests approval of services[~~ will be denied~~].

(12) Medicaid does not cover [~~H~~]home health care provided to a [~~patient~~]member capable of self-care[~~ is not a covered Medicaid benefit~~].

(13) Medicaid does not cover [~~P~~]personal care services, except as determined necessary in providing skilled care[~~, is not a covered home health benefit~~].

(14) Medicaid does not cover [~~H~~]housekeeping or homemaking services[~~ are not covered home health benefits~~].

(15) Medicaid does not cover [~~O~~]occupational therapy[~~ is not a covered Medicaid benefit~~] except for children covered under the Child Health Evaluation and Care Program (CHEC) for medically necessary services.

(16) Home health nursing services beyond the initial evaluation visit require[~~s~~] prior authorization.

(17) [~~All h~~]Home health services beyond the initial visit, including supplies and therapies, [~~shall~~]must be in the plan of care that the home health agency submits for prior authorization. After initial authorization, if level of service needs change and additional services are required, the home health agency must submit a new prior authorization request.

(18) A home health agency may provide therapy services only in accordance with medical necessity and after receiving prior authorization.

R414-14-6. Reimbursement for Services.

(1) Pursuant to Section 26B-3-116, the Department may not reimburse a home health agency, as defined by Section 26B-2-201, for home health services unless the agency has liability coverage of at least $500,000 for each incident.

(2) Home health agencies shall provide proof of liability coverage compliant with Subsection (1) within 30 days of request by the Department.

(3) In addition to other remedies allowed by law, the Department may withhold payment and end a provider agreement if a home health agency does not provide proof of liability coverage compliant with Subsection (1).

(4) The Department shall [~~R~~]reimburse[~~ment~~] for home health services [~~shall be provided as documented~~]in accordance with Attachment 4.19-B of the Medicaid State Plan.

KEY: Medicaid
Date of Last Change: 2023[~~July 1, 2017~~]
Notice of Continuation: November 7, 2018
Authorizing, and Implemented or Interpreted Law: [~~26-1-5~~]26B-1-213; 26B-[~~18~~]3-[~~3~~]108

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R414-32**	**Filing ID: 55357**

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	(801) 538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R414-32. Hospital Record-keeping Policy

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this change is to make clarifications and to reformat this text to be in accordance with standards set forth in the Utah Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment renumbers the text, restructures sections, and restructures sentences for better clarity. It also updates Medicaid terms and specifies provider roles in terms of hospital recordkeeping policy.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no impact to the state budget as this amendment clarifies the rule text and ongoing policy.

B) Local governments:

There is no impact to local governments as they neither fund nor provide services under the Medicaid program.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no impact to small businesses as this amendment clarifies the rule text and ongoing policy.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There is no impact to non-small businesses as this amendment clarifies the rule text and ongoing policy.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There is no impact to other persons as this amendment clarifies the rule text and ongoing policy.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs as this amendment clarifies the rule text and ongoing policy.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0

Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Neither businesses, governments, nor other entities will see a fiscal impact as this amendment clarifies the rule text and ongoing policy.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	03/30/2023

R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.
R414-32. Hospital Record-keeping Policy.
R414-32-1. Introduction.
[~~1. General Requirement~~]

A hospital [~~providing~~]that provides care for a[~~ny Utah~~] Medicaid [~~patient~~]member must provide sufficient documentary evidence that ancillary services for which Medicaid is billed [~~were actually~~]are [~~rendered~~]provided in the diagnosis [~~and/~~]or treatment of [~~that~~]the [~~patient~~]member and that [~~such~~]services [~~were~~]are [~~properly~~]authorized by a licensed [~~physician~~]provider. Medicaid may not provide reimbursement [~~I~~]if [~~such~~]a hospital does not provide evidence [~~is not provided~~]in accordance with [~~the provisions of~~]this [~~administrative~~]rule[~~, then reimbursement for such unsupported charges will not be allowed by Medicaid.~~
~~2. Documentation That Services Were Rendered~~]

R414-32-2. Documentation Requirements.

Sufficient documentary evidence [~~that an ancillary service was rendered~~]consists of medical reports, x-rays, and laboratory analyses.[~~ normally provided by the department which renders the service. Department l~~] Logs may be accepted as documentation [~~that ancillary services were rendered~~]if each entry is signed and dated by an [~~authorized~~]individual authorized to provide[~~rendering the~~] services.
[~~3. Documentation That Services Were Properly Authorized~~]

R414-32-3. Documentation of Authorized Services.

(1) Sufficient documentary evidence [~~of a physician authorization~~]of authorized services consists of a written order signed and dated by a licensed [~~physician~~]provider within the time limits specified in the bylaws of the hospital or within [~~thirty (30)~~]30 days after the date of discharge, whichever is sooner.

(2) A written departmental protocol is acceptable as authorization if the protocol is specific [~~with respect~~]to both [~~to~~]the medical service [~~to be rendered~~]and to the conditions and circumstances under which the service may be given without the direct authorization of a licensed [~~physician~~]provider. [~~All such p~~]Protocols must have the [~~formal~~]written approval of the appropriate medical staff committees [~~of the hospital~~]and be signed by the [~~physician~~]licensed provider in charge of the care unit.
[~~4. Notification of Discrepancies~~]

R414-32-4. Discrepancies Between Services and Charges.

(1) [~~If, upon examination of a hospital patient's medical record 30 days or more after the patient was discharged,~~]If there is no [~~sufficient~~]documentary evidence [~~is not found~~]to support charges for ancillary services, the Department [~~of Health or its agent will~~]shall notify the hospital in writing of [~~such~~]the discrepancy.

(2) If the hospital, within 30 days of notification,[~~ within thirty (30) days of the date the hospital is notified of such discrepancy, the hospital compiles in the medical record sufficient~~] compiles and submits documentary evidence [~~in~~]to support [~~of~~]the charges, [~~that was noted as a discrepancy,~~]then [~~such~~]the Department shall consider the evidence [~~will be considered~~]sufficient to provide payment.

(3) If the hospital does not place [~~such~~]the evidence in the medical record and submit that evidence to Medicaid within [~~thirty (~~]30[~~)~~] days after [~~being notified of the discrepancy~~]notification, [~~then~~]the Department will not reimburse the hospital nor accept subsequent documentation for the unsupported charges.[

~~reimbursement will not be allowed for the unsupported item. Subsequent presentation of any documentation will not be accepted by the Department of Health.~~]

KEY: [~~m~~]Medicaid
Date of Last Change: 2023[~~1987~~]
Notice of Continuation: October 12, 2022
Authorizing, and Implemented or Interpreted Law: [~~26-1-5~~]26B-1-213; 26B-3-108

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R414-504**	**Filing ID: 55381**

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R414-504. Nursing Facility Payments

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this change is to require nursing facilities to submit to the Department of Health and Human Services (Department) an optional state assessment (OSA) report for residents, to remove the sole community provider program, to remove the urban and non-urban cost differential which did not have any impact on rate-setting outcomes, and to make other technical changes.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment requires nursing facilities to submit to the Department an OSA report, to ensure the Department receives data pertaining to resource utilization groups to calculate upper payment limit (UPL) payments. It also removes the sole community provider program, removes the urban and non-urban cost differential, updates entity names with the department merger and makes other technical changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There may be some administrative costs associated with submitting OSA data; however, there is no data to estimate what those costs might be.

B) Local governments:

There may be some administrative costs associated with submitting OSA data; however, there is no data to estimate what those costs might be.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There may be some administrative costs associated with submitting OSA data; however, there is no data to estimate what those costs might be.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There may be some administrative costs associated with submitting OSA data; however, there is no data to estimate what those costs might be.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There may be some administrative costs associated with submitting OSA data; however, there is no data to estimate what those costs might be.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There may be some administrative costs associated with submitting OSA data; however, there is no data to estimate what those costs might be.

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	$0	$0	$0

Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2024**	**FY2025**	**FY2026**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis.

Businesses may see administrative costs, but there is no data to estimate what those costs might be.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Title 26B, Chapter 3	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	05/01/2023

R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.
R414-504. Nursing Facility Payments.
R414-504-1. Introduction.

(1) This rule adopts a case mix or severity-based payment system[~~, commonly referred to as RUGS (Resource Utilization Group System)~~] for nursing facilities that are not [~~ICF/MRs~~]intermediate care facilities for persons with intellectual disabilities (ICF/IDs). This system reimburses facilities based on the case mix index of the facility. It also establishes rates for ICF/[~~MR~~]ID facilities.

(2) This rule is authorized by [~~Utah Code s~~]Sections 26B-1-[~~5~~]213, 26B-[~~18~~]3-[~~3~~]108, and Title 26B-, Chapter 3[~~5a~~].

R414-504-2. Definitions.

The definitions in Sections R414-1-2 and R414-501-2 apply to this rule. In addition:

(1) "Behaviorally complex resident" means a long-term care resident with a severe, medically based behavior disorder, including traumatic brain injury, dementia, Alzheimer's, Huntington's Chorea, which causes diminished capacity for judgment, retention of information or decision-making skills, or a resident, who meets the Medicaid criteria for nursing facility level of care and who has a medically based mental health disorder or diagnosis and has a high level resource use in the nursing facility not currently recognized in the case mix.

(2) "Case mix index" means a score assigned to each facility based on the average of the Medicaid patients' [~~RUGS~~]case mix scores for that facility.

(3) "Case mix score" means the acuity or frailty of a resident based on medical needs resulting in a weight used to calculate rates.

([~~3~~]4) "Facility case mix rate" means the rate the Department issues to a facility for a specified period[~~ of time~~]. This rate utilizes the case mix index for a provider, labor wage index application, and other case mix-related costs.

([~~4~~]5) "FCP" means the facility cost profile report filed by the provider on an annual basis.

([~~5~~]6) "Minimum [~~D~~]data [~~S~~]set" (MDS) means a set of screening, clinical, and functional status elements, including common definitions and coding categories, that form the foundation of the comprehensive assessment for residents of long-term care facilities certified to participate in Medicaid.

([~~6~~]7) "Nursing [~~C~~]costs" means the current costs from the annual FCP report reported on lines 070-012 Nursing Admin Salaries and Wages, 070-013 Nursing Admin Tax and Benefits, 070-040 Nursing Direct Care Salaries and Wages, 070-041 Nursing Direct Care Tax and Benefits, and 070-050 Purchased Nursing Services.

([~~7~~]8) "Nursing facility" or "facility" means a Medicaid-participating nursing facility, skilled nursing facility, or a combination thereof, as defined in 42 USC 1396r (a), 42 CFR 440.150, 42 CFR 442.12, and S[~~ubs~~]ection 26B-2[~~1~~]-201[~~(15)~~].

([~~8~~]9) "Patient day" means the care of one patient during a day of service, excluding the day of discharge.

([~~9~~]10) "Patient-driven payment model" (PDPM) means the Medicare prospective payment system for classifying skilled nursing facility patients in a covered Medicare Part A stay.

(1[~~0~~]1) "Property costs" means the fair rental value (FRV) established by this rule.

[~~(11) "RUGS" means the 34 RUG identification system based on the resource utilization group system established by Medicare to measure and ultimately pay for the labor, fixed costs, and other resources necessary to provide care to Medicaid patients. Each RUG is assigned a weight based on an assessment of its relative value as measured by resource utilization.~~

~~(12) "RUGS score" means a total number based on the individual RUGS derived from a resident's physical, mental, and clinical condition, which projects the amount of relative resources needed to provide care to the resident. RUGS is calculated from the information obtained through the submission of the MDS data.~~

~~(13) "Sole community provider" means a facility that is not an urban provider and is not within 30 paved road miles of another existing facility and is the only facility:~~

~~(a) within a city, if the facility is located within the incorporated boundaries of a city; or~~

~~(b) within the unincorporated area of the county if it is located in an unincorporated area.~~

~~(14)(a) "Urban provider" means a facility located in a county that has a population greater than 90,000 persons.~~

~~(b) "Rural provider" means a facility that is not an urban provider.~~]

(1[~~5~~]2) "[~~FRV~~]Fair rental value (FRV) [~~D~~]data [~~R~~]report" means a report that provides the Department with information relat[~~ing~~]ed to capital improvements to be included in the FRV calculation.

[~~(16) "Banked beds" means beds that have been taken offline by the provider, through the process defined by the Department of Health, Bureau of Health Facility Licensing, Certification and Resident Assessment, to reduce the operational capacity of the facility, but does not reduce the licensed bed capacity.~~]

(1[~~7~~]3) "Bed addition" means, as used in the fair rental value calculation, a capitalized project that adds additional beds to the facility. This must be new and complete construction. An increase in total licensed beds and new construction costs support a claim of additional beds.

(1[~~8~~]4) "Bed replacement" means, as used in the fair rental value calculation, a capitalized project that furnishes a bed in the place of another, previously existing bed. Room remodeling is not a replacement of beds. This must be new and complete construction.

(1[~~9~~]5) "Major [~~R~~]renovation" means, as used in the fair rental value calculation, a capitalized project with a cost equal to or greater than $500 [~~per~~]for a licensed bed. A renovation extends the life, increases the productivity, or significantly improves the safety, such as by asbestos removal, of a facility as opposed to repairs and maintenance that either restore the facility to, or maintain it at its normal or expected service life. Vehicle costs are not a major renovation capital expenditure.

R414-504-3. Principles of Facility Case Mix Rates and Other Payments.

The following principles apply to the payment of freestanding and provider-based nursing facilities for services provided[~~rendered~~] to qualified Medicaid patients, as defined in Rule R414-502. This rule does not affect the system for reimbursement for intensive-skilled Medicaid patient add-on amounts.

(1) A portion of total payments to nursing facilities for qualified Medicaid patients is based on a prospective facility case mix rate. In addition, these facilities shall be paid a flat basic operating expense payment. The balance of the total payments will be paid in aggregate to facilities as required by Section R414-504-3 based on other authorized factors, including property and behaviorally complex residents, in the proportion that the facility qualifies for the factor.

(2) Each quarter, the Department shall calculate a new case mix index for each nursing facility. The case mix index is based on three months of MDS assessment data. The newly calculated case mix index is applied to a new rate at the beginning of a quarter according to the following schedule:

(a) January, February, and March MDS assessments are used for July 1 rates.

(b) April, May, and June MDS assessments are used for October 1 rates.

(c) July, August, and September MDS assessments are used for January 1 rates.

(d) October, November, and December MDS assessments are used for April 1 rates.

(3) MDS and optional state assessment (OSA) data is used in calculating each facility's case mix index and upper payment limit (UPL) gap. Beginning July 1, 2023, each facility must complete an OSA in conjunction with any Omnibus Budget Reconciliation Act or prospective payment system assessments. This information is required by the state to calculate the case mix index. The MDS and OSA data is submitted by each facility and[~~, as such,~~] each facility is responsible for the accuracy of its data. Each facility shall ensure needed sections of the MDS and OSA are completed so that a PDPM or resource utilization group score may be calculated. The Department may exclude inaccurate or incomplete MDS data from calculations.

(4)(a) MDS assessments for patients who are eligible for the intensive skilled add-on are excluded from the case mix calculation.

(b) The state average case mix index excludes the following:

(i) a facility with less than 20% of its total census days as Medicaid fee-for-service paid days, as reported on its FCP or FRV data report; or

(ii) a facility having less than six months of data reported under Rule R414-401.

(c) The state average case mix index is used to set the rate for the following facilities:

(i) a facility with less than 20% of its total census days as Medicaid fee-for-service paid days, as reported on its FCP or FRV data report; or

(ii) a facility having less than six months of data reported under Rule R414-401.

(5) A facility may apply for a special add-on rate for behaviorally complex residents by filing a written request with the Division of [~~Medicaid and Health Financing~~]Integrated Healthcare (DIH). The Department may approve an add-on rate if an assessment of the acuity and needs of the patient demonstrates that the facility is not adequately reimbursed by the [~~RUGS~~]case mix score for that patient. The rate is added on for the specific resident's payment and is not subsumed as part of the facility case mix rate. [~~Utah's~~]The [~~Bureau~~]Office of Long-Term Services and Supports [~~will make the determination as to~~]determines qualification for any additional

payment. [~~The Division of Medicaid and Health Financing~~]DIH shall determine the amount of any add-on.

(6) [~~Property costs are paid~~]The Department pays property costs separately from the [~~RUGS~~]case mix rate.

(7) Reimbursement for nursing home rates is in accordance with Attachment 4.19-D of the [~~Utah~~]Medicaid State Plan, which is incorporated by reference in Section R414-1-5.

[~~(8) A sole community provider that is financially distressed may apply for a payment adjustment above the case mix index established rate. The maximum increase will be 7.5% above the average of the most recent Medicaid daily rate for all Medicaid residents in all freestanding nursing facilities in the state. The maximum duration of this adjustment is for no more than a total of 12 months per facility in any five-year period.~~

~~(a) The application shall propose what the adjustment should be and include a financial review prepared by the facility documenting:~~

~~(i) the facility's income and expenses for the past 12 months; and~~

~~(ii) specific steps taken by the facility to reduce costs and increase occupancy.~~

~~(b) Financial support from the local municipality and county governing bodies for the continued operation of the facility in the community is a necessary prerequisite to an acceptable application. The Department, the facility, and the local governing bodies may negotiate the amount of the financial commitment from the governing bodies, but in no case may the local commitment be less than 50% of the state share required to fund the proposed adjustment. Any continuation of the adjustment beyond six months requires a local commitment of 100% of the state share for the rate increase above the base rate. The applicant shall submit letters of commitment from the applicable municipality or county, or both, committing to make an intergovernmental transfer for the amount of the local commitment. If the governmental agency receives donations in order to provide the financial contribution, it must document that the donations are bona fideas set forth in 42 CFR 433.54.~~

~~(c) The Department may conduct its own independent financial review of the facility before making a decision whether to approve a different payment rate.~~

~~(d) If the Department determines that the facility is in imminent peril of closing, it may make an interim rate adjustment for up to 90 days.~~

~~(e) The Department's determination shall be based on maintaining access to services and maintaining economy and efficiency in the Medicaid program.~~

~~(f) If the facility desires an adjustment for more than 90 days, it must demonstrate that:~~

~~(i) the facility has taken reasonable steps to reduce costs, increase revenue, and increase occupancy;~~

~~(ii) despite reasonable steps the facility is losing money and forecast to continue losing money; and~~

~~(iii) the amount of the approved adjustment will allow the facility to meet expenses and continue to support the needs of the community it serves, without unduly enriching any party.~~

~~(g) If the Department approves an interim or other adjustment, it shall notify the facility when the adjustment is scheduled to take effect and how much contribution is required from the local governing bodies. Payment of the adjustment is contingent on the facility obtaining a fully executed binding agreement with local governing bodies to pay the contribution to the Department.~~

~~(h) The Department may withhold or deny payment of the interim or other adjustment if the facility fails to obtain the required agreement before the scheduled effective date of the adjustment.~~]

([~~9~~]8) A provider may challenge the rate set pursuant to this rule using the appeal in Rule R410-14. This applies to which rate methodology is used as well as to the specifics of implementation of the methodology. A provider must exhaust administrative remedies before challenging rates in any other forum.

[~~(10) In developing payment rates, the Department may adjust urban and non-urban rates to reflect differences in urban and non-urban labor costs. The urban labor costs reimbursement cannot exceed 106% of the non-urban labor costs. Labor costs are as reported on the most recent FCP, but do not include FCP reported management, consulting, director, and home office fees.~~]

([~~11~~]9) The Department reimburses swing beds, transitional care unit beds, and small health care facility beds that are used as nursing facility beds, using the prior calendar year statewide average of the daily nursing facility rate.

(1[~~2~~]0) Unless specified otherwise, the Department may withhold Title XIX payments from providers if:

(a) there is a shortage in a resident trust account managed by the facility;

(b) the facility fails to submit a complete and accurate FCP as required by Attachment 4.19-D[~~, Section 332~~] of the [~~Utah~~]Medicaid State Plan;

(c) the facility fails to submit timely, accurate MDS and OSA data;

(d) the facility owes money to [~~the Division of Medicaid and Health Financing~~]DIH because of an overpayment, nursing care facility assessment, civil money penalty, or other offset; or

(e) the facility fails to respond within [~~10~~]ten business days to a written request for information.

(1[~~3~~]1) The Department shall provide written notice before withholding payments.

(1[4]2) When the Department rescinds withholding of payments to a provider, it will, without notice, resume payments according to the regular claims payment cycle.

(a) For ongoing operations, the Department [~~will~~]shall provide notice before withholding payments. The Department and provider may negotiate a repayment schedule acceptable to the Department for monies owed to the Department listed in Subsection R414-504-3(10)[~~2)(a)(iv)~~]. The repayment schedule may not exceed 180 days.

(b) When the Department rescinds withholding of payments to a facility, it will resume payments according to the regular claims payment cycle.

R414-504-4. Quality Improvement Incentive.

(1) Reimbursement for Nursing Home Quality Improvement Incentives is in accordance with Attachment 4.19-D of the [~~Utah~~]Medicaid State Plan, which is incorporated by reference in Rule R414-1.

(2) [~~Division~~]DIH staff are not required to request additional information relating to any application submission.

(3) Providers shall ensure all necessary information is included in the application [~~in order~~]to qualify.

(4) For applications received and reviewed by [~~division~~]DIH staff [~~prior to~~]before the annual submission deadline, if the application is incorrect or lacks sufficient supporting documentation, then the application shall be denied. If it is received [~~prior to~~]before the annual submission deadline, the provider may

submit a subsequent application that includes all needed supporting documentation for consideration.

(5) For applications received [~~prior to~~]before the annual submission deadline and reviewed by [~~division~~]DIH staff after the annual submission deadline, then the provider's application may be considered for qualification of a reduced amount, where possible, based on the submitted documentation.

(6) In all cases, [~~no~~]the Department does not accept additional applications, documentation, or explanation [~~will be accepted~~]if submitted after the annual submission deadline.

R414-504-5. Reimbursement for Intermediate Care Facilities for [~~the Mentally Retarded~~]Persons with Intellectual Disabilities.

The following principles apply to the payment of community-based [~~intermediate care facilities for the mentally retarded (ICF/MRs)~~]ICF/IDs [~~that are~~]licensed under Section [~~26-21-13.5:~~]26B-2-212.

(1) The Department pays according to rates [~~approximately 93% of the aggregate payments to ICF/MRs based on a prospective flat rate~~]established in [~~Utah State Plan~~]Attachment 4.19-D of the Medicaid State Plan.[~~The Department pays the balance as a property cost component calculated by the Fair Rental Value system pursuant to Section R414-504-3.~~]

(2)(a) Reimbursement for the [~~ICF/MR~~]ICF/ID [~~Q~~]quality [~~I~~]improvement [~~I~~]incentive is in accordance with Attachment 4.19-D of the [~~Utah~~]Medicaid State Plan, which is incorporated by reference in Rule R414-1.

(b) [~~Division~~]DIH staff are not required to request additional information relating to any application submission.

(c) Providers [~~shall~~]must ensure they include[~~all~~] necessary information [~~is included~~]in the application [~~in order~~]to qualify.

(d) For applications received and reviewed by [~~division~~]DIH staff [~~prior to~~]before the annual submission deadline, the Department shall deny them if they are incorrect or lack sufficient supporting documentation.[~~if the application is incorrect or lacks sufficient supporting documentation, then the application shall be denied.~~] If [~~it~~]the Department receives an application [~~is received prior to~~]before the annual submission deadline, the provider may submit a subsequent application that includes [~~all~~]needed supporting documentation for consideration.

(e) For applications received [~~prior to~~]before the annual submission deadline and reviewed by [~~division~~]DIH staff after the annual submission deadline, the Department may consider the provider's application[~~then the provider's application may be considered~~] for qualification of a reduced amount, where possible, based on the submitted documentation.

(f) [~~In all cases,~~]The Department does not accept[~~no~~] additional applications, documentation, or explanation[~~will be accepted~~] if submitted after the annual submission deadline.

KEY: Medicaid
Date of Last Change: 2023[~~October 1, 2020~~]
Notice of Continuation: October 12, 2022
Authorizing, and Implemented or Interpreted Law: 26B-1-[~~5~~]213; 26B-3[~~5a~~]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section	**R426-8**	**Filing ID:**
Number:		**55385**

Agency Information

1. Department:	Health and Human Services	
Agency:	Family Health and Preparedness, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, Utah 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Guy Dansie	801-560-1544	gdansie@utah.gov
Dean Penovich	801-913-2621	dpenovich@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R426-8. Emergency Medical Services Ground Ambulance Rates and Charges

3. Reason for this change (Why is the agency submitting this filing?)**:**

The purpose of the change is to reflect fiscal data into a new ground ambulance base rate and mileage rate.

Additionally, citations authorizing this rule have been updated following the recodification of the Department of Health and Human Services' (Department) code in the 2023 General Session. The recodification of the Department of Health and Human Services' code is due to S.B. 38 through S.B. 41; this recodification consolidates the Department's statutes that existed in Titles 26 and 62A, this follows the consolidation of the Department of Health and the Department of Human Services that was effective 07/01/2022.

4. Summary of this change (What does this filing do?)**:**

Section 26-8a-403, recodified as Section 26B-4-152, mandates the Department to set ground ambulance rates. This is performed annually and made effective on the first day of the new fiscal year, July 1.

The rates set in Subsections R426-8-200(6)(a) through (e) have undergone a 9% increase. Additionally, the mileage amount in Subsection R426-8-200(8) is decreased from ten

to two miles, for a surcharge of $1.50 if an ambulance is required to travel on unpaved roads.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

No anticipated costs or savings to the state budget. The amendments do not affect costs or revenues since the state does not provide ground ambulance services.

B) Local government:

80 local governments including counties, cities, towns, and special service districts provide ground ambulance services based licensed issued by the Department.

Anticipated revenues for local governments that provide ground ambulance services will have a net increase of 2% based on a gross rate increase of 9% for base rates and mileage rates. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections.

Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans Administration, non-payments, negotiated payments, and private insurance payments. Mileage rates are included as part of the 9% increase to compensate for increased market vehicle costs. Financial data is obtained directly from all ground ambulance providers.

Local government operated ground ambulance patient transports total is estimated at $95,884 based on the previous reported calendar year.

Increased rates will require additional costs for local governments to the State EMS Medicaid fund of an additional estimate of $4 per transport. 95,884 (total estimated transports) x $4 (EMS Medicaid assessment rate increase) = $383,536 (estimated local government costs).

Gross revenues for local governments are estimated from past annual fiscal reports and billing data. Gross revenues estimate from patient transports is $155,811,500. $155,811,500 x 2% (net effect of 9% raise in rate) = $3,116,230 increase benefits estimate.

Net revenues for local governments are calculated as follows: $3,116,230 (gross revenue increase estimate) - $383,536 (Medicaid assessment increase) = $2,732,694 (net revenue or benefit for local governments).

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

One small business operates an ambulance service in Utah based on licenses issued by the Department.

Anticipated revenues for small businesses that provide ground ambulance services will have a net increase of 2% based on a gross rate increase of 9%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections.

Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans, non-payments, negotiated payments, and private insurance payments. Mileage rates are included as part of the 5% increase to compensate increased market vehicle costs.

Financial data is obtained directly from all ground ambulance providers. Small business operated ground ambulance patient transports total is estimated at 431 based on the previous reported calendar year.

Increased rates will require additional costs for small businesses to the State EMS Medicaid fund of an additional estimate of $4 per transport. 431 (total estimated transports) x $4 (EMS Medicaid assessment rate increase) = $1,724 (estimated small business costs).

Gross revenues for small businesses are estimated from past annual fiscal reports and billing data. Gross revenues estimate from patient transported is $757,250. $757,250 x 2% (net effect of 9% rise in rate) = $15,145 increase benefit estimate.

Net revenues for small businesses are calculated as follows: $15,145 (gross revenue increase estimate) - $1,724 (Medicaid assessment increase) = $13,142 (net revenue or benefit for small businesses).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There are 9 non-small businesses including 1 for profit and 8 non-profits that provide ground ambulance services based licensed issued by the Department.

Anticipated revenues for non-small businesses that provide ground ambulance services will have a net increase of 2% based on a gross rate increase of 9%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections.

Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans, non-payments, negotiated payments, and private insurance payments. Mileage rates are included as part of the 9% increase to compensate for increased market vehicle costs.

Financial data is obtained directly from all ground ambulance providers. Non-small business operated ground ambulance patient transports total is estimated at 62,067 based on the previous reported calendar year.

Increased rates will require additional costs for non-small businesses to the State EMS Medicaid fund of an additional

estimate of $4 per transport. 62,067 (total estimated transports) x $4 (EMS Medicaid assessment rate increase) = $248,268 (estimated non-small business costs).

Gross revenues for non-small businesses are estimated from past annual fiscal reports and billing data. Gross revenue estimate from patient transports is $100,858,875. $100,858,875 x 2% (net effect of 5% raise in rate) = $2,017,178 increase benefit estimate.

Net revenues for non-small businesses are calculated as follows: $2,017,178 (gross revenue increase estimate) - $248,268 (Medicaid assessment increase) = $1,768,910 (net revenue or benefit for non-small businesses).

E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Costs will increase proportionately due to ground ambulance base rates and mileage rates increases. Federal payments, private insurance payments, and individuals will be required to pay the increased costs estimated at $4,514,746.

F) Compliance costs for affected persons:

Compliance costs remain unchanged.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$4,514,746	$4,514,746	$4,514,746
Total Fiscal Cost	**$4,514,746**	**$4,514,746**	**$4,514,746**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$2,732,694	$2,732,694	$2,732,694
Small Businesses	$13,142	$13,142	$13,142
Non-Small Businesses	$1,768,910	$1,768,910	$1,768,910
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$4,514,746**	**$4,514,746**	**$4,514,746**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-4-152	Section 26B-4-102	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	05/01/2023

R426. Health and Human Services, Family Health and Preparedness, Emergency Medical Services.
R426-8. Emergency Medical Services Ground Ambulance Rates and Charges.
R426-8-100. Authority and Purpose.

(1) This rule is established pursuant to [~~Title 26, Chapter 8a~~]Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System Act.

(2) This rule establishes maximum ambulance rates and charges for Utah licensed ground ambulance providers.

R426-8-200. Ground Ambulance Transportation Revenues, Rates, and Charges.

(1) A licensed ground ambulance provider shall not charge more than the rate described pursuant to Subsections R426-8-200(6) through (10)

(2) Net income and subsidies for a licensed ground ambulance provider shall not exceed 10% of gross revenue.

(3) A licensed ground ambulance provider may lower a rate at their discretion.

(4) A licensed ground ambulance provider shall not charge a base rate for transportation to a patient who is not transported.

(5) The Department may adjust each rate annually based on financial data received from licensed ground ambulance providers.

(6) Ground ambulance base rates for patient transport to a hospital or patient receiving facility are as follows:

(a) EMT ground ambulance license level - [~~$1,000.~~]$1,090 per transport;

(b) Advanced EMT ground ambulance license level - [~~$1,320~~]$1,439 per transport;

(c) Advanced EMT ground ambulance license level, who before June 30, 2016 was licensed as an EMT-IA ground licensed ambulance provider - [~~$1,625~~]$1,771 per transport;

(d) Paramedic ground ambulance license level - [~~$1,930~~]$2,104 per transport; and

(e) Any EMT or AEMT level licensed ground ambulance provider with a paramedic on-board - [~~$1,930~~]$2,104 per transport if:

(i) a designated Emergency Medical Service dispatch center dispatches a licensed paramedic provider to treat the individual;

(ii) the licensed paramedic provider has initiated advanced life support;

(iii) online medical control directs that a paramedic remain with the patient during transport; and

(iv) the licensed ground ambulance provider has a reimbursement for paramedic services agreement with a paramedic licensed provider for the service provided.

(7) A mileage rate may be charged up to a maximum of [~~$38.75~~]$42.24 per mile computed from the location of the patient upon ambulance arrival to the destination hospital or patient receiving facility. A fuel fluctuation surcharge of $0.25 per mile may be added when the diesel fuel price exceeds $5.10 per gallon, or the gasoline price exceeds $4.25 per gallon as invoiced.

(8) A surcharge of $1.50 per mile may be assessed if an ambulance is required to travel [~~ten~~]two or more miles on unpaved roads.

(9) If more than one patient is transported from the location of the patients to the same destination hospital or patient receiving facility, a charge shall be assessed to each patient as follows:

(a) The transportation base rate; and

(b) the mileage rate divided equally between the total number of patients.

(10) A licensed ground ambulance provider may charge separately for a round trip if the following conditions apply:

(a) no charge is billed to the patient for at least 30 minutes at the hospital or a patient receiving facility at the half[-]way point of the trip; and

(b) no more than $22.05 per quarter hour is charged for time over 30 minutes.

(11) A Licensed ground ambulance provider may charge for supplies, providing supplies, medications, and administering medications on a response if:

(a) supplies are priced fairly and competitively with a similar product in the local area;

(b) the individual does not refuse the service; and

(c) the licensed ground ambulance personnel assess or treats the individual.

(12) A licensed ground ambulance provider may petition the Department for a temporary service-specific surcharge when there is a temporary escalation of costs. The petition shall specify the surcharge amount and financial justification. The Department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.

(13) A licensed ground ambulance provider shall submit a fiscal report in accordance with the instructions, guidelines, and review criteria as specified by the Department.

(a) A fiscal report shall be submitted within six months of the end of their fiscal year.

(b) The Department shall provide guidance and a template for a fiscal report. Guidance will be posted on the Department's website.

(c) The Department shall provide a summary of fiscal reports to the EMS Committee before adjusting a maximum base rate for a licensed ground ambulance provider.

(14) The Department may review a licensed ground ambulance provider's fiscal report for compliance. The Department may perform financial audits to ensure compliance to reporting requirements.

(15) Each licensed ground ambulance provider shall submit a written total number of billed patient transports for each calendar year to the Department for calculating Medicaid assessments.

(a) A written patient transport number shall be submitted within 90 days after the end of the calendar year.

(b) The submission shall include a written justification when a patient transport number is not in agreement with patient care data submitted to the Department pursuant to Rule R426-7. A written justification shall include a description of each data reporting error, and a plan to correct future data submission.

(c) Any submitted patient transport number not in agreement with patient care report data may be evaluated, corrected, or audited by the Department.

KEY: emergency medical services, rates
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: September 24, 2020
Authorizing, and Implemented or Interpreted Law: [~~26-8a~~]26B-4-152; 26B-4-102

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R432-1**	**Filing ID: 55348**

Agency Information

1. Department:	Health and Human Services
Agency:	Health Care Facility Licensing
Room number:	1st Floor
Building:	Multi-Agency State Office Bldg

Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO BOX 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R432-1. General Health Facility Rules

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This amendment addresses outdated language, terms and citations, and aligns with the requirements of the Utah Rulewriting Manual.

Additionally, this rule updates outdated citations following the recodification of the Department of Health and Human Services' (Department) statute.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment addresses outdated language, terms and citations, and aligns with the requirements of the Utah Rulewriting Manual.

Substantive changes are due to the removal of incorporations by reference that the OU has determined are better managed as recommended standards in the plans review process of Rule R432-4 that applies to all facility construction.

Citations are updated in accordance with S.B. 38 of the 2023 General Session.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no significant substantive changes being made regarding the fiscal impacts of this rule.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The General Health Facilities are regulated by the state and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved.

There are no significant substantive changes being made regarding the fiscal impacts of this rule.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no significant substantive changes being made regarding the fiscal impacts of this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no significant substantive changes being made regarding the fiscal impacts of this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no significant substantive changes being made regarding the fiscal impacts of this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no significant substantive changes being made regarding the fiscal impacts of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-2-202

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	04/25/2023

R432. Health and Human Services, [~~Family Health and Preparedness,~~]Health Care Facility Licensing.
R432-1. General Health Care Facility Rules.
R432-1-1. Legal Authority.

This rule is [~~adopted pursuant to~~]authorized by Section 26B-2-202.[~~ Title 26, Chapter 21.~~]

R432-1-2. Purpose.

The purpose of this rule is to define the standard terms for [~~all~~]licensed health care facilities and agencies under Title R432.

R432-1-3. Definitions.

(1) Terms used in this rule are defined in Section 26B-2-201[~~26-21-2~~]. In addition:

(2) "AWOL[~~/Elopement~~]" means elopement or absence without leave; an unauthorized departure from the facility.

(3) "Abortion" is defined in Subsection 76-7-301(1).

(4) "Abuse" is defined in Section 26B-6-201[~~62A-3-301 as:~~

~~(a) attempting to cause, or intentionally or knowingly causing physical harm, or intentionally placing another in fear of imminent physical harm;~~

~~(b) physical injury caused by criminally negligent acts or omissions;~~

~~(c) unlawful detention or unreasonable confinement;~~

~~(d) gross lewdness;~~

~~(e)~~] and includes deprivation of life sustaining treatment, except[~~:~~

~~(i)~~] as provided in Title 75, Chapter 2, Part 11, Personal Choice and Living Will Act[~~;~~] or[

~~(ii)~~] when informed consent, as defined in Section 76-5-111, has been obtained.

[~~(5) "Act" means the Health Facility Licensure and Inspection Act, Title 26, Chapter 21.~~]

([~~6~~]5) "Active Treatment" means the habilitative program of care for [~~ICF/MR~~]an ICF-IID patient[~~s described~~] as outlined in the Code of Federal Regulations, Title 42, Chapter IV, Subchapter G, Part 483, Subpart 1, 1988 edition[~~42 CFR Part 483 (1983)~~] that addresses[~~ training in daily living, self-help, and social skills; activities; recreation; appropriate staffing level; special resident programs; program evaluation; nursing services; documented resident surveys and progress; and social services.~~]:

(a) training in daily living;

(b) self-help;

(c) social skills;

(d) activities;

(e) recreation;

(f) appropriate staffing levels;

(g) special resident programs;

(h) program evaluation;

(i) nursing services;

(j) documented resident surveys and progress; and

(k) social services.

([~~7~~]6) "Activities of Daily Living[~~"~~] ([~~"~~]ADL[~~"~~])~~"~~ means [~~those~~]personal functional activities required [~~for~~]by an individual for continued well-being[~~;~~], to include[~~ing~~] eating, [~~/~~]nutrition, mobility, dressing, bathing, toileting, and behavior management. ADLs are divided into the following levels:

(a) "[~~I~~]independent" means the resident can perform the ADL without help[~~.~~];

(b) "[~~A~~]assistance" means the resident can perform some part of an activity, but cannot do it entirely alone[~~.~~]; or

(c) "[~~D~~]dependent" means the resident cannot perform any part of an activity; it must be done entirely by someone else.

([~~8~~]7) "Administer[~~ing~~]" means the direct application of a prescription drug or device[~~, whether by injection, inhalation, ingestion, or by any other means,~~] to the body of a human patient or research subject by another person.

([~~9~~]8) "Affiliation" means a relationship, [~~usually~~]signified by a written agreement, between two organizations, under the terms [~~of which~~]that one organization agrees to provide specified services and personnel to meet the needs of the other.[~~, usually on a scheduled basis.~~]

(9) "Agency" means an entity that provides a health care service but does not house or serve patients at the licensed site.

(10) "Agency Action" means an action taken by the department.

([~~10~~]11) "Aftercare" means post-[~~institution~~]inpatient services designed to help a patient maintain or improve on the gains made during inpatient treatment.

(1[~~1~~]2) "Aide" includes [~~or A~~]attendant[~~"~~] and means a person employed to assist in [~~activities of daily living~~]ADLs and in the direct personal care of a patient[~~s~~].

(1[~~2~~]3) "ADA[~~AG~~]SAD" means the Americans with Disability Act Standards for Accessible Design as incorporated by reference in Rule R432-4 and enforced in accordance with the Code of Federal Regulations, Title 28, Part 36 and Title 28, Part 36,[~~Accessibility Guidelines, 28 CFR 36,~~] Appendix A, July 1993.

(1[~~3~~]4) "Ambulatory" means a person [~~who is~~]capable of achieving mobility sufficient to exit [~~his~~]their residence without assistance of another person.

(1[~~4~~]5) "Annual Report" means a document containing annual statistical information from a [~~licensed health facility or agency~~]licensee.

(1[~~5~~]6) "Assessment" means a process of observing, testing, and evaluating, a patient [~~in order~~]to obtain information.

(1[~~6~~]7) "Bathing Facility" means a bathtub or shower.

(1[~~7~~]8) "Bed Capacity" means the maximum number of beds [~~which~~]that the health care facility is licensed to offer for patient care.

(1[~~8~~]9) "Behavior Management" means a planned, systematic application of methods and findings of behavioral science with the intent of reducing observable negative behaviors.

([~~19~~]20) "Birthing Room" means a room and environment designed, equipped and arranged to provide for the care of a woman and newborn and to accommodate [~~her~~]any designated support person[~~(s)~~] during the process of vaginal birth.

(2[~~0~~]1) "Certificate of Completion" means a document issued by the Utah Board of Education to a person that:[~~ a person who completes an approved course of study not leading to a diploma; to a person who passes a challenge exam for that same course of study; or to a person whose out-of-state credentials and certificate are acceptable to the Board.~~]

(a) completes an approved course of study not leading to a diploma;

(b) passes a challenge exam for that same course of study; or

(c) has out-of-state credentials and certificate that are acceptable to the board.

(2[~~1~~]2) "Certified" means a [~~health facility or agency which~~]licensee that holds a current license issued by the [~~D~~]department, and [~~which also~~]meets the standards established for participation in federally funded programs, [~~such as~~]including Medicare.

(2[~~2~~]3) "Certified Nurse Aide" means a nursing assistant [~~who~~]that has completed a federally approved training program and proved competency through testing, thereby [~~he~~]is entitled to be employed in a licensed health care facility.[~~ or agency.~~]

(2[~~3~~]4) [~~"Certified Registered Nurse Anesthetist" means a registered nurse who is licensed by the Utah Department of Commerce under Title 58 Chapter 31b.~~]"Certified Nurse Midwife" means an individual currently licensed to practice by the Utah Department of Commerce under Title 58, Chapter 44a Nurse Midwife Practice Act.

(2[4]5) [~~"Certified Nurse Midwife" means an individual licensed to practice by the Utah Department of Commerce under Title 58, Chapter 44a.~~]"Certified Registered Nurse Anesthetist" means a registered nurse currently licensed by the Utah Department of Commerce under Title 58 Chapter 31b Nurse Practice Act.

(2[~~5~~]6) "Certified Social Worker" means an individual currently licensed by the Utah Department Commerce under Title 58, Chapter 60 Mental Health Professional Practice Act.

(2[~~6~~]7) "Chronic Noncompliance" means a documented violation of the same licensing administrative rule [~~which is documented~~]in each of the last three inspections. Inspections may include:[~~ follow-up inspections if the violation is re-cited or any inspection that is documented by the Department, an accrediting organization or a federal agency.~~]

(a) follow-up inspections if the violation is re-cited; or

(b) any inspection that is documented by the department, an accrediting organization or a federal agency.

(2[~~7~~]8) "Clinical Note" means a dated, written notation by a member of the health team [~~which~~]that indicates contact with a patient and describes any of the following:[~~ signs and symptoms of dysfunction, treatment given or medication administered, the patient's reaction, changes in physical or emotional condition, or services provided.~~]

(a) signs and symptoms of dysfunction;

(b) treatment given or medication administered;

(c) the patient's reaction;

(d) changes in physical or emotional condition; or

(e) services provided.

(2[~~8~~]9) "Clinical Staff" means the physicians and certified providers appointed by the governing authority to practice within the health care facility.[~~ or agency.~~]

([~~29~~]30) "Consultant" means an individual [~~who~~]that provides professional services either upon request, under contract services or on the basis of a prearranged schedule[~~, usually on a contract basis, who~~] that is [~~neither~~]not a member of the employed staff of the health care facility [~~or agency, nor~~]and whose services are not provided within the terms of an affiliation agreement.

([~~30~~]31) "Continuous Noncompliance" means three or more violations of a single licensing rule requirement occurring within a 12-month time period.

(3[~~1~~]2) "Contract Services" means services purchased by a [~~health facility or agency~~]licensee under a contract with an individual or a provider whose personnel are not salaried employees of the [~~facility or agency~~]licensee.

(3[~~2~~]3) "Control Station" means a nursing station or central office or area for charting, drug preparation, and other patient-care tasks.[~~ normally performed at a nursing station.~~]

(3[~~3~~]4) "Critical Care Unit" means a special physical and functional unit for the segregation, concentration and close or continuous nursing observation and care of a patient[~~s~~] [~~who~~]that [~~are~~]is critically, seriously, or acutely ill.

(3[4]5) "Day Treatment" means training and habilitation services delivered outside the patient's place of residence [~~which~~]that are intended to aid the vocational, pre-vocational, and self-sufficiency skill development of an ICF-ID[~~/MR~~] patient. These services [~~must~~]meet active treatment requirements and [~~must be~~]are coordinated and integrated with the active treatment program of the health care facility.[~~ or agency.~~]

(3[~~5~~]6) "Dentist" means a person registered and currently licensed by the Utah Department of Commerce under Title 58, Chapter 69 Dentist and Dental Hygienist Practice Act.

(3[~~6~~]7) "Department" means the Utah Department of Health and Human Services.

(3[~~7~~]8) "Developmental Disability" means a severe, chronic disability that meets [~~all~~]each of the following conditions:

(a) [~~1~~]is attributable to:[~~ cerebral palsy, epilepsy, autism; or any other condition, other than mental illness, closely related to mental retardation which results in impairment of general intellectual functioning adaptive behavior, or requires treatment or services similar to those required for mentally retarded persons;~~]

(i) cerebral palsy;

(ii) epilepsy;

(iii) autism; or

(iv) any other condition, other than mental illness, closely related to an intellectual disability that results in impairment of general intellectual functioning adaptive behavior, or requires treatment or services.

(b) [~~1~~]is manifested before the person reaches the age of 22;

(c) [~~1~~]is likely to continue indefinitely; and

(d) [~~R~~]results in substantial functional limitations in three or more of the following areas of major activity:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; or

(vi) capacity for independent living.

(39) "Developmental Period" means the period between conception and the 18th birthday.

([~~38~~]40) "Dietitian" means a person [~~who is~~]certified pursuant to Title 58, Chapter 49 Dietitian Certification Act.

([~~39~~]41) "Direct Services" means services provided by salaried employees of a health care facility[~~ or agency~~], as opposed to services provided by contract.

([~~40~~]42) "Direct Supervision" means the critical observation and guidance by a qualified person of another person's activities or course of action.

(4[~~1~~]3) "Discharge" means the point at which the patient's involvement with a facility[~~ or agency program~~] is terminated and the [~~facility or agency program~~]licensee no longer maintains active responsibility for the care of the patient.

(4[~~2~~]4) "Distinct Part" means a discrete, physically definable entity located within a structure constructed and equipped according to applicable codes [~~which~~]that:

(a) provides within the structure, the necessary unique physical facility[~~ies~~], equipment, staff, and supplies to deliver [~~all~~]any basic service[~~s~~] that [~~are~~]is offered to and needed for the diagnosis, therapy, and treatment of a patient[~~s~~], and to comply with licensing standards;

(b) provides or arranges for necessary administrative and non-unique, non-clinical, ancillary [~~type~~]services [~~such as~~]including dietary, laundry, housekeeping, business office and medical records; and

(c) protects the rights of a patient[~~s~~] including freedom from unwanted intrusion from any party outside the distinct part.[~~by visitors, guests, staff, and residents of adjacent licensed facilities and use occupancies.~~]

(4[~~3~~]5) "Documentation" means written supportive information, records, or references to verify information required by law or rule.

(4[4]6) "Drug History" means identifying all of the drugs used by a patient, including prescribed and unprescribed drugs.

(4[~~5~~]7) "Emergency" means any situation or event that threatens or poses a threat to the occupants of the health care facility.[~~or agency,~~]or prohibits one or more occupants [~~(staff, patient, or visitor)~~]from receiving services normally offered by the [~~facility or agency~~]licensee, or requires action not normally performed by the [~~facility or agency~~]staff.

(4[~~6~~]8) "Emotional or psychological abuse" means deliberate conduct that is directed at a person through verbal or nonverbal means and that causes the individual to suffer emotional distress or to fear bodily injury, harm, or restraint.

(4[~~7~~]9) "Environment" means the physical and emotional atmosphere including architectural design, furnishings, color, privacy, and safety, as well as other people.

([~~48~~]50) "Executive Director" means the Executive Director of the Utah Department of Health and Human Services.

(51) "Facility" means the licensed site where patients may reside and may receive treatment and the construction components under Title R432 apply to the site.

([~~49~~]52) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

([~~50~~]53) "Free-standing Urgent Care Center," as distinguished from a private physician's office or emergency room setting, means a health care facility [~~which~~]that provides out[~~-~~]patient health care service, [~~(~~]on an as-needed basis, without appointment[~~)~~] to the public for diagnosis and treatment of medical conditions [~~which~~]that do not require hospitalization or emergency intervention for a life-threatening or potentially permanently disabling condition. Diagnostic and therapeutic services provided by a free-standing urgent care center include:[~~ a medical history physical examination, assessment of health status and treatment for a variety of medical conditions commonly offered in a physician's office.~~]

(a) a medical history physical examination;

(b) assessment of health status; and

(c) treatment for a variety of medical conditions offered in a physician's office.

(5[~~1~~]4) "Governing Authority" includes [~~or G~~]governing [~~B~~]body[~~"~~] and means the board of trustees, owner, person, or [~~persons~~]designated by the owner with ultimate authority and responsibility, both moral and legal, for the management, control, conduct and functioning of the health care facility.[~~ or agency.~~]

(5[~~2~~]5) "Governmental Unit" means the state, or any county, municipality, or other political subdivision of any department, division, board or other agency of any of the foregoing.

(5[~~3~~]6) "Guardian" means a person legally responsible for the care and management of a person [~~who is~~]considered by law to be incompetent to manage [~~his~~]their own affairs.

(5[4]7) "Habilitation" means techniques and treatment [~~which~~]that actively build and develop new or alternative styles of independent functioning and promote new behavior, [~~which results~~]resulting in greater self-sufficiency and sense of well-being.

(5[~~5~~]8) "Health Care Facility" is defined in[~~or Agency" means any facility or agency licensed under the authority of the Health Facility Committee and designated as such in~~] Subsection 26B-2-201[~~26-21-2~~](13).

(5[~~6~~]9) "Health Services Supervisor" means a person with a professional medical license or certificate, [~~such as~~]to include a nurse, social worker, physical therapist, or psychologist, responsible for the development, supervision, and implementation of a written health care plan for each resident.

([~~57~~]60) "Homemaker" means a person [~~who~~]that cares for the environment in the home through performance of duties such as housekeeping, meal planning and preparation, laundry, shopping and errands.

([~~58~~]61) "Hospitalization" means an inpatient stay of at least 24 hours, or an overnight stay or emergency care, except a stay at a freestanding ambulatory surgical center that meets the requirements of Rule R432-500.

([~~59~~]62) "ICD-9-CM" means the International Classification of Diseases[~~, 9th revision, Clinical Modification, 1986.~~]

(63) "ICF-IID" means intermediate care facility for individuals with intellectual disabilities.

(6[~~0~~]4) "Imminent Danger" means a situation or condition [~~which~~]that presents a substantial likelihood of death or serious physical or mental harm to a patient or resident in the health care facility[~~ or agency~~].

(6[~~1~~]5) "Inpatient Program" means treatment provided in a suitably equipped setting that provides services to a person[~~persons~~] [~~who~~]that requires care that warrants 24-hour supervision.

(6[~~2~~]6) "Intake" means the administrative and assessment process for admission to a program.

(67) "Institute for Mental Disease" means the Medicaid term for any facility, whether or not licensed, of more than 16 beds primarily engaged in providing diagnosis, treatment or care of persons with mental diseases.

(68) "Intellectual Disability" means a condition characterized by significant limitations in both intellectual functioning and adaptive behavior that originates before the age of 22.

(6[~~3~~]9) "Interdisciplinary Team" means a group of staff members composed of representatives from different professions, disciplines, or services.

([~~64~~]70) "Involuntary Medication" means medication [~~which~~]that is prescribed by the physician but not taken willingly by the patient, and is administered [~~due to compelling medical reasons~~]in accordance with the applicable categorical rule under Title R432.

([~~65~~]71) "Joint Commission[~~"~~] (JCAHO)" means the Joint Commission on Accreditation of Healthcare Organizations[~~ (JCAHO)~~].

[~~(66) "Lavatory" means a plumbing fixture designed and equipped for handwashing purposes.~~]

([~~67~~]72) "License" means the certificate issued by the Department of Health and Human Services for the operation of the health care facility[~~ or agency~~]. This document constitutes the authority to receive patients and residents and to perform the services included within the scope of the rule and as specified on the license.

([~~68~~]73) "Licensed Practical Nurse (LPN)" means a person registered and currently licensed by the Utah Department of Commerce under Title 58, Chapter 31b Nurse Practice Act.

([~~69~~]74) "Licensed Practitioner" means a health professional currently licensed to diagnose, treat and prescribe[~~whose license allows diagnosis, treatment, and prescribing practices~~] within the scope of the license and established protocols.

(7[~~0~~]5) "Licensee" means the person or organization [~~who~~]that is granted a license to operate a health care facility [~~or agency~~]and [~~who~~]has ultimate authority and responsibility for the operation, management, control, conduct, and functioning of the health care facility[~~ or agency.~~]

(7[~~1~~]6) "Licensing Agency" means the Bureau of Licensing of the Utah Department of Health and Human Services.

(7[~~2~~]7) "Licensure" means the process of obtaining official or legal permission to operate a health care facility.[~~ or agency.~~]

(7[~~3~~]8) "Living Unit" means the area or part of a health care facility where residents [~~sleep~~]live and may include sleeping, dining and other resident activity areas.

(7[~~4~~]9) "Low Risk Maternal Mother" means a woman [~~who~~]that is in good general health throughout pregnancy and birth and [~~who~~]meets the criteria for low risk birth services as developed by the clinical staff and approved by the governing board and licensing agency for a [~~B~~]birthing [~~C~~]center.

([~~75~~]80) "Maladaptive [~~(negative)~~]Behavior" means negative behavior that demonstrates a reduction in, or lack of ability necessary to adjust to environmental demands and is [~~either~~]self-injurious, [~~or~~]dangerous to others, or environmentally destructive.[~~,~~

~~demonstrating a reduction in or lack of ability necessary to adjust to environmental demands.~~]

([~~76~~]81) "Medical Equipment and Supplies" means items used for therapeutic or diagnostic purposes essential for patient care, such as dressings, catheters, or syringes.

([~~77~~]82) "Medical Staff" means, the organized body composed of all [~~specified~~]professional personnel, appointed by the governing body and granted privileges to practice in the health care facility.[~~ or agency.~~]

([~~78~~]83) "Medication" means any drug, chemical compound, suspension, or preparation suitable for internal or external use by persons for the treatment or prevention of disease or injury.

[~~(79) "Mental Retardation" means significantly subaverage general intellectual functioning resulting in, or associated with, concurrent impairments in adaptive behavior and manifested during the developmental period. Significantly subaverage general intellectual functioning is operationally defined as a score of two or more standard deviations below the mean on a standardized general intelligence test. Developmental period is defined as the period between conception and the 18th birthday.~~]

([~~80~~]84) "Mental Disease" means any primary diagnosis of mental or substance use disorder listed in the Diagnostic and Statistical Manual (DSM) other than V Codes.[~~disease listed as a mental disorder in the ICD-9-CM excluding the codes for senility or organic brain syndrome (290 through 294.9 and 310 through 310.9), the codes for adjustment reaction (309); the codes for psychic factors associated with diseases classified elsewhere (316); and the codes for mental retardation (317 through 319). Codes 314 through 315.9 may also be excluded for individuals suffering impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons. Codes 309 and 316 are also excluded.~~]

(8[~~1~~]5) "Mobile" means a person [~~who is able to~~]can take action for self-preservation under emergency conditions with the assistance of supportive equipment such as crutches, braces, walkers, or wheelchairs, but without the assistance, except for verbal instructions, from other persons.

(8[~~2~~]6) "Neglect" means the same as Subsection 26B-6-201[~~62A-3-301~~](10).

(8[~~3~~]7) "New Construction" means any of the following:

(a) a [~~N~~]new medical or health care facility[~~ies~~] licensed under these rules;

(b) [~~A~~]addition[~~(s)~~] to an existing building;

(c) [~~A~~]alteration[~~(s)~~] or modification[~~(s) (~~], other than strictly repair and maintenance[~~)~~], costing more than $3,000 or that affects the structure, electrical or mechanical system of a health care facility.

(8[~~4~~]8) "Non-Ambulatory" means unable to walk without assistance of an other person[~~s~~].

(89) "Notice of Agency Action is defined in Subsection R432-30-2(3) and refers to notice of a departmental action on a license.

([~~85~~]90) "Nursing Care" means health care needs assistance provided to a sick or disabled individual[~~s~~], by or under the direction of licensed nursing personnel.[~~, for their health care needs.~~]

([~~86~~]91) "Nursing Home" means any health care facility licensed by the [~~D~~]department[~~ as a nursing care facility that~~] to provide[~~s~~] licensed nursing care and related services to residents [~~who~~]that need continuous health care and supervision.

([~~87~~]92) "Occupational Therapist" means a person currently licensed by the Utah Department of Commerce under Title 58, Chapter 42a Occupational Therapy Practice Act.

([~~88~~]93) "Oral Surgeon" means a person [~~who~~]that has successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accrediting body approved by the U.S. Office of Education and is currently licensed by the Utah Department of Commerce to practice dentistry.

([~~89~~]94) "PRN medication" means medication [~~which~~]that is administered [~~pro re nata. Pro re nata means~~]as needed. The time of medication administration is determined by the resident's need.

(9[~~0~~]5) "Parent Facility" means [~~all~~]any free-standing health care facility[~~ies~~] under a single ownership, and licensed under Section 26B-2-201[~~26-21-2~~] except a home health agency[~~ies~~]. [~~The~~]A parent facility includes:

(a) the main structure, wings, or detached buildings where a service within the scope of the [~~facility's~~]license is offered and any detached building used for storage, heating or cooling equipment located on the main grounds and bounded by a city, county or a state street or road, or a property line; and

(b) any structure located outside the main facility grounds connected to the main facility by a heating or cooling system or by a covered walkway where a service is provided within the scope of the [~~parent facility's~~]license.

(9[~~1~~]6) "Patient" means a resident, client or person receiving care and needed services in a health care facility.[~~ or agency. Patient, client or resident terms are interchangeable meaning a person who is receiving needed services.~~]

(9[~~2~~]7) "Patient Care Plan" means an integrated plan of care developed for the patient in accordance with the applicable categorical rule under Title R432.

(9[~~3~~]8) "Pediatric Patients" means infants, children, adolescents, and young adults up to the age of 18.

(9[~~4~~]9) "Personal Care" means assistance provided to residents in [~~activities of daily living~~]ADLs.

([~~95~~]100) "Personal Care Aide" means a person [~~who~~]that assists patients or residents in the activities of daily living and emergency first aid; and [~~who~~]may be supervised by a licensed nurse.

([~~96~~]101) "Personal Resource Funds" means [~~monies~~]funds received by a patient from a variety of sources, that[~~ which~~] the patient may spend as needed or desired.

([~~97~~]102) "Personnel" means any individual[~~(s)~~] in training or employed by the health care facility.[~~ or agency.~~]

([~~98~~]103) "Pharmacist" means a person currently licensed by the Utah Department of Commerce to practice pharmacology pursuant to Title 58, Chapter 17b Pharmacy Practice Act.

([~~99~~]104) "Physical Therapist" means a person currently licensed by the Utah Department of Commerce to practice under Title 58, Chapter 24b Physical Therapy Practice Act.

([~~100~~]105) "Physician" means a person [~~who is~~]currently licensed to practice medicine and surgery by the Utah Department of Commerce under Section 58-67-301, the Utah Medical Practice Act, or Section 58-68-301, Utah Osteopathic Medical Practice Act, or a physician in the employment of the government of the United States [~~who~~]that is similarly qualified.

(10[~~1~~]6) "Place of Residence" means the place a patient makes [~~his~~]their home. This may be a house, an apartment, a relative's home, housing for the elderly, a retirement home, an assisted living facility, or a place other than a health care facility [~~which~~]that provides continuous nursing care.

(10[~~2~~]7) "Plan of Care" is also considered a [~~or P~~]"plan of [~~T~~]treatment[~~" are interchangeable terms which~~] and means a written plan based on assessment data or physician orders that:[~~ identifies the~~

~~patient's needs, who shall provide needed services and how often, treatment goals, and anticipated outcomes.~~]

(a) identifies the patient's needs;

(b) determines who shall provide needed services and how often;

(c) identifies treatment goals; and

(d) lists anticipated outcomes.

(10[~~3~~]8) "Podiatrist" means a person registered and currently licensed by the Utah Department of Commerce under Title 58, Chapter 5a Podiatric Physician Licensing Act.

(10[~~4~~]9) "Policies and Procedures" means a set of rules adopted by the governing body to govern the [~~health care facility or agency's~~]licensee's operation.

(1[~~05~~]10) "Practitioner" means a registered nurse[~~,~~] with advanced or specialized training[~~, who~~] and is licensed by Utah Department of Commerce, Title 58, Chapter 31b Nurse Practice Act.

(1[~~06~~]11) "Prognosis" means a statement given as:

(a) the likelihood of an individual achieving stated goals;

(b) the degree of independence likely to be achieved; or

(c) the length of time to achieve goals.

(1[~~07~~]12) "Program" means [~~a general term for~~]an organized system of services designed to address the treatment needs of the patient.

(1[~~08~~]13) "Protected Living Arrangement" means [~~provision for~~]providing food, shelter, sleeping accommodations, and supervision of [~~activities of daily living~~]ADLs for a person[~~s~~] of any age [~~who~~]that [~~are unable to~~]cannot independently maintain these basic needs and functions.

(1[~~09~~]14) "Provider" means a supplier of goods or services.

(11[~~0~~]5) "Public Agency" means an agency operated by a state or local government.

(11[~~1~~]6) "Public Health Center" means a publicly owned facility for [~~the provision of~~]providing public health services, including its[~~related facilities such as~~] laboratories, clinics, and administrative offices.[~~ operated in connection with public health centers.~~]

(11[~~2~~]7) "Qualified [~~Mental Retardation~~]Intellectual Disabilities Professional (Q[~~MR~~]ID P)" means a person [~~who~~]that has specialized training or one year of experience in treating or working with [~~the mentally retarded~~]individuals with intellectual disabilities including any [~~one~~]of the following:[~~ psychologist with a master's degree from an accredited program; licensed physician; educator with a bachelor's degree in education from an accredited program; social worker with a bachelor's degree in social work from an accredited program or a field other than social work and at least three years of social work experience under the supervision of a qualified social worker; licensed physical or occupational therapist; licensed speech pathologist or audiologist; registered nurse; therapeutic recreation specialist who is a graduate of an accredited program and is licensed to perform recreational therapy under the provisions of Title 58, Chapter 40; Rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.~~]

(a) psychologist with a master's degree from an accredited program;

(b) licensed physician;

(c) educator with a bachelor's degree in education from an accredited program;

(d) social worker with a bachelor's degree in social work from an accredited program or a field other than social work and at least three years of social work experience under the supervision of a qualified social worker;

(e) licensed physical or occupational therapist;

(f) licensed speech pathologist or audiologist;

(g) registered nurse;

(h) therapeutic recreation specialist that is a graduate of an accredited program and is licensed to perform recreational therapy under Title 58, Chapter 40 Recreational Therapy Practice Act; or

(i) rehabilitation counselor certified by the Committee on Rehabilitation Counselor Certification.

(11[~~3~~]8) "Quality of Care" means [~~the provision of~~]standard of patient treatment, including medical or nursing care as well as restorative therapies.

(11[~~4~~]9) "Quality of Life" means how a patient experiences the state of existing and functioning in the facility environment, and is related to the human and humane processes involved in normal human functioning, including rights and freedoms.

(1[~~15~~]20) "Recovery," for birthing centers, means that period [~~or duration~~]of time starting at birth and ending with the discharge of a client from the birthing center, or the period of time between the birth and the time a mother leaves the premises of the birthing center.

(1[~~16~~]21) "Recreational Therapist" means any person currently licensed to perform recreational therapy under [~~the provisions of~~]Title 58, Chapter 40 Recreational Therapy Practice Act.

(1[~~17~~]22) "Referred Outpatient" means [~~a person who is receiving his medical diagnosis, treatment, or other health care services from one or more sources outside the hospital, but who receives from the hospital diagnostic tests or examinations ordered by health care practitioners, legally permitted to order such tests and examinations, and to whom the hospital reports findings and results.~~]a person that receives diagnostic tests or examinations by the hospital's legally authorized health care practitioner, but receives medical diagnosis, treatment or other health care services from outside the hospital based upon the hospital practitioner's reported findings and results.

(1[~~18~~]23) "Refurbish" means to clean or otherwise change the appearance without making significant changes in the existing physical structure of a facility.

([~~119~~]124) "Registered Nurse" means any person [~~who is~~]registered and currently licensed by the Utah Department of Commerce to practice as a registered nurse under Title 58, Chapter 31b Nurse Practice Act.

([~~120~~]25) "Rehabilitation" means a program of care designed to restore a patient to a former capacity.

(12[~~1~~]6) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.

(12[~~2~~]7) "Remodel" means to reconstruct or to make significant changes in the existing physical structure of a facility.

(12[~~3~~]8) "Representative" means a person employed by the [~~D~~]department.

(12[4]9) "Request for Agency Action[~~Hearing~~]" is defined in Subsection R432-30-2(4). A request for agency action may also be referred to as a request for hearing and additionally means any clear expression in writing by a [~~provider~~]licensee requesting the department to take an action or requesting an opportunity to appeal a [~~D~~]department action.[~~ following R432-30.~~]

(1[~~25~~]30) "Resident Living" means residential services provided by an ICF[~~/MR~~]-ID health care facility.

(1[~~26~~]31) "Responsible Person" means an individual, relative, or close friend designated in writing by the resident, or a court-appointed guardian or person with durable power of attorney, [~~who~~]that assists the resident and assumes responsibility for the resident's well-being and for any care not provided by the licensee.[~~facility or agency.~~]

(1[~~27~~]32) "Restrictive Procedures" means a class of procedures designed to reduce or eliminate maladaptive behaviors including:

(a) restricting an individual's movement;

(b) restricting an individual's ability to obtain positive reinforcement; and

(c) restricting an individual's ability to participate in programs.

(1[~~28~~]33) "Safety Device" means a protective device used to offer protection from inadvertent acts, including [~~(such as~~]falling out of bed[~~)~~] as well as deliberate acts, including [~~(such as~~]removing a nasogastric tube[~~)~~].

(1[~~29~~]34) "Seclusion" means a procedure that isolates the patient in a specific room or designated area to temporarily remove the patient from the therapeutic community and reduce external stimuli.

(1[~~30~~]35) "Self Administration of Medication" means when a resident it aware of the medication type, dosage and frequency of administration, they are permitted to[~~the act by which a resident~~] independently remove[~~s~~] an individual dose from a properly labeled container and take[~~s~~] that medication.[~~ The resident must know the medication type, dosage and frequency of administration.~~]

(13[~~1~~]6) "Service Delivery Area" means any area in the health care facility where a specific service or group of services is organized, performed or carried out. For example the dietary services area includes the kitchen; patient care services delivery area includes patient rooms, corridors, and adjacent areas.

(13[~~2~~]7) "Service Pattern" means a continuum of medical and psychological needs expressed as a type and used in evaluation for appropriate placement and treatment purposes.

(13[~~3~~]8) "Social Service Worker (SSW)" means a person currently licensed by the Utah Department of Commerce to function as a social service worker under Title 58, Chapter 60 Mental Health Professional Practice Act.

[~~(134) "Social Worker, Certified (CSW)" means a person currently licensed by the Utah Department of Commerce to practice social work under Title 58, Chapter 60.~~]

(13[~~5~~]9) "Specialty Hospital" means a hospital licensee [~~which~~]that provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(1[~~36~~]40) "Speech-Language Pathologist" means a person currently licensed by the Utah Department of Commerce to practice speech-language pathology pursuant to Title 58, Chapter 41 Speech-Language Pathology and Audiology Licensing Act.

(1[~~37~~]41) "Substantial Noncompliance" means any occurrence of a Class I violation, or the occurrence of one or more Class II violations, as defined in Rule R432-3, resulting in continuous noncompliance, or chronic noncompliance with one or more rule requirements in the administrative rules specific to the health care facility licensure category.

(1[~~38~~]42) "Summary Report" means a compilation of pertinent facts from the clinical notes regarding a patient, [~~usually~~]submitted to the patient's physician as part of a plan of treatment.

(1[~~39~~]43) "Supervision" means guidance of another person [~~or persons~~]by a qualified person to assure that a service, function, or activity is provided within the scope of a license, certificate, job description, or instructions.

(1[~~40~~]44) "Support Person" means the individual[~~(s)~~] selected or chosen by a mother to provide emotional support and to assist her during the process of labor and childbirth.

(1[~~41~~]45) "Surgeon General" means the surgeon general of the United States public health service.

(1[~~42~~]46) "Therapist" means a professionally trained, licensed or registered person including[~~(such as~~] a physical therapist, occupational therapist, or speech therapist[~~), who is~~] skilled in applying treatment techniques and procedures under the general direction of a physician.

(14[~~3~~]7) "Training and Habilitation Services" means services intended to improve or aid the intellectual, sensorimotor, and emotional development of a patient or resident.

R432-1-4. Identification Badges.

(1) A [~~Health care facilities and agencies~~]licensee shall ensure that the following [~~persons, shall~~]individuals wear an identification badge:

(a) [~~professional and non-professional~~]any employee[~~s~~] who provides direct care to a patient[~~s~~]; and

(b) any volunteer[~~s~~].

(2) The identification badge shall include the following information:

(a) the person's first or last name[~~; however, the badge does not have to reveal the persons full name~~]; and

(b) the person's title or position, in terms generally understood by the public.

KEY: health care facilities
Date of Last Change: 2023[~~August 20, 2018~~]
Notice of Continuation: January 26, 2023
Authorizing, and Implemented or Interpreted Law: [~~26-21-2~~]26B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R432-2**	**Filing ID: 55309**

Agency Information

1. Department:	Health and Human Services
Agency:	Health Care Facility Licensing
Room number:	1st Floor
Building:	Multi-Agency State Office Bldg.
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144103
City, state and zip:	Salt Lake City, UT 84114-4103

Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R432-2. General Licensing Provisions

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The revisions include more specific language consistent with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The Specialty Hospital Construction Standards are regulated by the Department of Health and Human Services and not local governments. There will be no change in local business licensing or any other items with which local government is involved.

There are no substantive changes being made regarding the fiscal impacts of this rule.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 26B-2-202		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	03/31/2023

R432. Health and Human Services, [~~Family~~]Health Care Facility[~~and Preparedness,~~] Licensing.
R432-2. General Licensing Provisions.
R432-2-1. Legal Authority.

This rule is [~~adopted pursuant to~~]authorized by [~~Title 26, Chapter 21.~~]Section 26B-2-202.

R432-2-2. Purpose.

The purpose of this rule is to define the standards that health care facilities and agencies [~~must~~]shall follow [~~in order~~]to obtain a license. No person or governmental unit acting severally or jointly with any other person, or governmental unit shall establish, conduct, or maintain a health facility in this state without first obtaining a license from the [~~D~~]department in accordance with [~~.~~]Section [~~26-21-8.~~]26B-2-206.

R432-2-3. Definitions.

The definitions of this section supplement the definitions listed in Rule R432-1.

(1) "Branch Location" means a licensed home health, personal care or hospice agency location which is:

(a) administered by a parent agency within the scope of the parent agency's current license; and

(b) is approved by the department as a branch location under the parent agency's license.

(2) "Conditional License" means a remedial license issued to a licensee if there is a determination by the department of:

(a) substandard quality of care;

(b) immediate jeopardy;

(c) a pattern of violations which would result in a ban on admissions at the facility; or

(d) if the licensee is found to have:

(i) a class I violation or a class II violation, as outlined in Rule R432-3, that remains uncorrected after the specified time for correction;

(ii) more than three cited repeat class I or II violations from the previous survey; or

(iii) fails to fully comply with administrative requirements for licensing.

(3) "Owner" means any person or entity:

(a) ultimately responsible for operating a health care facility; or

(b) legally responsible for decisions and liabilities in a business management sense or that bears the final responsibility for operating decisions made in the capacity of a governing body.

(4) "Provisional License" means an initial license issued to an applicant for a probationary period of six months upon the department's determination that the facility has the potential to provide services and be in full compliance with licensing rules during the six-month period.

(5) "Remote" means the location of a prospective satellite or branch service before gaining approval from the department to operate.

(6) "Satellite Operation" means a health care treatment service that:

(a) is administered by a parent facility licensee within the scope of the parent facility licensee's current license;

(b) is located further than 250 yards from the licensed parent facility or other areas determined by the department to be a part of the provider's campus;

(c) does not qualify for licensing under Section 26B-2-201; and

(d) is approved by the department for inclusion under the parent facility's license and identified as a remote service.

(7) "Standard License" means a license issued to a licensee if:

(a) the licensee meets the conditions attached to a provisional or conditional license;

(b) the licensee corrects any identified rule violations; or

(c) the licensee completes each licensing renewal requirement as outlined in Rule R432-2.

R432-2-[~~3~~]4. Exempt Facilities.

[~~The provisions of~~]Entities identified in Section [~~26-21-7~~]26B-2-205 are exempt from licensure.[~~apply for exempt facilities.~~]

R432-2-[4]5. Distinct Part.

[~~Licensed health care facilities~~]A licensee that [~~wish to~~]seeks to offer services outside the scope of their license[~~ or services regulated by another licensing rule~~], with the exception of federally recognized [~~S~~]swing [~~B~~]bed [~~U~~]units, shall submit [~~for Department review~~]a program narrative defining the levels of service to be offered and the specific patient population to be served. If the program is determined, by the department to require a license, the [~~facility~~]licensee shall [~~must~~]meet the definition of a distinct part entity, as defined in Rule R432-1, and all applicable codes and standards and obtain a separate license.

R432-2-[~~5~~]6. Requirements for a Satellite Service Operation.

[~~(1) A "satellite operation" is a health care treatment service that:~~

~~(a) is administered by a parent facility within the scope of the parent facility's current license;~~

~~(b) is located further than 250 yards from the licensed facility or other areas determined by the department to be a part of the provider's campus;~~

~~(c) does not qualify for licensing under Section 26-21-2; and~~

~~(d) is approved by the Department for inclusion under the parent facility's license and identified as a remote service.~~]

([~~2~~]1) A [~~licensed health care facility that wishes to~~]licensee that seeks to offer a satellite operation shall submit [~~for Department review~~]a program narrative and one set of construction drawings for department review. The licensee shall ensure that the program narrative [~~shall~~]defines [~~at least~~]the following:

(a) [~~location~~]street address of the remote facility[~~ (street address)~~];

(b) capacity of the remote facility;

(c) license category of the parent facility;

(d) service authorized under the parent facility license that will[~~to~~] be provided at the remote facility[~~ (must be a service authorized under the parent facility license)~~];

(e) ancillary administrative and support services to be provided at the remote facility; and

(f) [~~I~~]international [~~B~~]building [~~C~~]code occupancy classification of the remote facility physical structure.

([~~3~~]2) Upon receipt of the satellite service program narrative and construction drawings, the [~~D~~]department shall make a determination of the applicable licensing requirements including the need for licensing the service. The [~~Department shall verify at least the~~]following items are required for department verification:

(a) [~~T~~]there is only a single health care treatment service provided at the remote~~-~~site and that it falls within the scope of the parent facility license;

(b) [~~T~~]the remote facility physical structure [~~complies~~]is compliant with all construction codes appropriate for the service provided; and

(c) [~~A~~]all necessary administrative and support services for the specified treatment service are available, on a continuous basis during the hours of operation, to e[~~i~~]nsure the health, safety, and welfare of the clients.

([4]3) If a [~~facility~~]licensee qualifies as a single satellite service treatment center, the [~~D~~]department shall issue a separate license identifying the facility as a [~~"~~]satellite service[~~"~~] of the licensed parent facility. This license shall be subject to all requirements set forth in this rule[~~R432-2 of the Health Facility Rules~~].

([~~5~~]4) A parent facility that [~~wishes to~~]seeks to offer more than one health care service at the same remote site shall either:[~~ obtain a satellite service license for each service offered as described above or obtain a license for the remote complex as a free-standing health care facility.~~]

(a) obtain a satellite service license for each service offered; or

(b) obtain a license for the remote complex as a free-standing health care facility.

[~~(6) A satellite facility is not permitted within the confines of another licensed health care facility.~~]

([~~7~~]5) A licensed hospital is limited to one emergency department satellite location. [~~If a healthcare corporation owns and operates more than one hospital in the State of Utah;~~]If a healthcare corporation owns and operates more than one hospital in the state:

(a) it may have up to two emergency department satellite locations associated with a licensed hospital; and

(b) the health care corporation's total number of emergency department satellite locations may not exceed the total number of licensed hospitals it owns and operates in the [~~S~~]state[~~ of Utah~~].

R432-2-[6]7. Requirements for a Branch Location.

[~~(1) A "Branch Location" is a licensed Home Health, Personal Care or Hospice agency location which:~~

~~(a) is administered by a parent agency within the scope of the parent agency's current license;~~

~~(b) is located no further than 150 miles from the licensed parent agency or within a designated geographical service area as determined by the Department; and~~

~~(c) is approved by the Department as a branch location under the parent agency's license.~~]

([~~2~~]1) An applicant for a branch location license shall submit a narrative of the program for [~~D~~]department review. The applicant shall include the following in the program narrative:[~~ shall include the following:~~]

(a) street address of the parent agency and branch location;

(b) license category of the parent [~~agency~~]facility;

(c) service[~~(s)~~] authorized under the parent agency license that will [~~to~~]be provided at the branch location[~~, which must be a service authorized under the parent agency license~~]; and

(d) ancillary administrative and support services to be provided at the branch location.

([~~3~~]2) Upon receipt of the branch location program narrative, the [~~D~~]department shall make a determination of the applicable licensing requirements including the need for licensing the service. The [~~Department shall verify at least the~~]following items are required for department verification:

(a) the service provided at the remote site falls within the scope of the parent agency license; and

(b) all necessary administrative and support services are available, on a continuous basis during the hours of operation, to [~~i~~]ensure the health, safety, and welfare of the clients.

([~~4~~]3) If a location qualifies as a branch location the [~~D~~]department shall issue a separate license identifying the agency as a ["~~B~~]branch [~~L~~]location["] of the licensed parent agency. This license shall be subject to all requirements set forth in this rule[~~R432-2 of the Health Facility Rules~~].

R432-2-[~~7~~]8. Applications for License Actions.

(1) An applicant for a license shall file a [~~R~~]request for [~~A~~]agency [~~A~~]action or [~~L~~]license [~~A~~]application with the [~~Utah Department of Health~~]department on a form, or format furnished by the [~~D~~]department.

(2) Each applicant shall comply with all zoning, fire, safety, sanitation, building and licensing laws, regulations, ordinances, and codes of the city and county in which the facility or agency is located. The applicant shall obtain the following clearances and submit them as part of the completed application to the licensing agency:

(a) A certificate of fire clearance from the [~~S~~]state [~~F~~]fire [~~M~~]marshal or designated local fire authority certifying compliance with local and state fire codes for:[~~ is required with initial and renewal application, change of ownership, and at any time new construction or substantial remodeling has occurred.~~]

(i) initial application;

(ii) renewal application;

(iii) change of ownership; and

(iv) any time new construction or remodeling has occurred;

(b) A satisfactory [~~F~~]food [~~S~~]services [~~S~~]sanitation [~~C~~]clearance report by a local [~~H~~]health [~~D~~]department is required for [~~facilities~~]each applicant providing food service at initial application and upon a change of ownership[~~.~~]; and

(c) [~~C~~]certificate of [~~O~~]occupancy from the local building official for:[~~ at initial application, change of location and at the time of any new construction or substantial remodeling.~~]

(i) initial application;

(ii) change of location; or

(iii) at the time of any new construction or substantial remodeling.

[~~(3) As used in this section, an "owner" is any person or entity:~~

~~(a) ultimately responsible for operating a health care facility; or~~

~~(b) legally responsible for decisions and liabilities in a business management sense or that bears the final responsibility for operating decisions made in the capacity of a governing body.~~]

([4]3) The applicant shall submit contact information for the ownership of the legal entity including the names, phone numbers, email addresses and mailing addresses[~~.~~] and the following written assurances regarding each of the listed individuals:

[~~(5) The applicant shall provide the following written assurances on all individuals listed in R432-2-7(4):~~]

(a) [~~N~~]none [~~of the persons has~~]have been convicted of a felony;

(b) [~~N~~]none [~~of the persons has~~]have been found in violation of any local, state, or federal law [~~which~~]that arises from or is otherwise related to the individual's relationship to a health care facility; and

(c) [~~N~~]none [~~of the persons who has~~]have currently, or within the five years [~~prior to~~]before the date of application, had previous interest in a licensed health care facility that has been any of the following:

(i) subject of a patient care receivership action;

(ii) closed as a result of a settlement agreement resulting from a decertification action or a license revocation;

(iii) involuntarily terminated from participation in either Medicaid or Medicare programs; or

(iv) convicted of patient abuse, neglect or exploitation where the facts of the case prove that the licensee failed to provide adequate protection or services for the person to prevent such abuse.

R432-2-[~~8~~]9. License Fee.

In accordance with [~~Subsection 26-21-6(1)(d)~~]Section 26B-2-202, the applicant shall submit a license fee with the completed application form. A current fee schedule is available from the [~~Bureau of Health Facility Licensing~~]department upon request.[~~ Any late fees is assessed according to the fee schedule.~~]

R432-2-[~~9~~]10. Additional Information.

(1) The [~~Department may require additional information or review other documents to determine compliance with licensing rules. These include:~~]licensee may be required to submit additional information to the department upon request.

([~~1~~]2) Information the department may require includes:[~~architectural plans and a description of the functional program.~~]

(a) architectural plans and a description of the functional program;

([~~2~~]b) policy[~~ies~~] and procedure[~~s~~] manuals[~~.~~];

([~~3~~]c) verification of individual licenses, registrations or certification required by the Utah Department of Commerce[~~.~~];

([~~4~~]d) data reports including the submission of the annual report at the [~~D~~]departments request[~~.~~]; and

([~~5~~]e) documentation that [~~sufficient~~]enough assets are available to provide services[~~:~~], staff, utilities, food supplies, and laundry for at least a two-[-]month period[~~ of time~~].

R432-2-1[~~0~~]1. Initial License Issuance or Denial.

(1) The [~~D~~]department shall issue[~~render~~] a decision on an initial license application within 60 days of receipt of a completed application packet.

(2) Upon verification of compliance with licensing requirements the [~~D~~]department shall issue a provisional license.

(3) The [~~D~~]department shall issue a written notice of agency decision under the procedures for adjudicative proceedings, in accordance with Rule [~~(~~]R432-30[~~)~~], denying a license if the facility is not in compliance with the applicable laws, rules, or regulations. The notice shall state the reasons for denial.

(4) An applicant who is denied licensing may reapply for initial licensing as a new applicant and shall be required to initiate a new request for agency action as described in Section R432-2-[~~7~~]8.

(5) The [~~D~~]department shall assess an administrative fee on [~~all~~]any denied license application[~~s~~]. This fee shall be subtracted from any fees submitted as part of the application packet and a refund for the balance returned to the applicant.

R432-2-1[~~1~~]2. License Contents and Provisions.

(1) The license shall document the following:

(a) the name of the health facility[~~,~~];

(b) licensee[~~,~~];

(c) type of facility[~~,~~];

(d) approved licensed capacity including identification of operational and secure unit beds[~~,~~];

(e) street address of the facility[~~,~~];

(f) issue and expiration date of license[~~,~~];

(g) construction variance information[~~,~~]; and

(h) license number.

(2) The license is not assignable or transferable.

(3) Each license is the property of the [~~D~~]department. The licensee shall return the license within five days following closure of a health care facility or upon the request of the [~~D~~]department.

(4) The licensee shall post the license on the licensed premises in a place readily visible and accessible to the public.

R432-2-1[~~2~~]3. Expiration and Renewal.

(1) Each standard license shall expire at midnight on the day designated on the license as the expiration date, unless the license is revoked or extended under [~~s~~]Subsection (2) or (4) of this section.[~~ by the Department.~~]

(2) If a [~~facility~~]licensee is operating under a conditional license for a period extending beyond the expiration date of the current license, the [~~Department shall establish a~~]licensee shall adhere to any new expiration date established by the office.

(3) The licensee shall submit the following items 15 days before the current license expires:[~~a Request for Agency Action/License Application form, applicable fees, clearances, and the annual report for the previous calendar year (if required by the Department under R432-2-9) 15 days before the current license expires.~~]

(a) a request for agency action or license application form;

(b) applicable fees;

(c) applicable clearances; and

(d) the annual report for the previous calendar year, if required by the department under Section R432-2-10.

(4) A license shall expire on the date specified on the license unless the licensee requests and is granted an extension from the [~~D~~]department.

(5) The [~~D~~]department shall renew a standard license upon verification that the licensee and facility are [~~in compliance~~]compliant with all applicable license rules.

(6) Facilities no longer providing patient care or client services may not have their license renewed.

R432-2-1[~~3~~]4. New License Required.

(1) A prospective licensee shall submit a [~~R~~]request for [~~A~~]agency [~~A~~]action or [~~/L~~]license [~~A~~]application, fees, and required documentation for a new license at least 30 days before any of the following proposed or anticipated changes occur:

(a) occupancy of a new facility;

(b) change of ownership; or

(c) change in license category.

(2) Before the [~~D~~]department may issue a change of ownership license, the [~~prospective licensee~~]applicant shall provide documentation that:

(a) [~~all~~]any patient care records[~~,~~]; personnel records, staffing schedules, quality assurance committee minutes, in-service program records, and other documents required by applicable rules remain in the facility and have been transferred to the custody of the new licensee[~~.~~];

(b) the existing policy and procedures manual or a new manual has been adopted by the facility governing body before change of ownership occurs[~~,~~];

(c) any new contract[~~s~~] for professional or other services not provided directly by the [~~facility~~]licensee have been secured[~~.~~];

(d) new transfer agreements have been drafted and signed[~~.~~];

(e) written documentation exists of clear ownership or lease of the facility by the new owner[~~.~~];

(f) the licensee shall provide the new owner with a written accounting, prepared by an independent certified public accountant, of all patient funds being transferred, and obtain a written receipt for those funds from the new owner[~~.~~]; and

(g) [~~N~~]nursing [~~C~~]care and [~~S~~]small [~~H~~]health [~~C~~]care [~~Facilities~~]licensees shall provide a certificate from the Division of Medicaid and Health Financing's Bureau of Financial Services noting the current owner has no outstanding [~~monies~~]payments owed to the division.

(3) [~~A~~]The applicant [~~prospective licensee~~]is responsible for all uncorrected rule violations and deficiencies including any current plan of correction submitted by the previous licensee unless a revised plan of correction, approved by the [~~D~~]department, is submitted by the prospective licensee before the change of ownership becomes effective.

(4) If a license is issued to the new owner, the previous licensee shall return [~~his~~]their license to the [~~D~~]department within five days of the new owner's receipt of the license.

[~~(5) Upon verification that the facility is in compliance with all applicable licensing rules, the Department shall issue a new license effective the date compliance is determined as required by R432-2-9.~~]

R432-2-1[4]5. Change in Licensing Status.

(1) A licensee shall submit a [~~R~~]request for [~~A~~]agency [~~A~~]action or [~~/L~~]license [~~A~~]application to amend or modify the license status at least 30 days before any of the following proposed or anticipated changes:

(a) increase or decrease of licensed capacity;

(b) change in name of facility;

(c) occupancy of a replacement facility;

(d) change of license classification; or

(e) change in administrator.

(2) An increase of licensed capacity may incur an additional license fee if the increase exceeds the maximum number of units in the fee category division of the existing license. This fee shall be the difference in license fee for the existing and proposed capacity according to the license fee schedule.

[~~(3) Upon verification that the licensee and facility are in compliance with all applicable licensing rules, the Department shall issue an amended or modified license effective the date that the Department determines that the licensee is in compliance.~~]

R432-2-1[~~5~~]6. Facility Ceases Operation.

(1) A licensee that voluntarily ceases operation shall complete the following:

(a) notify the [~~D~~]department and the patients or their next of kin or legal guardian, as applicable, at least 30 days before the effective date of closure[~~.~~];

(b) [~~make provision for the~~]ensure safe keeping of records[~~.~~];

(c) return all patients[~~' monies~~] funds and valuables at the time of discharge[~~.~~]; and

(d) [~~The licensee must~~]return the license to the [~~D~~]department within five days after the facility ceases operation.

(2) If the [~~D~~]department revokes a [~~facility's~~]license or if it issues an emergency closure order, the licensee shall document [~~for Department review~~]the following:

(a) the location and date of discharge for [~~all~~]each resident[~~s,~~];

(b) the date that notice and assistance with placement was provided to [~~all~~]each resident[~~s~~] and responsible party[~~ies to ensure an orderly discharge and assistance with placement~~]; and

(c) the date and time that the [~~facility~~]licensee complied with the closure order.

R432-2-1[~~6~~]7. Provisional License.

[~~(1) A provisional license is an initial license issued to an applicant for a probationary period of six months.~~

~~(2) In granting a provisional license, the Department shall determine that the facility has the potential to provide services and be in full compliance with licensing rules during the six month period.~~]

([~~3~~]1) A provisional license is nonrenewable.[~~ The Department may issue a provisional license for no longer than six months.~~]

([~~4~~]2) If the licensee fails to meet terms and conditions of licensing before the expiration date of the provisional license, the license shall automatically expire.

R432-2-1[~~7~~]8. Conditional License.

[~~(1) A conditional license is a remedial license issued to a licensee if there is a determination of substandard quality of care, immediate jeopardy or a pattern of violations which would result in a ban on admissions at the facility or if the licensee is found to have:~~

~~(a) a Class I violation or a Class II violation that remains uncorrected after the specified time for correction;~~

~~(b) more than three cited repeat Class I or II violations from the previous survey; or~~

~~(c) fails to fully comply with administrative requirements for licensing.~~]

([~~2~~]1) A standard license is revoked by the issuance of a conditional license.

([~~3~~]2) The [~~D~~]department may not issue a conditional license after the expiration of a provisional license.

([~~4~~]3) In granting a conditional license, the licensee shall provide assurance to the [~~D~~]department [~~shall be assured that~~]that the lack of full compliance does not harm the health, safety, and welfare of the patients.

([~~5~~]4) The [~~D~~]department shall establish the period of time for the conditional license based on an assessment of the nature of the existing violations and facts available at the time of the decision.

([~~6~~]5) The [~~D~~]department shall set conditions whereby the licensee [~~must~~]shall comply with an accepted plan of correction.

([~~7~~]6) If the licensee fails to meet the conditions before the expiration date of the conditional license, the license shall automatically expire.

[~~R432-2-18. Standard License.~~

~~(1) A standard license is a license issued to a licensee if:~~

~~(a) the licensee meets the conditions attached to a provisional or conditional license;~~

~~(b) the licensee corrects the identified rule violations; or~~

~~(c) the licensee completes all licensing renewal requirements as per R432-2-12.~~]

R432-2-19. Variances.

(1) A [~~health facility~~]licensee may submit a request for agency action to obtain a variance from state rules[~~ at any time~~].

(a) An applicant requesting a variance shall file a [~~R~~]request for [~~A~~]agency [~~A~~]action or [~~Variance~~]license [~~A~~]application with the [~~Utah D~~]department [~~of Health~~]on forms or format furnished by the [~~D~~]department.

(b) The [~~D~~]department may require additional information from the facility before acting on the request.

(c) The [~~D~~]department [~~shall act upon each request for variance in writing within~~]may take up to 60 days to issue a determination on a variance request[~~of receipt of a completed request~~].

(2) A variance may be renewable or non-renewable, as indicated by the department on the variance form. The licensee shall [~~maintain~~]provide a copy of the approved variance [~~on file in the facility and make the copy available to all~~]to any interested party[~~ies~~] upon request.

[~~(a) The Department shall file the request and variance with the license application.~~]

([~~b~~]a) Only upon agreement between the department and the facility, t[~~T~~]he terms of a variance request [~~requested variance~~]may be modified[~~ upon agreement between the Department and the facility~~].

([~~c~~]b) The [~~D~~]department may impose conditions on the granting of a variance as it determines necessary to protect the health and safety of the residents or patients.

([~~d~~]c) The [~~D~~]department may limit the duration of any variance.

(3) The [~~D~~]department shall issue a written notice of the reason for an agency decision denying a variance upon determination that the variance is not justified or adversely affects the health, safety, or welfare of the residents.

(4) The [~~D~~]department may revoke a variance if:

(a) [~~T~~]the variance adversely affects the health, safety, or welfare of the residents[~~.~~];

(b) [~~T~~]the [~~facility~~]licensee fails to comply with the conditions of the variance as granted[~~.~~];

(c) [~~T~~]the licensee notifies the [~~D~~]department in writing that they wish[~~it wishes~~] to relinquish the variance and be subject to the rule previously varied[~~.~~]; or

(d) [~~T~~]there is a change in the statute, regulations, or rules.

R432-2-20. Change [~~I~~]in Ownership.

[~~(1) As used in this section, an "owner" is any person or entity:~~

~~(a) ultimately responsible for operating a health care facility; or~~

~~(b) legally responsible for decisions and liabilities in a business management sense or that bears the final responsibility for operating decisions made in the capacity of a governing body.~~]

([~~2~~]1) The owner of the health care facility [~~does not need~~]is not required to own the real property or building where the facility operates.

([~~3~~]2) A property owner is [~~also an owner of the facility~~]is considered an owner if they:

(a) retain[~~s~~] the right or participate[~~s~~] in the operation or business decisions of the enterprise;

(b) have[~~s~~] engaged the services of a management company to operate the facility; or

(c) take[~~s~~] over the operation of the facility.

([~~4~~]3) A licensed provider whose ownership or controlling ownership interest has changed [~~must~~]shall submit a [~~R~~]request for [~~A~~]agency [~~A~~]action or [~~L~~]license [~~A~~]application and fees to the department 30 days [~~prior to~~]before the proposed change.

([~~5~~]4) A c[~~C~~]hange[~~s~~] in ownership that requires action [~~under subsection (4)~~]includes any arrangement that:

(a) transfers the business enterprise or assets to another person or firm, with or without the transfer of any real property rights;

(b) removes, adds, or substitutes an owner or part owner; or

(c) in the case of an incorporated owner:

(i) is a merger with another corporation if the board of directors of the surviving corporation differs by 20%[~~ percent~~] or more from the board of the original licensee; or

(ii) creates a separate corporation, including a wholly owned subsidiary, if the board of directors of the separate corporation differs by 20%[~~ percent~~] or more from the board of the original licensee.

([~~6~~]5) A person or entity that contracts with an owner to manage the enterprise, subject to the owner's general approval of operating decisions it makes is not an owner, unless the parties have agreed that the managing entity is also an owner.

([~~7~~]6) A transfer between departments of government agencies for management of a government-owned health care facility is not a change of ownership under this section.

KEY: health care facilities
Date of Last Change: 2023[~~August 27, 2018~~]
Notice of Continuation: January 23, 2023
Authorizing, and Implemented or Interpreted Law: [~~26-21-9; 26-21-11; 26-21-12; 26-21-13~~]26B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R432-8**	**Filing ID: 55382**

Agency Information

1. Department:	Health and Human Services
Agency:	Health Care Facility Licensing
Room number:	1st Floor
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116

Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R432-8. Specialty Hospital - Chemical Dependency/Substance Abuse Construction

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The revisions include more specific language consistent with industry standards and the Utah Rulewriting Manual.

The substantive change is due to the removal of incorporations that the Division of Health Care Licensing (Division) has determined are better represented in agency policy as recommended standards for the plans review processes and a new title to align with accepted industry terminology.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The Substance Use Disorder Specialty Hospital Construction standards are regulated by the Department of Health and Human Services and not local governments.

There will be no change in local business licensing or any other item(s) with which local government is involved.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-2-202

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	05/01/2023

R432. Health and Human Services, [~~Family Health and Preparedness,~~]Health Care Facility Licensing.
R432-8. Specialty Hospital - [~~Chemical Dependency/Substance Abuse~~]Substance Use Disorder Construction.
R432-8-1. Legal Authority.

[~~This rule is adopted pursuant to Title 26, Chapter 21.~~]This rule is authorized by Section 26B-2-202.

R432-8-2. Purpose.

(1) This rule applies to a [~~hospital that chooses to be licensed as a~~]specialty hospital [~~and which has as its~~]whose major single service is the treatment of patients with [~~chemical dependency or substance abuse~~]substance use disorder. The rule identifies the construction standards for a specialty hospital.[~~, if the hospital chooses to have a dual major service, e.g., chemical dependency or substance and psychiatric care, then both of the appropriate specialty hospital construction rules apply.~~]

R432-8-3. General Design Requirements.

[~~See~~]Rule R432-4 additionally applies to construction of a substance use disorder specialty hospital.[~~ 1 through R432-4-22~~].

R432-8-4. General Construction, Ancillary Support Facilities.

(1) Section R432-4-19[~~-23~~] applies to construction of a substance use disorder specialty hospital and the licensee shall ensure compliance with the following modifications:

([~~1~~]a) [~~Corridors. C~~]corridors in~~-~~-patient use areas [~~shall be~~]are a minimum six feet wide[~~.~~];

([~~2~~]b) [~~D~~]door leaf width for patient room doors and doors to patient treatment rooms [~~shall be~~]are a minimum three feet[~~.~~];

([~~3~~]c) [~~Ceiling finishes. C~~]ceiling construction in patient and seclusion rooms [~~shall be~~]are monolithic[~~.~~];

([~~4~~]d) [~~B~~]bed pan flushing devices are optional[~~.~~];

([~~5~~]e) [~~W~~]windows, in rooms intended for 24-hour occupancy are[~~, shall be~~] operable[~~.~~];

[~~(6) Emergency Electrical Service.~~]

([~~a~~]f) [~~A~~]an on-site emergency generator shall be provided with the following services connected to it[~~.~~]:

[~~(b) The following services shall be connected to the emergency generator:~~]

(i) life safety branch[~~, as defined in section 517-32 of the National Electric Code NFPA 70~~];

(ii) critical branch[~~, as defined in 517-33 of the National Electric Code NFPA 70~~];

(iii) equipment system[~~, as defined in 517-34 of the National Electric Code NFPA 70~~];

(iv) telephone;

(v) nurse call;

(vi) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;

(vii) one duplex convenience outlet in each patient bedroom;

(viii) one duplex convenience outlet at each nurse station; and

(ix) duplex convenience outlets in the emergency heated area at a ratio of one for each ten patients[~~.~~];

[~~(6) Nurse Call System.~~]

([~~a~~]g) [~~A~~]a nurse call system is optional[~~.~~]; and

([~~b~~]h) [~~I~~]if a nurse call system is installed, provisions shall be made for the easy removal or covering of call buttons.

(2) If the licensee chooses to have a dual major service, then both of the appropriate specialty hospital construction rules apply.

R432-8-5. General Construction, Patient Service Facilities.

(1) The licensee shall comply with Sections R432-4-20 and R432-4-12.[~~requirements of R432-4-24 and the requirements of Sections 2.1 and 2.5 of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition (Guidelines) shall be met.~~] Where a modification is cited[~~,~~] in this rule, the modification shall supersede a conflicting requirement.[~~the modification supersedes conflicting requirements of R432-4-24 and the Guidelines.~~]

(2) The licensee shall ensure the following in patient service settings:[~~environment of the nursing unit shall give a feeling of openness with emphasis on natural light and exterior views.~~]

(a) the environment of the nursing unit gives a feeling of openness with emphasis on natural light and exterior views;[~~Interior finishes, lighting, and furnishings shall suggest a residential rather than an institutional setting.~~]

(b) interior finishes, lighting, and furnishings, suggest a residential rather than an institutional setting;

([~~b~~]c) [~~S~~]security and safety devices [~~shall be~~]are presented in a manner [~~which~~]that will not attract or challenge tampering by patients[~~.~~];

[~~(3) Patient rooms.~~]

([~~a~~]d) [~~A~~]at least two single-bed rooms, with private toilet rooms, [~~shall be~~]are provided for each nursing unit[~~.~~];

([~~b~~]e) [~~M~~]minimum patient room areas, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, [~~shall be~~]measure 100 square feet in single-bed rooms and 80 square feet per bed in multiple-bed rooms;[~~. The areas listed are minimum and do not prohibit larger rooms.~~]

([~~c~~]f) [~~P~~]patient rooms [~~shall~~]include a wardrobe, closet, or locker, [~~having~~]with minimum clear dimensions of 22 inches deep by 36 inches wide, suitable for hanging full-length garments, with a break-away clothes rod and adjustable shelf;[~~. A break-away clothes rod and adjustable shelf shall be provided.~~]

([~~d~~]g) [~~V~~]visual privacy is not required in all multiple-bed rooms, however privacy curtains [~~shall be~~]are provided in [~~five percent~~]5% of multiple-bed rooms for use in treating detoxification patients[~~.~~];

([~~4~~]h) [~~L~~]laundry facilities [~~shall be~~]are available to patients, including an automatic washer and dryer[~~.~~];

([~~5~~]i) [~~B~~]bathing facilities shall be provided in each nursing unit at a ratio of one bathing facility for each six beds not otherwise served by bathing facilities within individual patient rooms[~~.~~] and comply with the following:

([~~a~~]i) [~~E~~]each bathtub or shower [~~shall be~~]is in an individual room or enclosure adequately sized to allow staff assistance and designed to provide privacy during bathing, drying, and dressing[~~.~~]; and

([~~b~~]ii) [~~A~~]at least one shower in central bathing facilities [~~shall be~~]is designed [~~in accordance with ADA/ABA-AG~~]for use by a wheelchair patient[~~.~~];

([~~6~~]j) [~~A~~]a toilet room with direct access from the bathing area [~~shall be~~]is provided at each central bathing area[~~.~~] and complies with the following:

([~~a~~]i) [~~D~~]doors to toilet rooms shall [~~comply with ADA/ABA-AG. The doors shall~~]permit access from the outside in case of an emergency[~~.~~];

([~~b~~]ii) [~~A~~]a handwashing fixture [~~shall be~~]is provided for each toilet in each toilet room[~~.~~]; and

([~~c~~]iii) [~~A~~]at least one patient toilet room in each nursing unit [~~shall~~]contains a shower or tub in addition to the toilet and lavatory[~~, F~~] and fixtures [~~shall be~~]are wheel[~~-~~]chair accessible[~~.~~];

([~~7~~]k) [~~T~~]there [~~shall be~~]is at least one seclusion room for each 24 beds[~~, or a fraction thereof,~~] located for direct nursing staff supervision or equipped with a closed circuit television system with a monitor at the nursing station that complies with the following:[~~.~~]

([~~a~~]i) [~~E~~]each seclusion room [~~shall be~~]is designed for occupancy by one patient[~~.~~] and complies with the following:[~~ The room shall have an area of at least 60 square feet and shall be constructed to prevent patient hiding, escape, injury, or suicide.~~]

(ii) the room has an area of at least 60 square feet and is constructed to prevent patient hiding, escape, injury, or suicide;

([~~b~~]iii) [~~I~~]if a [~~facility~~]licensee has more than one nursing unit, the number of seclusion rooms shall be a function of the total number of beds in the facility[~~.~~];

([~~c~~]iv) [~~S~~]seclusion rooms may be grouped in a common area[~~.~~];

([~~d~~]v) [~~S~~]special fixtures and hardware for electrical circuits [~~shall be~~]is used to provide safety for the occupant[~~.~~];

([~~e~~]vi) [~~D~~]doors [~~shall be~~]are 44 inches wide and [~~shall~~]permit staff observation of the patient while providing patient privacy[~~.~~];

([~~f~~]vii) [~~S~~]seclusion rooms [~~shall be~~]are accessed through an anteroom or vestibule large enough to safely manage the patient and[~~which~~] also provide[~~s~~] direct access to toilet rooms[~~.~~]; and[~~ The toilet and anteroom shall be large enough to safely manage the patient.~~]

([~~g~~]viii) [~~S~~]seclusion rooms including floor, walls, ceiling, and all openings, [~~shall be~~]are protected with no[~~t~~] less than one-hour-rated construction.

R432-8-6. Additional Specific Category Requirements.

(1) [~~Dining, Recreation and Day Space.~~]The licensee shall ensure the facility layout [~~shall~~]includes a minimum total inpatient space for dining, recreation, and day use computed on the basis of 30 square feet per bed[~~.~~] and complies with the following:

(a) [~~The facility shall include~~]there is a minimum of 200 square feet for outpatients and visitors when dining is part of a day treatment program[~~.~~];

(b) [~~I~~]if dining is not part of a day treatment program, [~~the facility shall provide~~]there is a minimum of 100 square feet of additional outpatient day space[~~.~~]; and

(c) [~~E~~]enclosed storage space for recreation equipment and supplies [~~shall be~~]is provided in addition to the requirements of day use.

(2) [~~Recreation and Group Therapy Space. A~~]The licensee shall provide at least two separate social areas, one designed for noisy activities and one designed for quiet activities[~~, shall be provided~~] as follows:

(a) [~~A~~]at least 120 square feet [~~shall be~~]is provided for each area[~~.~~];

(b) [~~T~~]the combined area of the two areas shall be at least 40 square feet per patient[~~.~~];

(c) [~~A~~]activity areas may be utilized for dining activities and may serve more than one adult nursing unit[~~.~~];

(d) [~~A~~]activity areas [~~shall be~~]are provided for pediatric and adolescent nursing units [~~which~~]that are separate from adult areas[~~.~~]; and

(e) [~~S~~]space for group therapy [~~shall be~~]is provided and activity spaces may be used for group therapy activities.

(3) The licensee shall provide e[~~E~~]xamination and treatment rooms, [~~shall be provided~~]except when all patient rooms are single-bed rooms[~~.~~] and the licensee shall ensure examination and treatment rooms comply with the following:

(a) [~~A~~]an examination and treatment room may be shared by multiple nursing units[~~.~~];

(b) [~~I~~]if provided, the room [~~shall have~~]measures a minimum floor area of 110 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or movable[~~.~~];

(c) [~~T~~]the minimum allowable floor dimension [~~shall be~~]is ten feet[~~.~~]; and

(d) [~~T~~]the room [~~shall~~]contains a [~~lavatory or~~]sink equipped for handwashing, work counter, storage facilities, and a desk, counter, or shelf space, for writing.

(4) The licensee shall provide a consultation room as follows:[~~A consultation room shall be provided.~~]

(a) [~~R~~]rooms [~~shall~~]have a minimum floor space of 100 square feet, and [~~be~~]are provided at a room-to-bed ratio of one consultation room for each 12 beds[~~.~~];

(b) [~~T~~]they [~~shall be~~]are designed for acoustical and visual privacy and constructed using wall construction assemblies with a minimum Sound Transmission Class rating of 50[~~.~~]; and

(c) [~~T~~]they [~~shall~~]provide appropriate space for evaluation of patient needs and progress, including work areas for evaluators and work space for patients.

(5) The licensee shall provide a[~~A~~] multipurpose room for staff and patient conferences, education, demonstrations, and consultation[~~, shall be provided.~~] as follows:

(a) [~~I~~]it [~~shall be~~]is separate from required activity areas defined in Subsection R432-8-6(2)[~~.~~]; and

(b) [~~I~~]if provided in the administration area, it may be utilized for this requirement if it is conveniently accessible from a patient-use corridor[~~.~~];

(6) [~~I~~]if child education is provided through facility-based programs, a room shall be provided in the adolescent unit for this purpose[~~.~~] as follows:[~~ The room shall contain at least 20 square feet per pediatric and adolescent bed, but not less than 250 square feet. Multiple use rooms may be used, but must be available for educational programs on a first priority basis.~~]

(a) the room measures at least 20 square feet per pediatric and adolescent bed, but not less than 250 square feet; and

(b) multiple use rooms may be used, but shall be available for educational programs on a first priority basis.

(7) The licensee shall ensure the following:[~~Pediatric and adolescent nursing units shall be physically separated from adult nursing units and examination and treatment rooms. In addition to the requirements of R432-8-6(1) through (5), individual rooms or a multipurpose room shall be provided for dining, education, and recreation. Insulation, isolation, and structural provisions shall minimize the transmission of impact noise through the floor, walls, or ceiling of these multipurpose rooms. Service rooms may be shared by more than one pediatric or adolescent nursing unit, but shall not be shared with adult nursing units.~~

~~(a) A patient toilet room, in addition to those serving bed areas, shall be conveniently accessible from multipurpose rooms.~~

~~(b) Storage closets or cabinets for toys, educational, and recreational equipment shall be provided.~~]

(a) pediatric and adolescent nursing units are physically separated from adult nursing units and examination and treatment rooms;

(b) in addition to the requirements of Subsections R432-8-6(1) through (5), individual rooms or a multipurpose room is provided for dining, education, and recreation;

(c) insulation, isolation, and structural provisions minimize the transmission of impact noise through the floor, walls, or ceiling of these multipurpose rooms;

(d) service rooms may be shared by more than one pediatric or adolescent nursing unit, but may not be shared with adult nursing units;

(e) a patient toilet room, in addition to those serving bed areas, shall be conveniently accessible from multipurpose rooms; and

(f) storage closets or cabinets for toys, educational, and recreational equipment is provided.

[~~R432-8-7. Exclusions From the Standard.~~

~~The following sections of the Guidelines do not apply:~~

~~(1) Linen Services, Section 2.5-5.2.~~]

R432-8-[~~8~~]7. Penalties.

(1) The [~~D~~]department may assess a civil money penalty of up to $10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the [~~Bureau~~]Office of Licensing.[~~ The Department may assess a civil money penalty of up to $10,000 if the licensee fails to follow approved architectural plans. The Department may assess a civil money penalty of up to $1,000 per day for each day a new or renovated area is occupied prior to licensing agency approval.~~]

(2) The department may assess a civil money penalty of up to $10,000 if the licensee fails to follow approved architectural plans.

(3) The department may assess a civil money penalty of up to $1,000 per day for each day a new or renovated area is occupied before licensing agency approval.

KEY: health care facilities
Date of Last Change: 2023[~~February 21, 2012~~]
Notice of Continuation: February 28, 2019
Authorizing, and Implemented or Interpreted Law: [~~26-21-5; 26-21-2.1; 26-21-20~~]26B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R432-11**	**Filing ID: 55347**

Agency Information

1. Department:	Health and Human Services
Agency:	Health Care Facility Licensing
Room number:	1st Floor
Building:	Multi-Agency State Office Bldg
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144103
City, state and zip:	Salt Lake City, UT 84114-4103
Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R432-11. Orthopedic Hospital Construction
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**
The proposed amendment includes more clarifying language consistent with the Utah Rulewriting Manual. It also updates citations in accordance with the 2023 recodification of the Department of Health and Human Services' (Department) statute.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. Substantive changes only constitute removal of incorporated materials that will be encompassed as recommended standards in the Department plans review process of Rule R432-4.
B) Local governments:
Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The Orthopedic Hospital Construction Standards are regulated by the Department and not local governments.

There will be no change in local business licensing or any other item(s) with which local government is involved.

Substantive changes only constitute removal of incorporated materials that will be encompassed as recommended standards in the Department plans review process of Rule R432-4.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

Substantive changes only constitute removal of incorporated materials that will be encompassed as recommended standards in the Department plans review process of Rule R432-4.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

Substantive changes only constitute removal of incorporated materials that will be encompassed as recommended standards in the Department plans review process of Rule R432-4.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

Substantive changes only constitute removal of incorporated materials that will be encompassed as recommended standards in the Department plans review process of Rule R432-4.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

Substantive changes only constitute removal of incorporated materials that will be encompassed as recommended standards in the Department plans review process of Rule R432-4.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 26B-2-202		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	04/21/2023

R432. [~~Health, Family Health and Preparedness, Licensing~~]Health and Human Services, Health Care Facility Licensing.

R432-11. Orthopedic Hospital Construction.

R432-11-1. [~~Legal~~]Purpose and Authority.

[~~This rule is adopted pursuant to Title 26, Chapter 21.~~](1) This rule is authorized by Section 26B-2-202.

[

~~**R432-11-2. Purpose.**~~**]**

(2) The purpose of this rule is to establish construction standards for a specialty hospital for orthopedic services.

[~~R432-11-3. General Design Requirements.~~

~~(1) See R432-4-1 through R432-4-22.~~

~~(2) All fixtures in resident toilet and bathrooms shall be wheelchair accessible with wheelchair turning space within the room.~~

]

R432-11-[4]2. General Construction.

(1) [~~See R432-4-23~~] The licensee shall additionally comply with Section R432-4-19 and ensure compliance with the following modifications:

([~~1~~]a) [~~C~~]corridors in patient use areas [~~shall be~~]are a minimum of eight feet wide[~~.~~];

([~~2~~]b) [~~H~~]handrails [~~shall be~~]are provided on both sides of corridors and hallways used by patients [~~and meet the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines requirements. The top of the rail shall be~~]that are 34 inches above the floor, except for areas serving children and other special care areas[~~.~~]; and

(c) fixtures in a resident toilet and bathroom are wheelchair accessible with wheelchair turning space within the room.

([~~3~~]2) [~~Plumbing, including medical gas and suction systems are required.~~]The licensee shall provide the following:

(a) plumbing, including medical gas and suction systems;

([~~4~~]b) [~~A~~]an emergency electrical service;[~~ is required. An on-site emergency generator shall be provided and the following services shall be connected to the emergency generator:~~]

(c) an onsite emergency generator connected to the recommended services in the plans review required in Section R432-4-12;

[~~(a) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70, which is adopted and incorporated by reference;~~

~~(b) critical branch as defined in 517-33 of the National Electric Code NFPA 70, which is adopted and incorporated by reference;~~

~~(c) equipment system, as defined in 517-34 of the National Electric Code NFPA 70, which is adopted and incorporated by reference;~~]

(d) telephone;

(e) nurse call;

(f) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;

(g) one duplex receptacle in each patient room;

(h) one duplex receptacle at each nurse station;

(i) duplex receptacles in the emergency heated area at a ratio of one for each ten patients; and

(j) fuel storage capacity [~~shall~~]that permits continuous operation for at least 48 hours.

[~~(5) If installed, fixed and mobile X-ray equipment shall comply with Articles 517 and 660 of NFPA 70, which is adopted and incorporated by reference.~~]

R432-11-[~~5~~]3. General Construction. Patient Service Facilities.

[~~(1) Requirements of R432-4-24 and the requirements of Sections 2.1 and 2.2 of Guidelines for Design and Construction of Health Care Facilities, 2010 edition (Guidelines) shall be met. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.~~]

([~~2~~]1) The licensee shall ensure that each orthopedic hospital [~~N~~]nursing [~~U~~]unit[~~s shall meet~~] complies with Section R432-4-20 and provides the following space requirements:

(a) [~~A~~]at least two single-bed rooms, with private toilet rooms[~~, shall be provided for each nursing unit.~~]; and

(b) [~~Minimum~~]room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, [~~shall be~~]measure a minimum of 140 square feet in a single-bed room[~~s~~] and 125 square feet per bed in a multiple-bed room[~~s.~~].[~~ The listed areas are minimum and do not prohibit larger rooms.~~]

([~~3~~]2) The licensee shall ensure that[~~Imaging Suites. Imaging facilities for diagnostic procedures, include the following: radiology, mammography, computerized scanning, ultrasound and other imaging techniques.~~

~~(a) Imaging facilities may be provided within the facility or through contractual arrangement with a qualified radiology service or nearby hospital.~~] there are facilities provided onsite or through a contractual arrangement with a qualified radiology service or nearby hospital that provide the following imaging services for diagnostic procedures:

(a) radiology;

(b) mammography;

(c) computerized scanning;

(d) ultrasound; and

(e) other imaging techniques.

[~~(b) If imaging facilities are provided in-house, they shall meet the requirements for an imaging suite defined in Guidelines for Design and Construction of Health Care Facilities, section 2.2-3.4.~~]

([~~4~~]3) [~~Laboratory Services.~~]The licensee shall provide laboratory space and equipment either onsite or through a contractual arrangement with a department-approved laboratory and collect, test, process and store specimens for the following:

(a) blood counts;

(b) urinalysis;

(c) blood glucose;

(d) electrolytes; and

(e) blood urea nitrogen.

(4) Each orthopedic hospital licensee shall ensure there is space and equipment onsite to perform rapid testing, regardless of whether the licensee provides laboratory services onsite or contracted elsewhere.

[~~(a) Laboratory space and equipment shall be provided in-house for testing blood counts, urinalysis, blood glucose, electrolytes, blood urea nitrogen (BUN), and for the collection, processing, and storage of specimens.~~

~~(b) In lieu of providing laboratory services in-house, contractual arrangements with a Department-approved laboratory may be provided. Even when contractual services are arranged, the facility shall maintain space and equipment to perform on-site rapid testing.~~]

(5) [~~Pharmacy Guidelines.~~]The licensee shall provide a description of pharmacy services in the functional program required in Section R432-4-13 that outlines the type of drug distribution system and whether the licensee will provide, purchase, or share, pharmacy services to determine the size and type of services that the licensee may provide.

[~~(a) The size and type of services provided in the pharmacy shall depend on the drug distribution system chosen and whether the facility proposes to provide, purchase, or share pharmacy services. A description of pharmacy services shall be provided in the functional program.~~]

([~~b~~]a) The licensee shall provide[~~There shall be~~] a pharmacy room or suite, under the direct control of staff, [~~which~~]that is located for convenient access and equipped with [~~appropriate~~]security features for controlled access.

([~~c~~]b) The licensee shall ensure the pharmacy room [~~shall~~]contains facilities for the dispensing, basic manufacturing, storage and administration of medications, and for handwashing.

([~~d~~]c) In lieu of providing pharmacy services in-house, the licensee may enter a contractual arrangement[~~s~~] with a licensed pharmacy[~~ shall be provided~~]. If the licensee arranges contractual services[~~ are arranged~~], the [~~facility~~]licensee shall maintain space and basic pharmacy equipment to prepare and dispense necessary medications in back-up or emergency situations.

[~~(e) If additional pharmacy services are provided, facilities shall comply with requirements of Guidelines section 2.2-4.2.~~

~~(6) Linen Services shall comply with R432-4-24(8).~~]

([~~7~~]6) [~~Toilet Facilities.~~]The licensee shall provide a[~~A~~] toilet room[~~,~~] with direct access from the bathing area [~~shall be provided~~]at each central bathing area,[~~.~~] the toilet room shall comply with the following:

(a) [~~D~~]doors to toilet rooms [~~shall be~~]are equipped with hospital privacy locks or other hardware that protects patient privacy and permits access from the outside without the use of keys or special tools in case of an emergency[~~.~~];

(b) [~~A~~]a handwashing fixture [~~shall be~~]is provided for each toilet in each toilet room[~~.~~]; and

(c) [~~F~~]fixtures [~~shall be~~]are wheelchair accessible.

([~~8~~]7) [~~Patient Day Spaces.~~

~~(a)~~]The [~~facility~~]licensee shall [~~include~~]ensure there is a minimum total inpatient space for dining, recreation, and day use computed on the basis of 30 square feet per bed for the first 100 beds and 27 square feet per bed for all beds in excess of 100.

([~~b~~]a) In addition to the required space defined for inpatients, the [~~facility~~]licensee shall include a minimum of 200 square feet for outpatient and visitors when dining is part of a day [~~care~~]program. If dining is not part of a day [~~care~~]program, the facility shall provide a minimum of 100 square feet of additional outpatient day space.

([~~c~~]b) The licensee shall provide e[~~E~~]nclosed storage space for recreation equipment and supplies.[~~ shall be provided.~~]

([~~9~~]8) [~~Examination and Treatment Room.~~]The licensee shall provide a[~~A~~]n examination and treatment room, [~~shall be provided~~]except when all patient rooms are single-bed rooms.

(a) Multiple nursing units may share a[~~A~~]n examination and treatment room.[~~ may be shared by multiple nursing units.~~]

(b) When provided, the licensee shall ensure the examination and treatment room [~~shall have~~]has a minimum floor area of 120 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or movable.

(c) The minimum floor dimension [~~shall be~~]of an examination and treatment room is ten feet.

(d) The licensee shall ensure that an examination and treatment room [~~shall~~]contains a lavatory or sink equipped for handwashing, work counter, storage facilities, and a desk, counter, or shelf space for writing.

([~~10~~]9) [~~Consultation Room.~~]The licensee shall provide a[~~A~~] consultation room, arranged with a desk and work area, workspace for patients and storage for supplies to permit an evaluation of patient needs and progress.[~~, shall be provided. The room shall include a desk and work area for the evaluators, writing and work space for patients, and storage for supplies.~~

~~(11) Surgical Unit. If surgical services are offered, facilities shall be provided in accordance with the Guidelines.~~]

[~~R432-11-6. Excluded Guideline Sections.~~

~~The following sections of the Guidelines do not apply:~~

~~(1) Oncology Nursing Unit, Section 2.2-2.3~~

~~(2) Pediatric and Adolescent Oncology Nursing Unit, Section 2.2-2.4~~

~~(3) Intermediate Care Unit, Section 2.2-2.5.~~

~~(4) Critical Care Unit, Section 2.2-2.6.~~

~~(5) Coronary Critical Care Unit, Section 2.2-2.7.~~

~~(6) Combined Medical/Surgical Critical Care and Coronary Care Unit, Section 2.2-2.8.~~

~~(7) Pediatric Critical Care Unit, Section 2.2-2.9.~~

~~(8) Newborn Intensive Care Unit, Section 2.2-2.10.~~

~~(9) Obstetrical Unit, Section 2.2-2.11.~~

~~(10) Nursery Unit, Section 2.2-2.12.~~

~~(11) Pediatric and Adolescent Unit, Section2.2-2.13.~~

~~(12) Psychiatric Nursing Unit, Section 2.2-2.14.~~

~~(13) In-Hospital Skilled Nursing Unit, Section 2.2-2.15.~~

~~(14) Bariatric Care Unit, Section 2.2-2.16.~~

~~(15) Freestanding Emergency Care Facility, Section 2.2-3.2.~~

~~(16) Interventional Imaging Services, Section 2.2-3.5.~~

~~(17) Nuclear Medicine Services, Section 2.2-3.6.~~

~~(18) Renal Dialysis Services, Section 2.2-3.9.~~

~~(19) Cancer Treatment/Infusion Therapy Service, Section 2.2-3.10.~~
~~(20) Gastrointestinal Endoscopy Service, Section 2.2-3.11.~~
~~(21) Hyperbaric Suite, Section 2.2-3.12.~~
~~(22) Linen Services, Section 2.2-5.2.~~
~~(23) Morgue Facilities, Section 2.2-5.7.~~]

R432-11-[~~7~~]4. Penalties.

(1) The [~~D~~]department may assess a civil money penalty of up to $10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the [~~Bureau of Licensing~~]department.[~~ The Department may assess a civil money penalty of up to $10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $1,000 per day for each day a new or renovated area is occupied prior to licensing agency approval.~~]

(2) The department may assess a civil money penalty of up to $10,000 if the licensee fails to follow department-approved architectural plans.

(3) The department may assess a civil money penalty of up to $1,000 per day for each day a new or renovated area is occupied before receiving licensing agency approval.

(4) Section 26B-2-208 authorizes the department's assessment of civil money penalties.

KEY: health care facilities
Date of Last Change: 2023[~~February 21, 2012~~]
Notice of Continuation: March 4, 2019
Authorizing, and Implemented or Interpreted Law: [~~26-21-5; 26-21-2.1; 26-21-20~~]26B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R432-100**	**Filing ID: 55350**

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Facility Licensing	
Room number:	1st Floor	
Building:	Multi-Agency State Office Bldg.	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385 321-5586	jweinman@utah.gov
Kristi Grimes	385-214-9187	kristigrimes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R432-100. General Hospital Standards
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**
The revisions include more specific language consistent with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.
B) Local governments:
Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. The General Hospital Standards are regulated by the Department of Health and Human Services and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved. There are no substantive changes being made regarding the fiscal impacts of this rule.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no substantive changes being made regarding the fiscal impacts of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-2-219

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/25/2023

R432. Health and Human Services, [~~Family~~]Health [~~and Preparedness,~~]Care Facility Licensing.
R432-100. General Hospital Standards.
R432-100-1. [~~Legal~~]Authority.

Section 26B-1-202 authorizes this rule.[~~This rule is adopted pursuant to Title 26, Chapter 21.~~]

R432-100-2. Purpose.

The purpose of this rule is to promote the public health and welfare through establishment and enforcement of [~~the~~]licensure standards. The rule sets standards for the construction and operation of a general hospital. The standards of patient care apply to inpatient, outpatient, and satellite services.

R432-100-3. Definitions.

(1) General Definitions of Rule R432-1 additionally apply to General Hospital Standards.

(2) "Caregiver" means an individual designated by a patient of the hospital to assist with continuing care that can be given in the patient's residence after discharge.

(3) "Hospital blood services" are defined as follows:

(a) a "blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility;

(b) a "donor center" means a facility that procures, prepares, processes, stores, and transports blood and blood components;

(c) a "transfusion service" means a facility that stores, determines compatibility, transfuses blood and blood components, and monitors transfused patients for any adverse effect.

(4) "Swing-Bed" means a hospital room that can switch from inpatient acute care status to skilled care status.

(5) "Type I Acute or Critical Access Hospital" means a hospital that offers comprehensive emergency care 24 hours per day in-house, with at least one physician experienced in emergency care on staff in the emergency care area.

(6) "Type II Acute or Critical Access Hospital" means a hospital that offers emergency care 24 hours per day, with at least one physician experienced in emergency care on duty in the emergency care area, and with specialty consultation available within 30 minutes by members of the medical staff.

(7) "Type III Acute or Critical Access Hospital" means a hospital that offers emergency care 24 hours per day, with at least one physician available to the emergency care area within 30 minutes through a medical staff call roster.

(8) "Type IV Acute or Critical Access Hospital" means a hospital that offers emergency first aid treatment to patients, staff, and visitors; and to persons who may be unaware of, or unable to immediately reach services in other facilities.

R432-100-[~~3~~]4. Construction, Facilities, and Equipment Standards.

A[~~Hospitals~~] licensee shall [~~be~~]follow Rule R432-4 [~~constructed and maintained in accordance with R432-4-1 through R432-4-25~~]up to and including the General Construction-Patient Facilities section.

R432-100-[~~4~~]5. Hospital Swing-Bed and Transitional Care Units.

(1) [~~Hospitals~~]A licensee that operates a hospital with designated swing bed units or transitional care units shall comply with this section.

([~~1~~]2) In addition to Rule R432-100, a licensee that operates designated hospital swing beds shall comply with the following sections of Rule R432-150, Nursing Care Facility Rules:[~~150-4, 150-5, 150-11 through 150-17, 150-20, 150-22, and 150-24.~~]

(a) Definitions;

(b) Scope of Services, R432-150-5;

(c) Quality Assurance, R432-150-11;

(d) Resident Rights, R432-150-12;

(e) Resident Assessment, R432-150-13;

(f) Restraint Policy, R432-150-14;

(g) Quality of Care, R432-150-15;

(h) Physician Services,R432-150-16;

(i) Laboratory Services, R432-150-17;

(j) Recreation Therapy, R432-150-19;

(k) Admission, Transfer and Discharge, R432-150-21; and

(l) Food Services, R432-150-23.

([~~2~~]3) A [~~T~~]transitional [~~C~~]care [~~U~~]unit[~~s~~] [~~shall be licensed~~]requires licensure as a [~~N~~]nursing [~~C~~]care [~~F~~]facility[~~ies~~] under a separate licensing category and the licensee shall conform to the requirements of Rule R432-150, Nursing Care Facility Rule[~~s~~].

R432-100-[~~5~~]6. Governing Body.

(1) Each [~~licensed hospital~~]licensee shall have a governing body hereinafter called the board.

(2) The board members [~~shall be~~]are legally responsible for the conduct of the hospital staff. The board members are[~~is~~] also responsible for the appointment of the medical staff and an administrator assigned to carry out the requirements of Section R432-100-7.

(3) The licensee shall ensure that the board [~~shall be~~]is organized in accordance with the [~~A~~]articles of [~~I~~]incorporation or [~~B~~]bylaws that specify:[~~.~~]

[~~(a) The Articles or Bylaws shall specify:~~]

([~~i~~]a) the duties and responsibilities of the board members;

([~~ii~~]b) the method for election or appointment to the board;

([~~iii~~]c) the size of the board;

([~~iv~~]d) the terms of office of the board;

([~~v~~]e) the methods for removal of board members and officers;

([~~vi~~]f) the duties and responsibilities of the officers and any standing committees;

([~~vii~~]g) the numbers or percentages of members that constitute a quorum for board meetings;

([~~viii~~]h) the board's functional organization, including any standing committees;

([~~ix~~]i) to whom responsibility for operation and maintenance of the hospital, including evaluation of hospital practices, may be delegated;

([~~x~~]j) the methods established by the board for holding such individuals responsible;

([~~xi~~]k) the mechanism for formal approval of the organization, bylaws, rules of the medical staff and hospital departments; and

([~~xii~~]l) the frequency of meetings.

(4) The board members shall meet not less than quarterly, and shall keep written minutes of meetings and actions, and distribute copies to members of the board.

(5) The board members shall employ a competent executive officer or administrator and vest this person with authority and responsibility for carrying out board policies. The board shall define the executive officer or administrator's qualifications, responsibilities, authority, and accountability [~~shall be defined~~]in writing.

(6) The board, through its officers, committees, medical and other staff, shall:

(a) develop and implement a long-range plan;

(b) appoint members of the medical staff and delineate their clinical privileges;

(c) approve organization, bylaws, and rules of medical staff and hospital departments; and

(d) maintain a list of the scope and nature of [~~all~~]any contracted services.

R432-100-[6]7. Administrator.

(1) The administrator shall establish and maintain an organizational structure for the hospital indicating the authority and responsibility of various positions, departments, and services within the hospital.

(2) The administrator shall:

([~~2~~]a) [~~The administrator shall~~]designate, in writing, a person to act in the administrator's absence[~~.~~];

([~~3~~]b) [~~The administrator shall~~]be the direct representative of the board in the management of the hospital[~~.~~];

([~~4~~]c) [~~The administrator shall~~]function as liaison between the board, the medical staff, the nursing staff, and departments of the hospital[~~.~~];

([~~5~~]d) [~~The administrator shall~~]advise the board in the formulation of hospital policies and procedures;[~~. The administrator shall review and revise policies and procedures to reflect current hospital practice.~~]

(e) review and revise policies and procedures to reflect current hospital practice;

(f) ensure that policies and procedures are implemented and followed;

[~~(6) The administrator is responsible to see that hospital policies and procedures are implemented and followed.~~]

([~~7~~]g) [~~The administrator shall~~]maintain a written record of all business transactions and patient services provided[~~rendered~~] in the hospital and submit reports as requested to the board[~~.~~];

(h) ensure that each applicant for medical and professional staff membership is oriented to agency or hospital bylaws and shall agree in writing to abide by each condition;

([~~8~~]i) ensure that [~~P~~]patient billing practices [~~shall~~]comply with the requirements of Section 26B-2-219[~~26-21-20 UCA.~~]; and

([~~9~~]j) [~~The administrator shall~~]appoint a member of the staff to oversee compliance with the requirements of the Utah Anatomical Gift Act.

R432-100-[7]8. Medical and Professional Staff.

(1) Each [~~hospital~~]licensee shall have an organized medical and professional staff that operates under bylaws approved by the board.

(2) The medical and professional staff shall advise and be accountable to the board for the quality of medical care provided to patients.

(3) The medical and professional staff [~~must~~]shall adopt bylaws, and policies and procedures to establish and maintain a qualified medical and professional staff including current licensure, relevant training and experience, and competency to perform the privileges requested. The bylaws shall address:

(a) the appointment and re-appointment process;

(b) the necessary qualifications for membership;

(c) the delineation of privileges;

(d) the participation and documentation of continuing education;

(e) temporary credentialing and privileging of staff in emergency or disaster situations; and

(f) a fair hearing and appeals process.

(4) A fully qualified physician who is licensed by the Department of Commerce shall supervise and direct the[~~The~~] medical care of [~~all~~]each [~~persons~~]person admitted to the hospital.[~~shall be under the supervision and direction of a fully qualified physician who is licensed by the state.~~] During an emergency or disaster situation, a member of the credentialed and privileged staff [~~must~~]shall supervise temporary credentialed practitioners.

(5) The licensee may not deny an applicant that is a podiatrist or psychologist solely on the grounds that they are not licensed to practice medicine under Chapter 58-67, Utah Medical Practice Act or Chapter 58-68, the Utah Osteopathic Medical Licensing Act.[~~An applicant for staff membership and privileges may not be denied solely on the ground that the applicant is a licensed podiatrist or licensed psychologist rather than licensed to practice medicine under the Utah Medical Practice Act or the Utah Osteopathic Medical Licensing Act.~~]

(6) Membership and privileges may not be denied on any ground that is otherwise prohibited by law.

(7) The licensee shall orient e[~~E~~]ach applicant for medical and professional staff membership [~~must be oriented~~]to the bylaws and [~~must~~]ensure they agree, in writing, to abide by [~~all~~]each condition[~~s~~].

(8) The medical and professional staff shall review each applicant and grant privileges based on the scope of their license and abilities.

(9) The medical and professional staff shall review appointments and re-appointments to the medical and professional staff at least every two years.

(10) During an emergency or disaster situation, the [~~hospital~~]licensee shall ensure that each temporary practitioner is oriented to their assigned area.[~~orient each temporary practitioner to the practioner's assigned area of the hospital.~~]

R432-100-[8]9. Personnel Management Service.

(1) The licensee shall organize the personnel management system [~~is organized~~]to ensure: personnel are competent to perform their respective duties, services, and functions.

(2) The licensee shall ensure that there are[~~There shall be~~] written policies, procedures, and performance standards that include:

(a) job descriptions for each position or employee;

(b) periodic employee performance evaluations;

(c) employee health screening, including Tuberculosis testing;

(i) Employee skin testing by the Mantoux method or other Food and Drug Administration (FDA) approved in-vitro serologic test and follow-up for tuberculosis [~~shall be~~]is done in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis[~~.~~];

(ii) [~~The licensee shall ensure that all~~]each employee[~~s~~] [~~are~~]is skin-tested for tuberculosis within two weeks of:

(A) initial hiring;

(B) suspected exposure to a person with active tuberculosis; and

(C) development of symptoms of tuberculosis.

(iii) Skin testing [~~shall be~~]is exempted for [~~all~~]any employee[~~s~~] with known positive reaction to skin tests.

(d) [~~policies to ensure that all~~]each employee[~~s~~] receives unit-specific training;

(e) [~~policies to ensure that all hospital~~]direct care staff receive continued competency training in current patient care practices;

(f) [~~policies to ensure that all hospital~~]direct care staff have current cardiopulmonary resuscitation certification. [~~Certification in Cardiopulmonary Resuscitation (CPR) refers to certification issued after completion of a course that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR;~~]Completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor is required for CPR certification; and

(g) [~~policies to ensure that~~]Occupational Safety and Health Administration [~~OSHA~~]regulations regarding [~~B~~]blood [~~B~~]borne [~~P~~]pathogens are implemented and followed.

(3) [~~All~~]The licensee shall ensure that medical and professional personnel [~~shall be~~]are registered, certified, or licensed as required by the Utah Department of Commerce within 45 days of employment.

(4) The licensee shall maintain [~~A~~]a copy of [~~the~~]each current certificate, license, or registration [~~shall be~~]available for [~~D~~]department review.

(5) The licensee shall provide[~~All direct care and housekeeping staff shall receive~~] annual documented in-service training for direct care and housekeeping staff that addresses[~~ in~~] the requirements for reporting abuse, neglect, or exploitation of children or adults.

(6) The licensee may utilize a [~~V~~]volunteer[~~s may be utilized~~] in the daily activities of the hospital[~~,~~] but a volunteer may[~~shall~~] not be included in the hospital staffing plan in lieu of hospital employees.

(a) the licensee shall screen and supervise a v[~~V~~]olunteer[~~s shall be screened and supervised~~] according to hospital policy.

(b) the licensee shall ensure that a v[~~V~~]olunteer[~~s shall be~~] is familiar with hospital volunteer policies, including patient rights and hospital emergency procedures.

(7) If the [~~hospital~~]licensee participates in a professional graduate education program, the[~~re~~] licensee shall ensure that there are[~~shall be~~] policies and procedures specifying the patient care responsibilities and supervision of the graduate education program participants.

R432-100-[~~9~~]10. Quality Improvement Plan.

(1) The [~~B~~]board members shall ensure that there is a well-defined quality improvement plan designed to improve patient care.

(2) The plan shall:[~~ be consistent with the delivery of patient care.~~]

(a) be consistent with the delivery of patient care;

([~~3~~]b) [~~The plan shall~~]be implemented and include a system for the collection of indicator data[~~.~~];

([~~a~~]c) [~~The plan shall~~]include an incident reporting system to identify problems, concerns, and opportunities for improvement of patient care[~~.~~];

([~~b~~]d) ensure that [~~I~~]incident reports [~~shall be~~]are available for [~~D~~]department review[~~.~~];

([~~e~~]e) [~~A system shall be implemented~~]include a system for assessing identified problems, concerns, and opportunities for improvement[~~.~~]; and

([~~4~~]f) [~~The plan shall~~]implement actions that are designed to eliminate identified problems and improve patient care.

([~~5~~]3) [~~Each hospital~~]The licensee shall maintain a quality improvement committee. The quality improvement committee shall maintain[~~keep and make available for Department review~~] written minutes documenting corrective actions and results and make these minutes available for department review.

([~~6~~]4) The quality improvement committee shall report findings and concerns, at least quarterly, to the board, the medical staff, and the administrator.

([~~7~~]5) The licensee shall ensure that i[~~I~~]nfection reporting [~~shall be~~]is integrated into the quality improvement plan[~~,~~] and [~~shall be~~]is reported to the [~~D~~]department in accordance with Rule R386-702 Communicable Diseases.

R432-100-[~~10~~]11. Infection Control.

(1) [~~Each hospital~~]The licensee [~~must~~]shall implement a hospital-wide infection control program that includes the following:[~~.~~]

[~~(1) The infection control program shall include at least the following:~~]

(a) definitions of nosocomial infections;

(b) a system for reporting, evaluating, and investigating infections;

(c) review and evaluation of aseptic, isolation, and sanitation techniques;

(d) methods for isolation [~~in relation~~]depending on [~~to~~]the medical condition involved;

(e) preventive, surveillance, and control procedures;

(f) laboratory services;

(g) an employee health program;

(h) orientation of [~~all~~]any new employees; and

(i) documented in-service education for [~~all~~]any departments and services [~~relative~~]related to infection control.

(2) The licensee shall incorporate [~~I~~]infection control reporting data [~~shall be incorporated~~]into the hospital quality improvement process.

(3) The[~~re shall be~~] licensee shall ensure that:[~~written infection control policies and procedures for each area of the hospital, including requirements dictated by the physical layout, personnel and equipment involved.~~

~~(4) There shall be written policies for the selection, storage, handling, use, and disposition of disposable or reusable items. Single-use items may be reused according to hospital policy.~~

~~(a) Reusable items shall have specific policies and procedures for each type of reuse item.~~

~~(b) Reuse data shall be incorporated into the quality improvement process.~~

~~(c) Reuse data shall be incorporated in the hospital infection control identification and reporting process.~~]

(a) there are written infection control policies and procedures for each area of the hospital, including requirements dictated by the physical layout, personnel and equipment involved;

(b) there are written policies for the selection, storage, handling, use and disposition of disposable or reusable items. Single-use items may be reused according to the policy;

(c) there are specific policies and procedures for each type of reusable item;

(d) reuse data is incorporated into the quality improvement process; and

(e) reuse data is incorporated into the hospital infection control identification and reporting processes.

R432-100-[~~11~~]12. Patient Rights.

(1) The [~~facility~~]licensee shall inform each patient at the time of admission of patient rights and support the exercise of the patient's right to:[~~ the following:~~]

(a) [~~to~~]access [~~all~~]any medical records, and to purchase at a cost not to exceed the community standard, photocopies of [~~his~~]their record;

(b) [~~to~~]be fully informed of [~~his~~]their medical health status in a language [~~he~~]they can understand;

(c) [~~to~~]reasonable access to care;

(d) [~~to~~]refuse treatment;

(e) [~~to~~]formulate an [~~advanced~~]advance directive in accordance with the Title 75, Chapter 2a, Advance Health Care Directive Act[~~ Advance Health Care Directive Act, UCA 75-2a~~];

(f) [~~to~~]uniform, considerate, and respectful care;

(g) [~~to~~]participate in the decision~~-~~making process [~~involved~~]in managing [~~his~~]their health care with [~~his~~]their physician, or to have a designated representative involved;

(h) [~~to~~]express complaints regarding the care received and to have those complaints resolved when possible;

(i) [~~to~~]refuse to participate in experimental treatment or research;

(j) [~~to~~]be examined and treated in surroundings designed to give visual and auditory privacy; and

(k) [~~to~~]be free from mental and physical abuse, and to be free from chemical and, [~~(~~]except in emergencies,[~~)~~] physical restraints except as authorized in writing by a licensed practitioner for a specified and limited period [~~of time~~]or when necessary to protect the patient from injury to [~~himself~~]themselves or others.

(2) The [~~hospital~~]licensee shall establish a policy and inform patients and legal representatives regarding the withholding of resuscitative services and the forgoing or withdrawing of life~~-~~-sustaining treatment and [~~care at the end of life~~]end-of-life care. The licensee shall ensure the[~~This~~] policy [~~shall be~~]consistent with [~~state law~~]the Advanced Health Care Directive Act, Section 75-2(a).

R432-100-[~~12~~]13. Patient Designated Caregiver.

(1) The [~~hospital~~]licensee shall give a patient admitted to the hospital the opportunity to designate a caregiver who will assist the patient with continuing care after discharge from the hospital.

[~~(a) A caregiver is an individual designated by an inpatient of the hospital to assist with continuing care that can be given in the patient's residence after discharge;~~]

([~~b~~]a) The [~~hospital~~]licensee shall document the designated caregiver in the patient record and include contact information; and

([~~e~~]b) [~~If~~]if the patient declines to designate a caregiver, the [~~hospital~~]licensee shall document the patient's choice in the medical record.

(2) The [~~hospital~~]licensee shall notify the designated caregiver as soon as practicable before [~~any~~]either of the following circumstances occur:

(a) [~~The~~]the patient is transferred to another health facility; or

(b) [~~T~~]the patient is discharged back to their own residence.

(3) If the [~~hospital is unable to~~]licensee cannot contact the designated caregiver when changes occur, the lack of contact [~~shall~~]may not interfere with, delay, or otherwise affect the medical care provided to the patient or the transfer or discharge of the patient.

(4) The [~~hospital~~]licensee shall document any attempt to contact the designated caregiver in the patient record, to include dates and times attempted.

(5) The patient may give written consent to allow the [~~hospital~~]licensee to release medical information to the designated caregiver, pursuant to the hospital's established procedures for the release of personal health information.

(6) [~~Prior to~~]Before the patient [~~being~~]is discharged, the [~~hospital~~]licensee shall provide a written discharge plan for continuing care needs to the patient and designated caregiver, [~~which~~]that shall include:

(a) [~~The~~]the name and contact information of the designated caregiver and relation to the patient;

(b) [~~A~~]a description of continuing care tasks that the patient requires, in a culturally competent manner; and

(c) [~~Contact~~]contact information for any other health care resources necessary to meet the needs of the patient.

(7) [~~Prior to~~]Before the patient [~~being~~]is discharged, the [~~hospital~~]licensee shall provide the designated caregiver with an opportunity for instruction in continuing care tasks outlined in the discharge plan, [~~which~~]that shall include:

(a) [~~D~~]demonstration of the continuing care tasks by hospital personnel;[~~ and~~]

(b) [~~O~~]opportunity for the patient and designated caregiver to ask questions and receive answers regarding the continuing care tasks; and

(c) [~~Education~~]education and counseling about medications, including dosing and proper use of delivery devices.

(8) The [~~hospital~~]licensee shall document the instruction given to the patient and designated caregiver in the patient record, to include the date, time, and contents of the instructions.

R432-100-[~~13~~]14. Nursing Care Services.

(1) The licensee shall ensure that there is[~~There shall be~~] an organized nursing department that is integrated with other departments and services.

(a) The license shall ensure the chief nursing officer of the nursing department [~~shall be~~]is a registered nurse with demonstrated ability in nursing practice and administration.

(b) The chief nursing officer shall approve the n[~~N~~]ursing policies and procedures, nursing standards of patient care, and standards of nursing practice.[~~ shall be approved by the chief nursing officer.~~]

(c) The licensee shall ensure a[~~A~~] registered nurse [~~shall be~~]is designated and authorized to act in the chief nursing officer's absence.

(d) Nursing tasks may be delegated pursuant to Section R156-31-701, Delegation of Nursing Tasks.

(2) The licensee shall ensure [~~Q~~]qualified registered nurses [~~shall be~~]are on duty [~~at all times~~]24 hours per day to give patients nursing care that requires the judgment and special skills of a registered nurse.[~~ The nursing department shall develop and maintain a system for determining staffing requirements for nursing care on the basis of demonstrated patient need, intervention priority for care, patient load, and acuity levels.~~]

(3) The nursing department shall develop and maintain a system for determining staffing requirements for nursing care on the

basis of demonstrated patient need, intervention priority for care, patient load, and acuity levels.

([~~3~~]4) Nursing staff shall document nursing care [~~shall be documented~~]for each patient from the time of admission through discharge.

(a) A registered nurse shall [~~be responsible to~~]document each patient's nursing care and coordinate [~~the provision of~~]interdisciplinary care.

(b) The licensee shall ensure that n[~~N~~]ursing care documentation [~~shall~~]includes:[~~ the assessments of patient's needs, clinical diagnoses, intervention identified to meet the patient's needs, nursing care provided and the patients response, the outcome of the care provided, and the ability of the patient, family, or designated caregiver in managing the continued care after discharge.~~]

(i) the assessments of patient's needs;

(ii) clinical diagnoses;

(iii) intervention identified to meet the patient's needs;

(iv) nursing care provided and the patient's response;

(v) the outcome of the care provided; and

(vi) the ability of the patient, family, or designated caregiver in managing the continued care after discharge.

(c) [~~Patients~~]Before discharge, each patient shall receive [~~prior to discharge~~]written instructions for any follow-up care or treatment.

R432-100-[~~14~~]15. Critical Care Unit.

(1) [~~Hospitals~~]A licensee that provides a critical care unit[~~s~~] shall comply with the requirements of Section R432-100-[~~14~~]15. The scope of services as delineated in hospital policy and board approval shall dictate the m[~~M~~]edical direction for the unit.[~~(s) shall be according to the scope of services provided as delineated in hospital policy and approved by the board.~~]

(2) A designated, qualified, registered nurse manager with relevant education, training and experience in critical care shall provide c[~~C~~]ritical care unit nursing direction.[~~ shall be provided by a designated, qualified registered nurse manager who has relevant education, training and experience in critical care.~~] The [~~supervising~~]nurse manager shall:[~~ coordinate the care provided by all nursing service personnel in the critical care unit. The registered nurse manager shall have administrative responsibility for the critical care unit, assuring that a registered nurse who has advanced life support certification is on duty and in the unit at all times.~~]

(a) coordinate the care provided by any nursing service personnel in the critical care unit;

(b) have administrative responsibility for the critical care unit; and

(c) assure that a registered nurse who has advanced life support certification is on duty and present in the unit 24 hours per day.

(3) The licensee shall ensure that [~~E~~]each critical care unit [~~shall be~~]is designed and equipped to facilitate the safe and effective care of the patient population served[~~. E~~] and make equipment and supplies [~~shall be~~]available to the unit as determined by hospital policy in accordance with the needs of the patients.

(4) The licensee shall ensure that a[~~A~~]n emergency cart [~~must be~~]is readily available to the unit and contains appropriate drugs and equipment according to hospital policy. The nursing manager shall check t[~~T~~]he cart, or the cart locking mechanism, [~~must be checked~~]every shift and after each use to assure that [~~all~~]any items required for immediate patient care are in place in the cart and in usable condition.

(5) The licensee shall ensure that the following support services [~~shall be~~]are immediately available to the critical care unit on a 24-hour basis:

(a) blood bank or supply;

(b) clinical laboratory; and

(c) radiology services.

(6) If the [~~hospital~~]licensee provides dialysis services, the dialysis services shall comply with the following sections of Rule R432-650 End Stage Renal Disease Facility Rules:[~~, sections R432-650-7, Required Staffing; and R432-650-12, Water Quality.~~]

(a) Required Staffing; and

(b) Water Quality.

R432-100-[~~15~~]16. Surgical Services.

(1) The licensee shall integrate s[~~S~~]urgical services provided by the hospital [~~shall be integrated~~]with other departments or services of the hospital[~~. T~~] and specify in writing the relationship, objective, and scope of [~~all~~]each surgical service[~~s~~].[~~ shall be specified in writing.~~]

(a) A person appointed and authorized by the administrator shall provide administrative direction of surgical services.[~~ shall be provided by a person appointed and authorized by the administrator.~~]

(b) A member of the medical staff shall provide m[~~M~~]edical direction of surgical services.[~~ shall be provided by a member of the medical staff.~~]

(c) A [~~Q~~]qualified registered nurse[~~s~~] shall supervise the provision of surgical nursing care.

(d) A qualified registered nurse shall direct and supervise t[~~T~~]he operating room suites. [~~shall be directed and supervised by a qualified registered nurse.~~] The supervisor shall have authority and responsibility for:

(i) assuring that the planned procedure is within the scope of privileges granted to the physician[~~.~~];

(ii) maintaining the operating room register; and

(iii) other administrative functions, including serving on patient care committees.

(e) The [~~hospital~~]licensee shall establish a policy governing the use of obstetrical delivery and operating rooms to ensure that any patient with parturition imminent, or with an obstetrical emergency requiring immediate medical intervention to preserve the health and life of the mother or her infant, is given priority over other obstetrical and non-emergent surgical procedures.

(f) A [~~Q~~]qualified surgical assistant[~~s~~] shall [~~be used~~]assist as needed in operations in accordance with hospital [~~by-laws~~]bylaws.

(g) A [~~S~~]surgical technician[~~s and~~] or licensed practical nurse[~~s~~] may serve as a scrub nurse[~~s~~] under the direct supervision of a registered nurse, but may not function as a circulation nurse[~~s~~] in the operating rooms, unless the scrub nurse is a registered nurse.

(h) An [~~O~~]outpatient surgical patient[~~s shall~~] may not be routinely admitted to the hospital as an inpatient[~~s~~]. The licensee shall complete a [~~A~~]systematic review process [~~shall~~]to evaluate patients who require hospitalization after outpatient surgery.

(2) The licensee shall establish, control and consistently monitor a[~~A~~] safe operating room environment [~~shall be established, controlled and consistently monitored~~]that complies with[~~.~~]:

(a) [~~S~~]surgical equipment including suction facilities and instruments is provided and maintained in good condition to [~~in good repair shall be provided to~~]assure safe and aseptic treatment of [~~all~~]any surgical cases[~~.~~];

(b) [~~T~~]traffic in and out of the operating room [~~shall be~~]is controlled[~~. There shall be~~] and there is no through traffic[~~.~~];

(c) [~~T~~]there [~~shall be~~]is a scavenging system for evacuation of anesthetic waste gasses[~~.~~]; and

(d) [~~T~~]the following equipment shall be available to the operating suite:

(i) a call-in system;

(ii) a cardiac monitor;

(iii) a ventilation support system;

(iv) a defibrillator;

(v) an aspirator; and

(vi) equipment for cardiopulmonary resuscitation.

(3) The administration of anesthetics shall conform to the requirements of the Anesthesia Services[~~,~~] of Rule R432-100[~~-16~~].

(4) Removal of surgical specimens shall conform with the requirements of Laboratory and Pathology Services, Section R432-100-[~~22~~]24.

R432-100-[~~16~~]17. Anesthesia Services.

(1) The[~~re~~] licensee shall provide[~~-shall be~~] facilities and equipment for the administration of anesthesia commensurate with the clinical and surgical procedures planned for the institution on a 24-hour basis.[~~-Anesthesia care shall be available on a 24-hour basis.~~]

([~~a~~]2) The hospital administrator shall appoint and authorize an individual to provide administrative direction of anesthesia services.[~~Administrative direction of anesthesia services shall be provided by a person appointed and authorized by the hospital administrator.~~]

([~~b~~]3) A member of the medical staff shall provide the m[~~M~~]edical direction of anesthesia services.[~~-shall be provided by a member of the medical staff.~~]

([~~c~~]4) [~~Anesthesia care shall be provided by a~~]A member of the medical staff, including an anesthesiologist[~~s~~], other qualified physician[~~s~~], dentist[~~s~~], oral surgeon[~~s~~], or [~~C~~]certified [~~R~~]registered [~~N~~]nurse [~~A~~]anesthetist[~~s who are members of the medical staff~~] shall provide anesthesia care within the scope of their practice and license.

([~~i~~]5) A qualified physician, dentist or oral surgeon shall have documented training that includes the equivalent of 40 days preceptorship with an anesthesiologist and [~~shall~~]be able to perform at least the following:

([~~A~~]a) any procedure[~~s~~] commonly used to [~~render~~]make the patient [~~insensible~~]insensate to pain during the performance of surgical, obstetrical, and other pain~~-~~-producing clinical procedures;

([~~B~~]b) life support functions during the administration of anesthesia, including induction and intubation procedures; and

([~~C~~]c) provide pre-anesthesia and post-anesthesia management of the patient.

([~~ii~~]6) The medical staff shall clearly define the responsibilities and privileges of the person administering anesthesia.[~~-shall be clearly defined by the medical staff.~~]

([~~iii~~]7) The medical staff shall inform [~~B~~]both the patient and the operating surgeon [~~shall be informed prior to~~]before surgery of who will be administering anesthesia.

([~~iv~~]8) A Medicaid certified hospital[~~s~~] licensee shall comply with the requirements of the Code of Federal Regulations, Title 42 [~~CFR~~]Part 482.52 Section (a), [~~Subpart D,~~]Anesthesia Services.

([~~2~~]9) The licensee shall prohibit the use of flammable anesthetic agents for anesthesia or for the pre-operative preparation of the surgical field.[~~-is prohibited.~~]

([~~3~~]10) The licensee shall ensure that anesthetic equipment [~~shall be~~]is inspected and tested by the person administering anesthesia before use in accordance with hospital policy.

R432-100-[~~17~~]18. Emergency Care Service.

(1) Each [~~hospital~~]licensee shall evaluate and classify itself to indicate its capability in providing emergency care. [~~Acute Hospitals and Critical Access Hospitals shall be classified as~~]Type I, II, or III represents acute care hospitals and critical access hospitals and [~~.—~~]Type IV category [~~may be used for~~]represents [~~S~~]specialty [~~H~~]hospitals.

(a) A Type I Acute or Critical Access Hospital licensee [~~offers comprehensive emergency care 24 hours a day in-house, with at least one physician experienced in emergency care on staff in the emergency care area. There shall be~~]shall provide in-hospital support by members of the medical staff for:[~~-at least medical, surgical, orthopedic, obstetric, pediatric, and anesthesia services. Specialty consultation shall be available within 30 minutes, or two-way voice communication is available for the initial consultation.~~]

(i) medical;

(ii) surgical;

(iii) orthopedic;

(iv) obstetric;

(v) pediatric; and

(vi) anesthesia services;

(b) The licensee shall ensure specialty consultation is available within 30 minutes, or two-way voice communication is available for the initial consultation.

[~~(b) Type II offers emergency care 24 hours a day, with at least one physician experienced in emergency care on duty in the emergency care area, and with specialty consultation available within 30 minutes by members of the medical staff.~~]

[~~(c) Type III offers emergency care 24 hours a day, with at least one physician available to the emergency care area within approximately 30 minutes through a medical staff call roster.~~](c) A Type III licensee shall ensure that [~~S~~]specialty consultation [~~shall be~~]is available by request of the attending medical staff member by transfer to a type I or type II hospital where care can be provided.

[~~(d) Type IV offers emergency first aid treatment to patients, staff, and visitors; and to persons who may be unaware of, or unable to immediately reach services in other facilities.~~]

(2) The licensee shall organize and staff the emergency service [~~shall be organized and staffed by~~]with qualified individuals based on the defined capability of the hospital.

(a) An individual appointed and authorized by the hospital administrator shall direct the[~~Administrative direction of~~] emergency services.[~~-shall be provided by an individual appointed and authorized by the hospital administrator.~~]

(b) One or more members of the medical staff shall define in writing and provide m[~~M~~]edical direction of emergency services.[~~shall be defined in writing and provided by one or more members of the medical staff.~~] The medical staff shall provide back-up and on-call coverage for emergency services and as needed for emergency specialty services.

(c) A licensed practitioner is responsible for t[~~T~~]he evaluation and treatment of a patient who presents [~~himself~~]themself or is brought to the emergency care area [~~shall be the responsibility of a licensed practitioner and shall~~]includ[~~e~~]ing:[~~-an appropriate medical screening examination, stabilizing treatment, and, if necessary for definitive treatment, an appropriate transfer to another medical facility that has agreed to accept the patient for care.~~]

(i) an appropriate medical screening examination;

(ii) stabilizing treatment; and

(iii) if necessary for definitive treatment, an appropriate transfer to another medical facility that has agreed to accept the patient for care.

(d) The priority by which persons seeking emergency care are seen by a physician may be determined by trained personnel using guidelines established by the emergency room director and approved by the medical staff.

(e) The licensee shall post r[~~R~~]osters designating medical staff members on duty or on call for primary coverage and specialty consultation [~~shall be posted~~]in the emergency care area.

(f) A designated registered nurse who is qualified by relevant training, experience, and current competence in emergency care shall supervise the care provided by [~~all~~]any nursing service personnel in the department.

(i) The emergency nurse supervisor shall ensure that there is enough nursing service personnel [~~number of nursing service personnel shall be sufficient~~]for the types and volume of patients served.

(ii) Type I and II emergency department[~~s~~] licensees shall have at least one registered nurse with [~~A~~]advanced [~~C~~]cardiac [~~L~~]life [~~S~~]support certification, and [~~sufficient number of~~]enough other nursing staff assigned and on duty within the emergency care area.

(iii) The emergency nurse supervisor shall participate in internal committee activities concerned with the emergency service.

(g) The licensee shall ensure that the emergency service [~~shall be~~]is integrated with other departments in the hospital.

(i) The licensee shall provide [~~C~~]clinical laboratory services with the capability of performing[~~ all~~] any routine studies and standard analyses of blood, urine, and other body fluids[~~ shall be available~~]. The licensee shall ensure that a[~~A~~] supply of blood [~~shall be~~]is available [~~at all times~~]24 hours per day.

(ii) The licensee shall ensure that [~~D~~]diagnostic radiology [~~services shall be~~]is available [~~at all times~~]24 hours per day.

(h) The licensee shall define, in writing, the duties and responsibilities of [~~all~~]any personnel, including physicians and nurses, providing care within the emergency service area.[~~ shall be defined in writing.~~]

(3) Each [~~hospital~~]licensee shall define its scope of emergency services in writing and implement a plan for emergency care, based on community needs and on the [~~capability~~]capabilities of the hospital.

(a) Each [~~hospital~~]licensee shall comply with federal anti-dumping regulations as defined in the Code of Federal Regulations [~~489.20 and 489.24~~]Title 351.101.

(b) The licensee shall define the role of the emergency service in the hospital's disaster plans.[~~ shall be defined.~~]

(c) Each [~~hospital must~~]licensee shall have a communication system that permits instant contact with law enforcement agencies, rescue squads, ambulance services, and other emergency services within the community.

(d) The licensee's e[~~E~~]mergency department policies and protocols shall address:

(i) the care, security, and control of prisoners or people to be detained for police or protective custody[~~.~~];

[~~(e) Emergency department policies and protocols shall address the provision of care to an unemancipated minor not accompanied by parent or guardian, or to an unaccompanied unconscious patient.~~]

(ii) providing care to an unemancipated minor not accompanied by parent or guardian, or to an unaccompanied unconscious patient;

(iii) handling of hazardous materials and contaminated patients;

(iv) reporting of persons dead-on-arrival to the proper authorities including the legal requirements for the collection and preservation of evidence; and

(v) the evaluation and handling of alleged or suspected child or adult abuse cases.

[~~(f) Emergency department policies and procedures shall address the evaluation and handling of alleged or suspected child or adult abuse cases. Criteria shall be developed to alert emergency department and service personnel to possible child or adult abuse. The criteria shall address:~~]

(e) The licensee shall develop criteria to alert emergency department and service personnel to possible child or adult abuse. The criteria shall address:

(i) suspected physical assault;

(ii) suspected rape or sexual molestation;

(iii) suspected domestic abuse of elders, spouses, partners, and children;

(iv) the collection, retention, and safeguarding of specimens, photographs, and other evidentiary materials; and

(v) visual and auditory privacy during examination and consultation of patients.

([~~g~~]f) The licensee shall make a list [~~A list shall be~~]available in the emergency department [~~of~~]that outlines private and public community agencies and resources that provide, arrange, evaluate, and care for the victims of abuse.

[~~(h) Emergency department policies and procedures shall address the handling of hazardous materials and contaminated patients.~~

~~(i) Emergency department policies and procedures shall address the reporting of persons dead-on-arrival to the proper authorities including the legal requirements for the collection and preservation of evidence.~~]

(4) The [~~hospital~~]licensee shall [~~in a timely manner make reasonable effort~~]make reasonable and timely efforts to contact the guardian, parents, or next of kin of any unaccompanied minor, or any unaccompanied unconscious patient admitted to the emergency department.

R432-100-[~~18~~]19. Perinatal Services.

(1) Each [~~hospital shall comply with the requirements of this section and~~]licensee shall designate its capability to provide perinatal, [~~(~~]antepartum, labor, delivery, postpartum, and nursery[~~)~~] care in accordance with Level I basic, Level II specialty, or Level III sub-specialty or tertiary care.[~~ as described in the Guidelines for Perinatal Care, Sixth Edition and the Guidelines for Design and Construction of Heath Care Facilities, 2010 Edition, which are incorporated by reference.~~]

(a) A qualified member of the hospital staff shall provide administrative, medical and nursing direction, and oversight for perinatal services according to each hospital's designated level of care.[~~, Level I, IIA, IIB, IIIA, IIIB or IIIC.~~]

(b) The licensee shall ensure a[~~A~~] qualified registered nurse [~~shall be~~]is immediately available [~~at all~~]24 hours [~~of the~~]per day with [~~and as well as sufficient numbers of~~]enough trained competent staff to meet the designated level.

(c) The licensee shall ensure s[~~S~~]upport personnel [~~shall be~~]are available to the perinatal care service according to each hospital's designated level of care.

(2) Each [~~hospital~~]licensee shall establish and implement security protocols for perinatal patients.

(3) The perinatal department shall include facilities and equipment for antepartum, labor and delivery, nursery, postpartum, and optional birthing rooms.

([~~a~~]4) The licensee shall ensure that p[~~P~~]erinatal areas [~~shall be~~]are located and arranged to avoid non-related traffic to and from other areas.

([~~b~~]5) The [~~hospital~~]licensee shall isolate patients with infections or other communicable conditions. The licensee may not use [~~of~~]maternity rooms for patients other than maternity patients [~~shall be restricted according to~~]in hospital policy.

([~~c~~]6) [~~Each hospital~~]The licensee shall have at least one surgical suite for operative delivery.

([~~d~~]7) The licensee shall maintain and make immediately available, e[~~E~~]quipment and supplies [~~shall be immediately available and maintained~~]for the mother and newborn, including:

([~~i~~]a) furnishings suitable for labor, birth, and recovery;

([~~ii~~]b) oxygen with flow meters and masks or equivalent;

([~~iii~~]c) mechanical suction and bulb suction;

([~~iv~~]d) resuscitation equipment;

([~~v~~]e) emergency medications, intravenous fluids, and related supplies and equipment;

([~~vi~~]f) a device to assess fetal heart rate;

([~~vii~~]g) equipment to monitor and maintain the optimum body temperature of the newborn;

([~~viii~~]h) a clock capable of showing seconds;

([~~ix~~]i) an adjustable examination light; and

([~~x~~]j) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements. The unit [~~must~~]shall [~~be capable~~]have capability for [~~of~~]administering oxygen and suctioning.

([~~e~~]8) The [~~hospital~~]licensee shall maintain a delivery room record keeping system for cross referencing information with other departments.

([~~4~~]9) If birthing rooms are provided, the licensee [~~they~~]shall [~~be~~]equip[~~ped~~] them in accordance with this section.[~~100-18(3(d)).~~]

([~~5~~]10) The licensee shall ensure that the nursery [~~shall~~]includes facilities and equipment according to its designated level of care.[~~: Level I - Basic Newborn Care; Level II - Specialty Continuing Care; and Level III - Sub-specialty or Tertiary Newborn Intensive Care~~] including an individual bassinet for each infant[~~;~~], with space between bassinets as follows:

(a) Level I Basic: Full Term or Well Baby Nursery 24 inches between bassinets;

(b) Level II Specialty: Continuous Care Nursery four feet between bassinets[~~ for Continuing Care nurseries~~]; or

(c) Level III Sub-specialty: Newborn Intensive Care Nursery four feet between bassinets.

[~~(d) accurate scales; and~~

~~(e) a wall thermometer;~~

] ([~~6~~]11) The licensee shall ensure the availability of the following equipment and supplies[~~ shall be available~~]:

(a) an individual thermometer, or one with disposable tips, for each infant;

(b) a supply of medication [~~shall be~~]immediately available for emergencies;

(c) a covered soiled-diaper container with removable lining;

(d) a linen hamper with removable bag for soiled linen other than diapers;

(e) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements;

(f) oxygen, oxygen equipment, and suction equipment;[~~and~~]

(g) an oxygen concentration monitoring device[~~.~~];

(h) accurate scales; and

(i) a wall thermometer.

([~~7~~]12) The licensee shall maintain t[~~T~~]emperature [~~shall be maintained~~]between 70-80 degrees Fahrenheit in the nursery area.

([~~8~~]13) The licensee shall make i[~~I~~]nfant formula storage space[~~ shall be~~] available that conforms to the manufacturer's recommendations. Only single-use bottles [~~shall~~]may be used for newborn feeding.

([~~9~~]14) The licensee shall provide a furnished[~~A~~] suspect nursery or isolation area that has a separate hand washing facility and equipment and supplies to be used for any infant who:[~~ shall be available. Equipment and supplies shall be provided for the isolation area.~~]

[~~(a) Isolation facilities shall be used for any infant who:~~]

([~~i~~]a) has a communicable disease;

([~~ii~~]b) is delivered of an ill mother infected with a communicable disease;

([~~iii~~]c) is readmitted after discharge from a hospital; or

([~~iv~~]d) is delivered outside the hospital.

[~~(b) There shall be separate hand washing facilities for the isolation area.~~]

([~~10~~]15) [~~Each hospital~~]The licensee shall[~~ comply with the following provisions~~]:

(a) [~~No~~]not attempt [~~shall be made~~]to delay the imminent, normal birth of a child;

(b) [~~A~~]instill a prophylactic solution in the eyes of the infant within three hours of birth in accordance with Section R386-702-14[~~ shall be instilled in the eyes of the infant within three hours of birth~~];

(c) [~~Disease~~]perform disease screening, including phenylketonuria (PKU), [~~shall be performed~~]in accordance with Section 26-10-6 and Rule R398-1; and

(d) [~~A~~]preform a newborn hearing screening[~~ shall be performed~~] in accordance with Rule R398-2.

R432-100-[~~19~~]20. Pediatric Services.

(1) If the [~~hospital~~]licensee provides pediatric services, [~~those~~]the services shall be under the direction of a member of the medical staff who is experienced in pediatrics and whose functions and scope of responsibility are defined by the medical staff.

(a) A pediatrics qualified registered nurse [~~must~~]shall supervise nursing care and [~~must~~]shall supervise the documentation of the implementation of pediatric patient care on an interdisciplinary plan of care.

(b) If the [~~hospital~~]licensee provides a pediatric unit, [~~it shall have~~]the licensee shall ensure there is an interdisciplinary committee responsible for policy development and review of practice within the unit. The[~~is~~] committee [~~must~~]shall include representatives from administration, the medical and nursing staff, and rehabilitative support staff.

(c) [~~Hospitals~~]A licensee that admits[~~ting~~] pediatric patients shall have written policies and procedures specifying the criteria for admission to the hospital and conditions requiring transfer when indicated. These policies and procedures shall [~~be based upon~~]consider and address the resources available at the hospital, specifically, in terms of personnel, space, equipment, and supplies.

(d) The [~~hospital~~]licensee shall:[~~ assess all pediatric patients for maturity and development. Information obtained from~~

~~the maturity and development assessment must be incorporated into the plan of care.~~

~~(e) The hospital shall establish and implement security protocols for pediatric patients.~~

~~(f) The hospital shall provide a safe area for diversional play activities.~~]

(i) assess each pediatric patient for maturity and development. Information obtained from the maturity and development assessment must be incorporated into the plan of care;

(ii) establish and implement security protocols for pediatric patients; and

(iii) provide a safe area for diversional play activities.

(2) [~~Hospitals~~]A licensee that admits[~~ting~~] pediatric patients shall have equipment and supplies in accordance with the hospital's scope of pediatric services.

(3) The [~~hospital~~]licensee shall have written guidelines for the placement or room assignment of pediatric patients according to patient acuity under usual, specific, or unusual conditions within the hospital that shall address the use of:[~~. The guidelines shall address the use of cribs, bassinets, or beds; including the proper use of restraints, bed rails, and other safety devices.~~]

(a) cribs;

(b) bassinets;

(c) beds; and

(d) proper use of restraints, bed rails, and other safety devices.

([~~a~~]4) The [~~hospital~~]licensee shall place infant patients in beds where frequent observation is possible.

([~~b~~]5) The licensee shall ensure that p[~~P~~]ediatric patients other than infants [~~shall be~~]are placed in beds to allow frequent observation according to each patient's assessed care needs.

([~~4~~]6) Personnel working with pediatric patients shall have specific training and experience relating to the care of pediatric patients.

([~~5~~]7) Orientation and [~~inservice~~]in-service training provided by the licensee for pediatric care staff shall include pediatric[~~-~~]-specific training on:[~~ drugs and toxicology, intravenous therapy, pediatric emergency procedures, infant and child nutrition, the emotional needs and behavioral management of hospitalized children, child abuse and neglect, and other topics according to the needs of the pediatric patients.~~]

(a) drugs;

(b) toxicology;

(c) intravenous therapy;

(d) pediatric emergency procedures;

(e) infant and child nutrition;

(f) the emotional needs and behavioral management of hospitalized children;

(g) child abuse and neglect; and

(h) other topics according to the needs of the pediatric patients.

R432-100-[~~20~~]21. Respiratory Care Services.

(1) A person authorized by the hospital administrator shall provide [~~A~~]administrative direction of respiratory care services.[~~ shall be provided by a person authorized by the hospital administrator.~~]

(2) A member of the medical staff who has the responsibility and authority for the overall direction of respiratory care services shall direct [~~T~~]the respiratory care service.[~~ shall be under the medical direction of a member of the medical staff who has the responsibility and authority for the overall direction of respiratory care services.~~]

(a) When the scope of services warrants, a technical director who is registered or certified by the National Board For Respiratory Therapy Incorporated, or has the equivalent education, training, and experience shall supervise the respiratory care services.[~~ shall be supervised by a technical director who is registered or certified by the National Board For Respiratory Therapy, Inc., or has the equivalent education, training, and experience.~~]

(b) The technical director shall inform physicians about the use and potential hazards in the use of any respiratory care equipment.

(3) The responsible licensed practitioner shall provide [~~R~~]respiratory care services [~~shall be provided~~]to patients in accordance with a written prescription [~~of the responsible licensed practitioner which~~]that specifies the type, frequency, and duration of the treatment; and when appropriate, the type and dose of medication, the type of diluent, and the oxygen concentration.

(a) The [~~hospital~~]licensee [~~must~~]shall have equipment to perform any pulmonary function study or blood-gas analysis[~~ provided by the hospital~~].

(b) The licensee shall ensure availability of r[~~R~~]esuscitation, ventilatory, and oxygenation support equipment [~~shall be available~~]in accordance with the needs of the patient population served.

R432-100-[~~21~~]22. Rehabilitation Therapy Services.

(1) If rehabilitation therapy services are provided by the [~~hospital~~]licensee, the services may include physical therapy, speech therapy, and occupational therapy.

(a) A qualified, licensed provider who has clinical responsibility for the specific therapy service shall direct [~~R~~]rehabilitation therapy services.[~~ shall be directed by a qualified, licensed provider who shall have clinical responsibility for the specific therapy service.~~]

(b) Support personnel shall perform p[~~P~~]atient services that are[~~performed by support personnel, shall be~~] commensurate with each person's documented training and experience.

(c) Rehabilitation therapy services may be initiated by a member of the medical staff or by a licensed rehabilitation therapist.

(i) A physician's written request for services [~~must~~]shall include reference to the diagnosis or [~~problems~~]condition for [~~which~~]the treatment that is planned, and any contraindications.

(ii) The patient's physician shall retain responsibility for the specific medical problem or condition for [~~which~~]that necessitated the referral.[~~ was made.~~]

(2) Rehabilitation therapy services provided to the patient shall include evaluation of the patient, establishment of goals, development of a plan of treatment, regular and frequent assessment, maintenance of treatment and progress records, and periodic assessment of the quality and appropriateness of the care provided.

R432-100-[~~22~~]23. Radiology Services.

(1) [~~Each hospital~~]The licensee shall provide an organized radiology department offering services that are in accordance with the needs and size of the institution.

(a) A person appointed and authorized by the hospital administrator shall direct the [~~Administrative direction of~~]radiology services.[~~ shall be provided by a person appointed and authorized by the hospital administrator.~~]

(b) A member of the medical staff shall provide [~~M~~]medical direction of the department.[~~ shall be provided by a member of the medical staff.~~]

(i) If a radiologist is not the medical director of the radiology services, the licensee shall retain the services of a radiologist.[~~ shall be retained on a part-time basis.~~]

(ii) If a radiologist provides services on less than a full-time basis, the time commitment shall allow the radiologist to complete the necessary functions to meet the radiological needs of the patients and the medical staff.

(c) The radiologist [~~is~~]shall:[~~ responsible to:~~]

(i) maintain a quality control program that minimizes unnecessary duplication of radiographic studies and maximizes the quality of diagnostic information available;

(ii) develop technique charts that include part, thickness, exposure factors, focal film distances and [~~whether~~]either a grid or screen technique; and

(iii) assure the availability of information regarding the purpose and yield of radiological procedures and the risks of radiation.

(d) The licensee shall ensure a[~~A~~]t least one licensed radiologic technologist [~~shall be~~]is on duty or available [~~when~~]as needed.

(e) Only a member of the medical staff or other person authorized by the hospital shall authorize the performance of [~~D~~]diagnostic radiology services.[~~ shall be performed only at the request of a member of the medical staff or other persons authorized by the hospital.~~]

(f) If the licensee provides radiation oncology services[~~ are provided~~], the following [~~applies~~]shall apply:

(i) [~~P~~]physicians and staff who provide radiation oncology services have delineated privileges; and

(ii) [~~The~~]the medical director of the radiation oncology services is a physician member of the medical staff who is qualified by education and experience in radiation oncology.

(2) The licensee shall integrate r[~~R~~]adiologic [~~patient~~]medical [~~records shall be integrated~~]with the hospital patient record.

(a) [~~All~~]Any requests for radiologic services shall contain the reasons for the examinations.

(b) The licensee shall file a[~~A~~]uthenticated reports of these examinations [~~shall be filed~~]in the patient's medical record as soon as possible.[~~ Radiological film shall be retained in accordance with hospital policy.~~]

(c) The licensee shall retain radiological film in accordance with hospital policy.

([~~e~~]d) If requested by the attending physician and if the quality of the radiograph permits, the radiology department may officially enter the interpretations of the radiologic examinations performed outside of the hospital in the patient's medical record.

([~~d~~]e) The licensee shall file radiotherapy summaries as follows:[~~Radiotherapy summaries shall be filed in the patient's medical record. A copy may be filed in the radiotherapy department. The radiotherapy summary shall be forwarded to the referring physician. Unless otherwise justified, the medical record of the patient receiving radiotherapy for treatment or palliation of a malignancy shall reflect the histologically substantiated diagnosis.~~]

(i) in the patient's medical record;

(ii) a copy may be filed in the radiotherapy department;

(iii) forwarded to the referring physician;

(iv) documented in the medical record of the patient receiving radiotherapy for treatment or palliation of a malignancy and reflect the histologically substantiated diagnosis, unless otherwise justified.

R432-100-[~~23~~]24. Laboratory and Pathology Services.

(1) [~~Each hospital~~]The licensee shall provide laboratory and pathology services that are in accordance with the needs and size of the institution.

(a) A person appointed and authorized by the hospital administrator shall provide [~~A~~]administrative direction of laboratory and pathology services.[~~ shall be provided by a person appointed and authorized by the hospital administrator.~~]

(b) A member of the medical staff shall provide [~~M~~]medical direction of laboratory and pathology services.[~~ shall be provided by a member of the medical staff.~~]

(2) Laboratory and pathology services shall [~~comply with the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA).~~]make Clinical Laboratory Inspection Amendments inspection reports, as required for plans review in Section R432-4-12[~~ shall be~~] available for [~~D~~]department review.

(3) Laboratories certified by a Health Care Financing Administration [~~(HCFA)~~]approved accrediting agency are[~~determined to be~~] in compliance with this section[~~. A~~] and the licensee shall ensure any accrediting agency inspection reports [~~shall be~~]are available for [~~D~~]department review.

R432-100-[~~24~~]25. Blood Services.

[~~(1) Hospital blood services are defined as follows:~~

~~(a) A "donor center" means a facility that procures, prepares, processes, stores and transports blood and blood components.~~

~~(b) A "transfusion service" means a facility that stores, determines compatibility, transfuses blood and blood components, and monitors transfused patients for any ill effect.~~

~~(c) A "blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility.~~]

([~~2~~]1) The [~~hospital~~]licensee's blood service shall establish and maintain an appropriate blood inventory in the hospital[~~ at all times~~], have immediate access to community blood services or other institutions, or have an up-to-date list of donors, equipment, and trained personnel to draw and process blood.

(a) The licensee shall collect, store and handle [~~B~~]blood or blood components [~~must be collected, stored, and handled~~]in such a manner that they retain potency and safety.

(b) The licensees shall properly process, test and label b[~~B~~]lood or blood components.[~~ must be properly processed, tested, and labeled.~~]

([~~3~~]2) [~~If the hospital operates a donor center, transfusion service or a blood bank the donor center, transfusion service, or blood bank must be accredited.~~]The licensee shall ensure any donor center, transfusion service, or blood bank is accredited as follows:

(a) [~~H~~]hospital blood banks and donor centers [~~must be~~]are accredited by the [~~Food and Drug Administration (~~]FDA;[~~).~~]

(b) [~~H~~]hospital transfusion services [~~must be~~]are certified by the Health Care Financing Administration, [~~to meet Clinical Laboratory Improvement Amendments of 1988 (CLIA),~~]or any accrediting organization approved by the Health Care Financing Administration.

([~~4~~]3) The licensee shall ensure that r[~~R~~]esults of the accrediting organization survey[~~, or current CLIA certification must be~~] are available for [~~D~~]department review.

R432-100-[~~25~~]26. Pharmacy Services.

(1) The pharmacy of a [~~hospital~~]licensee currently accredited and conforming to the standards of Joint Commission on Accreditation of Healthcare Organizations (JCAHO) [~~shall be~~]is determined to be in compliance with [~~these rules~~]this section. If a licensee is not accredited by JCAHO, then the licensee's pharmacy services shall comply with rules in this section.

[~~(a) If a hospital is not accredited by JCAHO, then the pharmacy of such hospital shall comply with rules in this section.~~]

([~~b~~]2) A licensed pharmacist shall direct the pharmacy department and service.[~~The pharmacy department and service shall be directed by a licensed pharmacist.~~]

([~~i~~]3) [~~Competent~~]The licensee shall employ personnel [~~shall be employed~~]in keeping with the size and activity of the department and service.[~~If the hospital uses only a drug room and the size of the hospital does not warrant a full-time pharmacist, a consultant pharmacist may be employed.~~]

(4) If the licensee uses only a drug room and the size of the hospital does not warrant a full-time pharmacist, a consultant pharmacist may be employed.

([~~ii~~]5) The pharmacist [~~shall be~~]is responsible for developing, supervising, and coordinating [~~all~~]any of the activities of the pharmacy.

([~~iii~~]6) [~~Provision shall be made for~~]The licensee shall provide access to emergency pharmaceutical services.

([~~iv~~]7) The licensee shall ensure the pharmacist [~~shall be~~]is trained in the specific functions and scope of the hospital pharmacy.

([~~2~~]8) The licensee shall provide f[~~F~~]acilities [~~shall be provided~~]for the safe storage, preparation, safeguarding, and dispensing of drugs[~~.~~] and ensure the following:

(a) [~~All~~]any floor-stocks [~~shall be~~]are kept in secure areas in the patient care units[~~.~~];

(b) [~~D~~]double-locked storage [~~shall be~~]is provided for controlled substances[~~. E~~] and electronically controlled storage of narcotics [~~may be~~]is permitted if automated dispensing technology is utilized by the hospital[~~.~~];

(c) [~~M~~]medications stored at room temperatures [~~shall be~~]are maintained [~~within~~]between 59 and 80 degrees Fahrenheit (F)[~~.~~];

(d) [~~R~~]refrigerated medications [~~shall be maintained within~~]are maintained between 36 and 46 degrees F.; and

(e) a[~~A~~] current toxicology reference, and other references as needed for effective pharmacy operation and professional information [~~shall be~~]are available.

([~~3~~]9) The licensee shall maintain r[~~R~~]ecords [~~shall be kept~~]of the transactions of the pharmacy and medication storage unit and coordinated with other hospital records.

([~~a~~]10) The[~~re shall be~~] licensee shall maintain a recorded and signed floor-stock controlled substance count once per shift or the facility [~~must~~]that shall use automated dispensing technology in accordance with Section R156-17b-605.

([~~b~~]a) [~~Hospitals~~]A licensee that utilizes automated dispensing technology [~~must~~]shall implement a system for accounting of controlled substances dispensed by the automated dispensing system.

([~~c~~]b) The record shall list the name of the patient receiving the controlled substance, the date, type of substance, dosage, and signature of the person administering the substance.

([~~4~~]11) The director of the pharmaceutical department or service shall develop w[~~W~~]ritten policies and procedures, in coordination with the medical staff, that pertain to the intra-hospital drug distribution system and the safe administration of drugs.[~~shall be developed by the director of the pharmaceutical department or service in concert with the medical staff.~~]

(a) Medical staff shall administer d[~~D~~]rugs that are provided to floor units [~~shall be administered~~]in accordance with hospital policies and procedures.

(b) The medical staff, in [~~conjunction~~]coordination with the pharmacist, shall establish standard stop orders for [~~all~~]any medications not specifically prescribed [~~as~~]in regard to time or number of doses.

(c) The pharmacist shall have full responsibility for dispensing of [~~all~~]any drugs.

(d) [~~There shall be~~]The licensee shall ensure there is a policy stating who may have access to the pharmacy or drug room when the pharmacist is not available.

(e) [~~There shall be~~]The licensee shall ensure there is a documentation system for the accounting and replacement of drugs, including narcotics, to the emergency department.

(f) The licensee shall ensure m[~~M~~]edication errors and adverse drug reactions [~~shall be~~]are reported immediately in accordance with written procedures including notification of the practitioner who ordered the drug.

R432-100-[~~26~~]27. Social Services.

(1) [~~In a hospital with~~]If a licensee provides an organized social services department, a qualified social worker shall direct the [~~provision of~~]social work services.[~~If a hospital does not have a full or part-time qualified social worker, the administrator shall designate an employee to coordinate and assure the provision of social work services. The social worker, or designee shall be knowledgeable about community agencies, institutions, and other resources.~~]

(a) If a licensee does not have a full or part-time qualified social worker, the administrator shall designate an employee to coordinate and assure that social work services are provided to patients.

(b) The licensee shall ensure the social worker, or designee is knowledgeable about community agencies, institutions, and other resources.

(2) [~~In a hospital without~~]If a licensee does not provide an organized social services department, the [~~hospital~~]licensee shall obtain consultation from a qualified social worker to provide social work services.

(3) The licensee shall orient the staff [~~shall be oriented~~]to help the patient make the best use of available inpatient, outpatient, extended care, home health, and hospice services.

(4) The licensee shall integrate s[~~S~~]ocial [~~S~~]services [~~shall be integrated~~]with other departments and services of the hospital.

R432-100-[~~27~~]28. Psychiatric Services.

(1) [~~If provided by the hospital,~~]If the licensee provides psychiatric services, the licensee shall ensure the services are [~~shall be~~]integrated with other departments or services of the hospital according to the nature, extent, and scope of service provided.

(a) If the [~~hospital~~]licensee does not provide psychiatric services, the [~~hospital~~]licensee [~~must~~]shall have procedures to transfer patients to a facility that can provide the necessary psychiatric services.

(b) A person appointed and authorized by the hospital administrator shall provide [~~A~~]administrative direction of psychiatric services.[~~shall be provided by a person appointed and authorized by the hospital administrator.~~]

(c) A qualified physician who is a member of the medical staff shall define in writing and provide m[~~M~~]edical direction of

psychiatric services.[~~shall be defined in writing and provided by a qualified physician who is a member of the medical staff.~~]

(d) Psychiatric services shall comply with the following sections of Rule R432-101, Specialty Hospitals, Psychiatric:

(i) R432-101-13 Patient Security;

(ii) R432-101-14 Special Treatment Procedures;

(iii) R432-101-17 Admission and Discharge;

(iv) R432-101-20 Inpatient Services;

(v) R432-101-21 Adolescent or Child Treatment Programs;

(vi) R432-101-22 Residential Treatment Services;

(vii) R432-101-23 Physical Restraints, Seclusion, and Behavior Management;

(viii) R432-101-24 Involuntary Medication Administration; and

(ix) R432-101-35 Partial Hospitalization Services.

(2) If outreach services are ordered by a physician as part of the plan of care or hospital discharge plan, the outreach services may be provided in a clinic, physician's office, or the patient's home.

R432-100-[~~28~~]29. Substance [~~Abuse~~]Use Disorder Rehabilitation Services.

(1) A [~~hospital~~]licensee may provide inpatient or outpatient substance [~~abuse~~]use disorder rehabilitation services. A [~~hospital~~]licensee that provides substance [~~abuse~~]use disorder rehabilitation services shall [~~be staffed~~]staff the hospital to meet the needs of the patients or clients.

(a) An individual appointed and authorized by the hospital administrator shall provide [~~A~~]administrative direction.[~~shall be provided by an individual appointed and authorized by the hospital administrator.~~]

(b) A qualified physician who is a member of the medical staff shall define in writing and provide m[~~M~~]edical direction.[~~shall be defined in writing and provided by a qualified physician who is a member of the medical staff.~~]

(c) The licensee shall ensure n[~~N~~]ursing services [~~shall be~~]are under the direction of a full-time registered nurse.

(d) The licensee shall ensure s[~~S~~]ubstance [~~abuse~~]use disorder counseling [~~shall be~~]is under the direction of a licensed mental health therapist.

(e) A licensed substance [~~abuse~~]use disorder counselor may serve as the primary therapist under the direction of an individual licensed under the Mental Health Professional Practice Act, Title 58, Chapter 60.

(f) An interdisciplinary team including the physician, registered nurse, licensed mental health therapist, and substance [~~abuse~~]use disorder counselor [~~shall be~~]is responsible for program and treatment services. The patient or client may be included as a member of the interdisciplinary team.

(2) The licensee shall ensure that s[~~S~~]ubstance [~~abuse~~]use disorder rehabilitation services [~~shall include at least~~]include the following:

(a) [~~D~~]detoxification care [~~shall be~~]is available for the systematic reduction or elimination of a toxic agent in the body by use of rest, fluids, medication, counseling, or nursing care[~~.~~];

(b) [~~Counseling shall be available in at least one of the following areas:~~]individual, group, or family counseling is available[~~.~~];[~~In addition, there shall be provisions for educational, employment, or other counseling as needed.~~]

(c) educational, employment, or other counseling is available as needed;

([~~e~~]d) [~~T~~]treatment services [~~shall be~~]that are coordinated with other hospital and community services to assure continuity of care through discharge planning and aftercare referrals. Counselors may refer patients or clients to public or private agencies for substance [~~abuse~~]use disorder rehabilitation, and employment and educational counseling[~~.~~]; and

([~~d~~]e) [~~A~~]comprehensive assessment [~~shall be~~]that is documented [~~that~~]and includes [~~at least~~]a physical examination, a psychiatric and psychosocial assessment, and a social assessment.

(3) The licensee shall maintain the confidentiality of medical records of substance [~~abuse~~]use disorder patients and clients [~~shall be maintained~~]according to the federal guidelines in [~~42 CFR,~~]the Code of Federal Regulations, Title 42, Part 2, ["]Confidentiality of [~~Alcohol and Drug Abuse~~]Substance Use Disorder Patient Records.["]

(4) The medical director or designee may direct the [~~R~~]residential treatment services. [~~may be provided under the direction of the medical director or his designee.~~] Residential treatment services shall comply with the Residential Treatment Services section of Rule R432-101[~~-22~~].

R432-100-[~~29~~]30. Outpatient Services.

(1) The licensee shall integrate o[~~O~~]utpatient care services [~~provided by the hospital shall be integrated~~]with other departments or services of the hospital according to the nature, extent, and scope of services provided.

(2) Outpatient care shall meet the same standards of care that apply to inpatient care.

(3) Outpatient care includes hospital owned outpatient services, and hospital satellite services.

R432-100-[~~30~~]31. Respite Services.

(1) A remote-rural general acute [~~hospital~~]licensee with a federal swing bed designation may provide respite services to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for an individual.

(a) The [~~hospital~~]licensee may provide respite care services and [~~need~~]may only comply only with the requirements of this section.

(b) If[~~, however,~~] the [~~hospital~~]licensee provides respite care to an individual for longer than 14 consecutive days, the [~~hospital~~]licensee [~~must~~]shall admit the individual as an inpatient and is subject to the requirements of this rule applicable to non-respite inpatient admissions.

(2) Respite services may be provided at an hourly rate or daily rate.

(3) The [~~hospital~~]licensee shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(4) The [~~hospital~~]licensee shall document the individual's response to the respite placement and coordinate with [~~all~~]any provider agencies to ensure an uninterrupted service delivery program.

(5) The [~~hospital~~]licensee [~~must~~]shall complete the following:

(a) a Level 1 [~~P~~]pre-admission [~~S~~]screening upon the person's admission for respite services; and

(b) a service agreement [~~which~~]that will serve as the plan of care and identifies:[~~. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.~~]

(i) prescribed medications;
(ii) physician treatment orders;
(iii) need for assistance for activities of daily living; and
(iv) diet orders.

(6) The [~~hospital~~]licensee shall have written policies and procedures that are available to staff regarding the respite care patients [~~which~~]to include:

(a) medication administration;

(b) notification of a responsible party in the [~~case~~]event of an emergency;

(c) service agreement and admission criteria;

(d) behavior management interventions;

(e) philosophy of respite services;

(f) post-service summary;

(g) training and in-service requirement for employees; and

(h) handling patient funds.

(7) The [~~facility~~]licensee shall provide a copy of the [~~R~~]resident [~~R~~]rights to the patient upon admission.

(8) The [~~facility~~]licensee shall maintain a record for each patient who receives respite services [~~which~~]that includes:

(a) a service agreement;

(b) demographic information and patient identification data;

(c) nursing notes;

(d) physician treatment orders;

(e) records made by staff regarding daily care of the patient in~~-~~service;

(f) accident and injury reports; and

(g) a post-service summary.

(9) If a patient has an advanced directive, the [~~facility~~]licensee shall file a copy of the directive in the record and inform staff.

(10) The licensee shall ensure that r[~~R~~]etention and storage of records [~~shall~~]compl[~~y~~]ies with this rule[~~R432-100-33~~].

(11) The [~~hospital~~]licensee shall provide for confidentiality and release of information in accordance with this rule[~~R432-100-34~~].

R432-100-[~~31~~]32. Pet Therapy.

(1) If a [~~hospital~~]licensee utilizes pet therapy, household pets such as dogs, cats, birds, fish, and hamsters may be permitted [~~.~~]if:

(a) [~~P~~]pets [~~must be~~]are clean and disease free[~~.~~];

(b) [~~T~~]the immediate environment of the pets [~~must be~~]is clean[~~.~~];

(c) [~~S~~]small pets [~~shall be~~]are kept in appropriate enclosures[~~.~~];

(d) [P]pets that are not confined and [~~shall be~~]are kept under leash control or voice control[~~.~~];

(e) [P]pets that are kept at the hospital, or are frequent visitors, [~~shall~~]have current vaccinations, including rabies, as recommended by a licensed veterinarian[~~.~~]; and

(f) [~~Hospitals~~]a licensee with birds [~~shall have~~]has procedures in place [~~which~~]that protect patients, staff, and visitors from psittacosis.

(2) [~~Hospitals~~]A licensee that permits pets to remain overnight shall have policies and procedures for the care, housing and feeding,[~~ of such pets;~~] and for the proper storage of pet food and supplies.

(3) The licensee shall not permit p[~~P~~]ets [~~shall not be permitted~~]in any area where their presence would create a significant health or safety hazard or nuisance to others.

(4) The licensee shall not permit p[~~P~~]ets [~~shall not be permitted~~]in food preparation and storage areas.

(5) [~~Persons~~]Individuals caring for pets shall not have patient care or food handling responsibilities.

R432-100-[~~32~~]33. Dietary Service.

(1) The licensee shall ensure that there is[~~There shall be~~] an organized dietary department under the supervision of a certified dietitian or a qualified individual who, by education or specialized training and experience, is knowledgeable in food service management. If the latter is head of the department, [~~there must be~~]they shall retain a registered dietitian on a full-time, regular part-time, or consulting basis.

(a) A person whose qualifications, authority, responsibilities, and duties are approved by the administrator shall provide [~~D~~]direction of the dietary service.[~~ shall be provided by a person whose qualifications, authority, responsibilities and duties are approved by the administrator.~~] The director shall have the administrative responsibility for the dietary service.

(b) If the services of a certified dietitian are used on less than a full-time basis, the time commitment shall permit performance of [~~all~~]any necessary functions to meet the dietary needs of the patients.

(c) The[~~re shall be~~] licensee shall ensure there are food service personnel to perform [~~all~~]any necessary functions.

(2) If dietetic services are provided by an outside provider, the outside provider shall comply with the standards of this section.

(3) The dietary department personnel shall provide a[~~A~~] current diet manual, approved by the dietary department and the medical staff, [~~shall~~]to be available to dietary, medical, and nursing personnel.

(a) The dietary department personnel shall meet the food and nutritional needs of patients, including therapeutic diets, [~~shall be met~~]in accordance with the orders of the physician responsible for the care of the patient, or if delegated by the physician, the orders of a qualified registered dietitian in consultation with the physician, as authorized by the medical staff and in accordance with facility policy.

(b) Dietary department personnel shall write r[~~R~~]egular menus and modifications for basic therapeutic diets [~~shall be written~~]at least one week in advance and posted in the kitchen.

(c) The menus shall provide for a variety of foods served in adequate amounts at each meal.

(d) The dietary department shall serve at[~~At~~] least three meals [~~shall be served~~]daily with not more than a 14-hour span between the evening meal and breakfast. If a substantial evening snack is offered, a 16-hour time span is permitted.

(e) The dietary department shall provide a[~~A~~] source of non-neutral exchanged water [~~shall be provided~~]for use in preparation of no sodium meals, snacks, and beverages.

(4) The dietary department personnel shall comply with the Utah Department of Health and Human Services Food Service Sanitation Rule R392-100.

(a) The licensee shall ensure that the dietary facilities and equipment [~~shall be~~]are in compliance with federal, state, and local sanitation and safety laws and rules.

(b) The licensee shall control [~~T~~]traffic of unauthorized individuals through food preparation areas.[~~ shall be controlled.~~]

(5) The licensee shall maintain w[~~W~~]ritten reports of inspections by state or local health departments [~~shall be~~]on file at the hospital and available for [~~D~~]department review.

(6) The dietitian or authorized designee is responsible for documenting nutritional information in the patient's medical record.

(7) The licensee shall ensure that any d[~~D~~]ietary orders [~~shall be~~]are transmitted in writing to the dietary department.

R432-100-[~~33~~]34. [~~Telemedicine~~]Telehealth Services.

(1) If a [~~hospital~~]licensee participates in [~~telemedicine~~]telehealth, it shall develop and implement policies governing the practice of [~~telemedicine~~]telehealth in accordance with the scope and practice of the hospital and in accordance with Section 26B-4-704.

([~~1~~]2) The licensee's telehealth policies shall address security, access, and retention of telemetric data.

([~~2~~]3) The licensee's telehealth policies shall define the privileging of physicians and allied health professionals who participate in [~~telemedicine~~]telehealth.

R432-100-[~~34~~]35. Medical Records.

(1) The [~~hospital~~]licensee shall establish a medical records department or service that is responsible for the administration, custody, and maintenance of medical records.

(a) The hospital administrator shall establish administrative direction of the medical records department [~~shall be established by the hospital administrator~~]and [~~correspond to~~]in accordance with the organizational structure and policies of the hospital.

(b) The [~~medical records department~~]licensee shall retain the technical services of either a [~~R~~]registered [~~H~~]health [~~I~~]information [~~A~~]administrator or a [~~R~~]registered [~~H~~]health [~~I~~]information [~~T~~]technician through employment or consultation. If retained by consultation, [~~visits shall be~~]the individual shall visit at least quarterly and document[~~ed~~] visits through written reports to the hospital administrator.

(2) The [~~medical records department~~]licensee shall provide secure storage, controlled access, prompt retrieval, and equipment and facilities to review medical records.

(a) The license shall ensure m[~~M~~]edical records [~~shall be~~]are available for use or review by:[~~ members of the medical and professional staff; authorized hospital personnel and agents; persons authorized by the patient through a consent form; and Department representatives to determine compliance with licensing rules.~~]

(i) members of the medical and professional staff;

(ii) authorized hospital personnel and agents;

(iii) people authorized by the patient through a consent form; and

(iv) department representatives to determine compliance with licensing rules.

(b) Medical records may be stored in multiple locations [~~providing~~]if the record [~~is able to~~]can be retrieved or accessed in a reasonable time period.

(c) If computer terminals are utilized for patient charting, the [~~hospital~~]licensee shall have policies governing access and identification codes, security, and information retention.

(d) The licensee shall index a hospital medical record [~~shall be indexed~~]according to diagnosis, procedure, demographic information, and physician or licensed health practitioner[~~. T~~] and ensure the index[~~es shall be~~] is current within six months following discharge of the patient.

(e) Original medical records are the property of the [~~hospital~~]licensee and shall not be removed from the control of the [~~hospital~~]licensee or the [~~hospital's~~]licensee's agent as defined by policy, except by court order or subpoena.

(f) The licensee shall manage m[~~M~~]edical records for [~~persons~~]individuals who have received or requested admission to an alcohol or drug program[~~s shall comply~~] in accordance with the Code of Federal Regulations, Title 42, [~~CFR~~]Part 2, [~~"~~]Confidentiality of [~~Alcohol and Drug Abuse~~]Substance Use Disorder Patient Records.[~~"~~]

(3) [~~All~~]The licensee shall ensure that any medical record entries [~~shall be~~]are legible, complete, authenticated, and dated by the person responsible for ordering the service, providing, or evaluating the service, or making the entry. The author shall review p[~~P~~]repared transcriptions of dictated reports, evaluations, and consultations [~~must be reviewed by the author~~]before authentication.

(a) The authentication may include written signatures, computer key, or other methods approved by the governing body and medical staff to identify the name and discipline of the person making the entry.

(b) Use of computer key or other methods to identify the author of a medical record entry [~~is not~~]may not be assignable or [~~to be~~]delegated to another person.

(c) The[~~re shall be~~] licensee shall maintain a current list of [~~persons~~]individuals approved to use the[~~se~~] methods of authentication. Hospital policy[~~ies~~] shall [~~include appropriate~~]identify sanctions for the unauthorized or improper use of computer codes.

(d) Qualified personnel shall accept and transcribe v[~~V~~]erbal orders for the care and treatment of the patient [~~shall be accepted and transcribed by qualified personnel~~]and authenticate[~~d~~] them within 30 days of the patient's discharge.

(4) The licensee shall ensure [~~Patient~~]medical records [~~shall be~~]are organized according to hospital policy[~~.~~] and the following:

(a) [~~M~~]medical records [~~shall be~~]are reviewed at least quarterly for completeness, accuracy, and adherence to hospital policy[~~.~~];

(b) [~~R~~]records of discharged patients [~~shall be~~]are collected, assembled, reviewed for completeness, and authenticated within 30 days of the patient's discharge[~~.~~];

(c) [~~M~~]medical records [~~shall be~~]are retained for at least seven years [~~.~~]and [~~M~~]medical records of minors [~~shall be~~]are kept until the age of [~~eighteen~~]18 plus four years, but in no case less than seven years.

(d) [~~T~~]the [~~Hospital~~]licensee may destroy medical records after retaining them for the minimum [~~time~~]period of time, and [~~. Prior to~~]before destroying medical records, the [~~hospital must~~]licensee shall notify the public by publishing a notice in a newspaper of statewide distribution a minimum of once [~~a~~]per week for three consecutive weeks to allow a former patient to access [~~the patient's~~]their records[~~.~~];

(e) [~~T~~]the [~~hospital~~]licensee shall permanently retain a master patient[~~/~~] or person index that shall include:

(i) the patient name;

(ii) the medical record number;

(iii) the date of birth;

(iv) the admission and discharge dates; and

(v) the name of each attending physician.

(f) [~~I~~]if a [~~hospital~~]licensee ceases operation, the [~~hospital~~]licensee shall [~~make provision for~~]provide secure, safe storage and prompt retrieval of [~~all~~]any medical records, patient indexes, and discharges for the period specified in Subsection R432-100-34(4)(c)[~~.~~]; and[~~ The hospital may arrange for storage of medical records with another hospital, or an approved medical record~~

~~storage facility, or may return patient medical records to the attending physician if the physician is still in the community.~~]

(g) the licensee may arrange for storage of medical records with another hospital, or an approved medical record storage facility, or may return patient medical records to the attending physician if the physician is still in the community.

(5) The licensee shall establish and maintain a[~~A~~] complete medical record [~~shall be established and maintained~~]for each patient admitted[~~ to~~], or who receives hospital services. Emergency and outpatient medical records shall contain documentation of the service [~~rendered,~~]provided and [~~shall contain~~]other pertinent information in accordance with hospital policy.

(6) The licensee shall ensure that each medical record contains:

(a) [~~Each medical record shall contain~~]patient identification and demographic information to include at least the patient's name, address, date of birth, sex, and emergency contact information[~~.~~];

(b) [~~Each medical record shall contain~~]initial or admitting medical history, physical and other examinations or evaluations. Recent histories and examinations may be substituted if updated to include changes that reflect the patient's current status[~~.~~];

(c) [~~Each medical record shall contain~~]admitting, secondary, and [~~principal~~]primary diagnoses[~~.~~];

(d) [~~Each medical record shall contain~~]results of consultative evaluations and findings by [~~persons~~]individuals involved in the care of the patient[~~.~~];

(e) [~~Each medical record shall contain~~]documentation of complications, hospital acquired infections, and unfavorable reactions to medications, treatments, and anesthesia[~~.~~];

(f) [~~Each medical record shall contain~~]properly executed informed consent documents for [~~all~~]any procedures and treatments ordered for, and received by, the patient[~~.~~];

(g) [~~Each medical record shall~~]documentation that the facility requested of each admitted person whether the person has initiated an advanced directive as defined in the Title 75, Chapter 2a, Advance Health Care Directive Act;[~~ Advance Health Care Directive Act, UCA 75-2a.~~]

(h) [~~Each medical record shall contain all~~]practitioner orders, nursing notes, reports of treatment, medication records, laboratory and radiological reports, vital signs, and other information that documents the patient condition and status[~~.~~]; and

(i) [~~Each medical record shall contain~~]a discharge summary including outcome of hospitalization, disposition of case with an autopsy report when indicated, or provisions for follow-up.

([~~j~~]7) A [~~M~~]medical record[~~s~~] of a deceased patient[~~s~~] shall contain a completed Inquiry of Anatomical Gift form or a modified hospital death form [~~which~~]that has been approved by the [~~Utah Department of Health~~]department, as required by Title 26, Chapter 28,[~~Section 26-28, UCA~~] Revised Uniform Anatomical Gift Act.

([~~k~~]8) A [~~M~~]medical record[~~s~~] of a surgical patient[~~s~~] shall contain:[~~ a pre-operative history and physical examination; surgeon's diagnosis; an operative report describing a description of findings; an anesthesia report including dosage and duration of all anesthetic agents and all pertinent events during the induction, maintenance, and emergence from anesthesia; the technical procedures used; the specimen removed; the post-operative diagnosis; and the name of the primary surgeon and any assistants written or dictated by the surgeon within 24 hours after the operation.~~]

(a) a pre-operative history and physical examination;

(b) surgeon's diagnosis;

(c) an operative report describing a description of findings;

(d) an anesthesia report including dosage and duration of any anesthetic and pertinent events during the induction, maintenance, and emergence from anesthesia;

(e) the technical procedures used;

(f) the specimen removed;

(g) the post-operative diagnosis;

(h) the name of the primary surgeon; and

(i) assistants written or dictated by the surgeon within 24 hours after the operation.

([~~l~~]9) A [~~M~~]medical record[~~s~~] of an obstetrical patient[~~s~~] shall contain:[~~ a relevant family history, a pre-natal examination, the length of labor and type of delivery with related notes, the anesthesia or analgesia record, the Rh status and immune globulin administration when indicated, a serological test for syphilis, and a discharge summary for complicated deliveries or final progress note for uncomplicated deliveries.~~]

(a) a relevant family history;

(b) a pre-natal examination;

(c) the length of labor and type of delivery with related notes;

(d) the anesthesia or analgesia record;

(e) the Rh status and immune globulin administration when indicated;

(f) a serological test for syphilis; and

(g) a discharge summary for complicated deliveries or final progress note for uncomplicated deliveries.

([~~m~~]10) A Medical record[~~s~~] of a newborn infant[~~s~~] shall contain the following documentation in addition to the requirements for obstetrical medical records:

([~~i~~]a) [~~Documentation must include~~]a copy of the mother's delivery room record. In adoption cases where the identity of the mother is confidential, the licensee shall include and access the mother's [~~inclusion and access to the mother's delivery room record shall be~~]according to hospital policy[~~.~~];

([~~ii~~]b) [~~Documentation must include~~]the date and hour of birth;[~~, period of gestation, sex, reactions after birth, delivery room care, temperature, weight, time of first urination, and number, character, and consistency of stools.~~]

(c) period of gestation;

(d) gender;

(e) reactions after birth;

(f) delivery room care;

(g) temperature and weight;

(h) time of first urination; and

(i) number, character, and consistency of stools;

([~~iii~~]i) [~~Documentation must include~~]a record of the physical examination completed at birth and discharge, record of ophthalmic prophylaxis, and the identification number of the newborn screening kit, referred to in Rule R398-1[~~.~~];

([~~iv~~]k) [~~If the infant is discharged to any person other than the infant's parents, the hospital shall record the authorization by the parents, state agency, or court authority.~~]the authorization by the parents, state agency, or court authority if the infant is discharged to any person other than the infant's parents; and

([~~v~~]l) [~~Documentation of~~]the record and results of the newborn hearing screening according to Sections 26B-1-432 and R398-2-6.[~~Section 26-10-6, UCA and R398-2-6.~~]

([~~n~~]11) The licensee shall integrate an e[~~E~~]mergency department patient medical record[~~s shall be integrated~~] into the hospital medical record, that[~~ and~~] includes:[~~ time and means of arrival, emergency care given to the patient prior to arrival, history~~

~~and physical findings, lab and x-ray reports, diagnosis, record of treatment, and disposition and discharge instructions.~~]

(a) time and means of arrival;

(b) emergency care given to the patient before arrival;

(c) history and physical findings;

(d) lab and x-ray reports;

(e) diagnosis;

(f) record of treatment; and

(g) disposition and discharge instructions.

([~~e~~]12) [~~Patient~~]A medical~~-~~-social services patient record[~~s~~] shall include:[~~ a medical-social or psycho-social study of referred inpatients and outpatients; the financial status of the patient, social therapy and rehabilitation of patients, environmental investigations for attending physicians, and cooperative activities with community agencies.~~]

(a) a medical-social or psychosocial study of a referred inpatient and outpatient;

(b) the financial status of the patient;

(c) social therapy and rehabilitation of the patient;

(d) an environmental investigation for an attending physician; and

(e) any cooperative activities with community agencies.

([~~p~~]13) A [~~M~~]medical record[~~s~~] of a patient[~~s~~] receiving rehabilitation therapy shall include:[~~ a written plan of care appropriate to the diagnosis and condition, a problem list, and short and long term goals.~~]

(a) a written plan of care appropriate to the diagnosis and condition;

(b) a problem list; and

(c) short and long term goals.

([~~6~~]14) The medical records department shall maintain records, reports and documentation of admissions, discharges, and the number of autopsies performed.

([~~7~~]15) The medical records department shall maintain vital statistic registries for births, deaths, and the number of operations performed. The medical records department shall report vital statistics data in accordance with the Title 26B, Chapter 8, Vital Statistics Act.[~~, Utah Health Code, (26-2, UCA).~~]

R432-100-[~~35~~]36. Central Supply Services.

(1) The licensee shall qualify a central supply service supervisor [~~shall be qualified~~]for the position by their education, training, and experience.

(2) The [~~hospital~~]licensee shall provide space and equipment for the cleaning, disinfecting, packaging, sterilizing, storing, and distributing of medical and surgical patient care supplies.

(a) [~~A~~]The licensee shall ensure that the hospital central service area [~~shall~~]provides for the following:

(i) [~~A~~]a decontamination area [~~which~~]that is [~~shall be~~]separated by a barrier or divider to allow the receiving, cleaning, and disinfection functions to be performed separately from [~~all~~]any other central service functions;

(ii) [~~A~~]a linen assembly or pack-making area [~~which~~]that [~~shall have~~]has ventilation to control lint[~~.~~] and [~~T~~]the linen assembly or pack-making area [~~shall be~~]is separated from the general sterilization and processing area[~~.~~]; and

(iii) [~~T~~]the sterilization area [~~shall~~]contains hospital sterilizers with approved controls and safety features[~~.~~];

([~~b~~]A) [~~T~~]the accuracy of the sterilizers' performance [~~shall be~~]is checked by a method that includes a permanent record of each run[~~.~~];

([~~c~~]B) the [~~S~~]sterilizers [~~shall be~~]are tested by biological monitors at least weekly[~~.~~]; and

([~~d~~]C) [~~I~~]if gas sterilizers are used, they are[~~shall be~~] inspected, maintained, and operated in accordance with the manufacturer's recommendations.

(3) The licensee shall separate the storage area [~~shall be separated~~]into sterile and non-sterile areas[~~.~~] and ensure the following:[~~The storage area shall have temperature and humidity controls, and shall be free of excessive moisture and dust. Outside shipping cartons shall not be stored in this area.~~]

(a) the storage area has temperature and humidity controls;

(b) the storage area is free of excessive moisture and dust; and

(c) outside shipping cartons are not stored in this area.

(4) Staff shall wipe countertops and tables with a broad spectrum disinfectant [~~D~~]during each shift that the central service area is staffed.[~~, counter tops and tables shall be wiped with a broad spectrum disinfectant.~~]

(5) [~~All~~]Staff shall issue and launder any apparel worn in central supply [~~shall be issued and laundered~~]according to hospital policy.

R432-100-[~~36~~]37. Laundry Service.

(1) A person whose qualifications, authority, responsibilities, and duties are approved by the administrator shall direct[~~Direction of~~] the laundry service.[~~ shall be provided by a person whose qualifications, authority, responsibilities and duties are approved by the administrator.~~]

(2) [~~Hospitals~~]A licensee using a commercial linen service[~~s~~] shall require written assurance from the commercial service that standards in this subsection are maintained.

(a) Clean linen shall [~~be~~]remain completely packaged and protected from contamination until received by the [~~hospital~~]licensee.

(b) The use of a commercial linen service does not relieve the [~~hospital~~]licensee from its quality improvement responsibilities.

(3) [~~Hospitals~~]A licensee that maintains an in-house laundry service [~~must~~]shall [~~have~~]provide equipment, supplies, and staff [~~available~~]to meet the needs of the patients[~~.~~] and shall ensure:

(a) [~~S~~]soiled linen [~~shall be~~]is collected in a manner to minimize cross-contamination and [~~. C~~]containers [~~shall be~~]are properly closed as filled and before further transport[~~.~~];

(i) [~~S~~]soiled linen [~~shall be~~]is sorted only in a sorting area[~~.~~];

(ii) [~~H~~]handwashing is required after handling soiled linen and [~~prior to~~]before handling clean items[~~.~~];

(iii) [~~E~~]employees handling soiled linen [~~shall~~]wear protective clothing [~~which~~]that [~~must be~~]is removed before leaving the soiled work area[~~.~~];

(iv) [~~S~~]soiled linen [~~shall be~~]is transported separately from clean linen[~~.~~];

(b) The [~~hospital~~]licensee shall maintain a supply of clean linen[~~.~~];

(i) [~~C~~]clean linen [~~shall be~~]is handled and stored in a manner to minimize contamination from surface contact or airborne deposition[~~.~~];

(ii) [~~C~~]clean linen [~~shall be~~]is stored in enclosed closet areas or carts[~~.~~]; and

(iii) [~~C~~]clean linen [~~shall be~~]is covered during transport.

(4) The [~~hospital~~]licensee [~~is responsible to~~]shall launder employee scrubs that are worn in the following areas:

(a) surgical areas; and

(b) other areas as required by the Occupational Health and Safety Act in the Code of Federal Regulations, Title 29, Part 1910.264.

(5) If hospital employee scrubs are designated as uniforms that may be worn to and from work, the licensee shall develop and implement policies and procedures [~~shall be developed and implemented~~]defining the scope and usage of scrubs as uniforms including hospital storage of employee scrubs, and [~~provisions for~~]hospital-provided scrubs in [~~case~~]the event of contamination.

R432-100-[~~37~~]38. Housekeeping Services.

(1) The[~~re shall be~~] licensee shall provide housekeeping services to maintain a clean, safe, sanitary, and healthful environment in the hospital.

(2) If the [~~hospital~~]licensee contracts for housekeeping services with an outside service, the[~~re shall be~~] licensee shall secure a signed and dated agreement that details the services provided.

(3) The [~~hospital~~]licensee shall provide safe[~~,~~] and secure storage of cleaners and chemicals[~~. C~~] and keep cleaners and chemicals stored in areas that may be accessible to patients [~~shall be kept~~]secure in accordance with hospital policy.

(4) The licensee shall ensure that [~~S~~]storage and supplies in [~~all~~]each area[~~s~~] of the hospital [~~shall be~~]are stored at least four inches off the floor, and at least 18 inches below the lowest portion of the sprinkler system.

(5) Personnel engaged in housekeeping or laundry services [~~may~~]shall not be engaged simultaneously in food service or patient care.

(6) If personnel work in food or direct patient care services, the licensee shall establish and follow a hospital policy [~~shall be established and followed~~]to govern the transition from housekeeping services to patient care.

R432-100-[~~38~~]39. Maintenance Services.

(1) The[~~re~~] licensee shall provide [~~shall be~~]maintenance services to ensure that hospital equipment and grounds are maintained in a clean and sanitary condition and in a state of good repair [~~at all times~~]for the safety and well-being of patients, staff, and visitors.

(a) The administrator shall employ a person qualified by experience and training to [~~be in charge of~~]oversee hospital maintenance.

(b) If the [~~hospital~~]licensee contracts for maintenance services, the[~~re shall be~~] licensee shall secure a signed and dated agreement that details the services provided.

(c) [~~A~~]The licensee shall ensure a pest-control program [~~shall be~~]is conducted to ensure the hospital is free from vermin and rodents.

(d) The licensee shall maintain [~~E~~]entrances, exits, steps, ramps, and outside walkways [~~shall be maintained~~]in a safe condition [~~with regard~~]regarding [~~to~~]snow, ice, and other hazards.

(2) [~~All~~]The licensee shall test, calibrate and maintain any patient care equipment [~~shall be tested, calibrated and maintained~~]in accordance with the specifications from the manufacturer[~~.~~] and make testing frequency and calibration documentation, whether conducted internally or by an outside agency, available for department review.

[~~(a) Testing frequency and calibration documentation shall be available for Department review.~~

~~(b) Testing or calibration procedures conducted by an outside agency or service shall be documented and available for Department review.~~]

(3) The licensee shall ensure h[~~H~~]ot water at public and patient faucets [~~shall be~~]is delivered between 105 to 120 degrees [~~Fahrenheit~~]F.

R432-100-[~~39~~]40. Emergency Operations Plan.

(1) The[~~re must be provisions~~] licensee shall have an emergency operations plan for the maintenance of a safe environment in the event of an emergency or disaster [~~which~~]that overwhelms the facility.

(2) The administrator or designee is responsible for the development of [~~a~~]the plan, coordinated with applicable state and local emergency response partners and agencies. [~~This plan shall be in writing and made available to all hospital staff.~~]The plan shall:

(a) be in writing and made available to any hospital staff;

([~~a~~]b) [~~The plan shall~~]be reviewed and updated as necessary and [~~shall~~]be available for review by the [~~D~~]department[~~.~~];

([~~b~~]c) [~~The hospitals' emergency operations plan must~~]delineate individuals who will be in charge in the event of[~~during~~] any significant emergency[~~.~~];

([~~c~~]d) include readily available [~~L~~]lists of emergency partners [~~shall be readily available, including~~]with multiple contact options,[~~.~~] [~~E~~]emergency contact lists [~~will be~~]are updated and maintained regularly by the [~~hospital~~]licensee[~~.~~];

(e) delineate the person with decision-making authority to activate the emergency operations plan;

(f) address risks and threats identified in the licensee's annual hazard vulnerability analysis;

[~~(3) The hospital's emergency operations plan shall address the following:~~]

([~~a~~]g) have an evacuation plan;

([~~b~~]h) address delivery of essential care and services when additional persons are present at the hospital during an emergency;

([~~c~~]i) address delivery of essential care and services to hospital occupants utilizing crisis standards of care when staff is reduced by an emergency; and

([~~d~~]j) [~~must~~]address planning, mitigation, response, and recovery for each of the following [~~six~~]areas:

([~~i~~]k) emergency communications;

(ii) resources and assets;

(iii) safety and security;

(iv) staff responsibilities;

(v) utility management; and

(vi) patient clinical and supportive activities.

([~~4~~]3) The hospital administrator and the board shall approve the emergency operations plan.[~~ shall be approved by the board and the hospital administrator.~~]

[~~(a) The hospital's emergency operations plan shall delineate the person or persons with decision-making authority to activate the emergency operations plan;~~

~~(b) The hospital's emergency response plan shall address those risks and threats identified in the facility's annual hazard vulnerability analysis.~~]

([~~e~~]4) The [~~hospital~~]licensee shall document [~~all~~]any emergency incidents and responses.

([~~d~~]5) The licensee shall hold d[~~D~~]isaster drills[~~/~~] or exercises [~~shall be held~~]twice yearly according to threats identified in the facility's annual hazard vulnerability analysis.

([~~5~~]6) The[~~re shall be~~] licensee shall have a fire emergency evacuation plan written in consultation with qualified fire safety personnel. This plan may [~~or may not~~]be included in the facility's emergency operations plan.[~~ The evacuation routes shall be posted in prominent locations throughout the hospital. Fire drills and fire drill documentation shall be in accordance with R710-4, State of Utah Fire Prevention Board.~~]

(7) The licensee shall post evacuation routes posted in prominent locations throughout the hospital.

(8) The licensee shall document fire drills and ensure fire drill documentation is in accordance with Rule R710-4, State of Utah Fire Prevention Board.

([~~6~~]9) A [~~hospital~~]licensee may exceed its licensed capacity by up to 20% in response to any incident that overwhelms the facility.

(a) A hospital [~~which~~]that exceeds its licensed capacity under this provision shall notify the [~~D~~]department within 72 hours of exceeding its licensed capacity.

(b) The licensee shall seek department a[~~A~~]pproval [~~must be obtained from the Department~~]to exceed 20% above licensed capacity.

(c) The [~~D~~]department may direct that the [~~hospital~~] licensee reduce its patient census to its licensed capacity at any time.

R432-100-[~~40~~]41. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in Section 26B-2-208[~~26-21-11~~] and Rule R432-3[~~-7~~] and be [~~punished for~~]charged with violation of a class A misdemeanor as provided in Section 26B-2-216[~~26-21-16~~].

KEY: health care facilities
Date of Last Change: 2023[~~October 17, 2017~~]
Notice of Continuation: September 1, 2020
Authorizing, and Implemented or Interpreted Law: [~~26-21-5; 26-21-2.1; 26-21-20~~]26B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	**R432-108**	**Filing ID: 55349**

Agency Information

1. Department:	Health and Human Services
Agency:	Health Facility Licensing
Room number:	1st Floor
Building:	Multi-Agency State Office Bldg.
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144103
City, state and zip:	Salt Lake City, UT 84114-4103

Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R432-108. Rural Emergency Hospital

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this proposal is to create rules for a new provider type of Rural Emergency Hospital.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This proposed rule creates a license type to meet federal requirements set forth in 42 CFR 485.500.

It mirrors its existing counterpart Rule R432-106, Critical Access Hospital, but has been updated to the Utah Rulewriting Manual compliance.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

State government process was thoroughly reviewed. This rule will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this rule is for currently licensed providers, not new providers. No additional surveys will be required.

B) Local governments:

Local government city business licensing requirements were considered. The Rural Emergency Hospital Standards are regulated by the Department of Health and Human Services and not local governments.

There will be no change in local business licensing or any other item(s) with which local government is involved.

This rule is for currently licensed providers, not new providers.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

After conducting a thorough analysis, it was determined that this rule will not impact small businesses.

This rule is for currently licensed providers and no new expenditures will be required.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

After conducting a thorough analysis, it was determined that this rule should not impact non-small businesses.

This rule is for currently licensed providers and no new expenditures will be required.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule should not impact persons other than small businesses, non-small businesses, state, or local government entities.

This rule is for currently licensed providers and no new expenditures will be required.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

After conducting a thorough analysis, it was determined that this rule will not impact affected persons.

This rule is for currently licensed providers and no new expenditures will be required.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-2-202

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	04/25/2023

R432. Health and Human Services, Health Care Facility Licensing.

R432-108. Rural Emergency Hospital.

R432-108-1. Authority.

This rule is authorized by Section 26B-2-202.

R432-108-2. Purpose.

The purpose of this rule is to promote public health and welfare through establishment of a specialty hospital category for rural hospitals. The intent is to allow rural communities to preserve access to primary care and emergency health care services, provide health care services that meet community needs, and help assure the financial viability of program participants through improved reimbursement and operating requirements. This rule sets standards for the operation of a Rural Emergency Hospital.

R432-108-3. Definitions.

(1) "Rural Emergency Hospital (REH)" means an entity that operates to provide emergency department services, observation care, and other outpatient medical and health services where the annual per patient average length of stay does not exceed 24 hours.

(2) "Referral Hospital" means a hospital that has sufficient resources to receive emergency or non-emergency patient transfers and referrals from a REH.

(3) "Request for Agency Action" is the form used for all licensing changes including a new license, change of ownership, change of administrator, name change, or change in occupancy.

R432-108-4. Licensure.

(1) A license is required for a REH as identified in Rule 432-2.

(2) A licensee may not provide inpatient services, except those furnished in a unit that is a distinct part licensed as a skilled nursing facility to furnish post-REH or post-hospital extended care services.

(3) Participation as an REH is limited to licensees that:

(a) meet the definition in the Code of Federal Regulations, Title 42, Part 485.502; and

(b) became licensed as a General Acute Hospital or Critical Access Hospital before December 27, 2020.

R432-108-5. Construction, Facilities, and Equipment Standards.

(1) Each licensee that received a license before December 27, 2020 that elects to convert to a REH may maintain the physical plant that is currently licensed, without having to meet the current construction or building code for a general acute care hospital.

(2) Within 18 months of conversion to the specialty REH, a licensee may submit a request for agency action to convert to a general hospital category without being required to meet Rule R432-4, General Construction Standards.

R432-108-6. Hospital Rules.

(1) The following sections of Rule R432-100, General Hospital Rules, additionally apply to the licensee:

(a) Governing Body;

(b) Administrator;

(c) Professional Staff; a network hospital or a department approved equivalent may perform credentialing of medical and professional staff;

(d) Personnel Management Services;

(e) Quality Improvement Plans; a network hospital or department approved equivalent may perform quality improvement;

(f) Infection Control and Prevention;

(g) Patient Rights;

(h) Nursing Services; a qualified registered nurse is not required to be on duty on a 24-hour basis; but shall be on duty when there are patients in the facility;

(i) Radiology Services; a licensee may provide off-site radiology services through a network hospital or through other arrangements approved by the department;

(j) Pharmacy Services;

(k) Medical Records;

(l) Housekeeping Services;

(m) Maintenance Services; and

(n) Emergency and Disaster Plans.

(2) If the licensee provides the following clinical or ancillary services then the following sections of Rule R432-100 shall apply to the licensee:

(a) Surgical Services;

(b) Anesthesia Services;

(c) Perinatal Services;

(d) Respiratory Services;

(e) Blood Services;

(f) Telemedicine Services;

(g) Central Supply; and

(h) Laundry Services.

(3) The licensee shall ensure that there is enough medical and nursing personnel qualified in emergency care to meet the written emergency procedures and needs anticipated by the facility.

(4) The licensee shall meet the requirements specified in the Code of Federal Regulations, Title 485, Part 618, Sections (a) through (e) with respect to:

(a) 24-hour availability of emergency services;

(b) equipment, supplies, and medication;

(c) blood and blood products;

(d) personnel; and

(e) coordination with emergency response systems.

(5) The licensee shall have an agreement in effect with at least one certified hospital that is a level I or level II trauma center as identified in Rule R426-9 for the referral and transfer of patients requiring emergency medical care beyond the capabilities of the REH.

(6) The licensee shall provide basic laboratory services essential to the immediate diagnosis and treatment of the patient consistent with nationally recognized standards of care for emergency services. The licensee shall ensure that:

(a) laboratory services are available, either directly or through a contractual agreement with a certified laboratory that meets requirements of the Code of Federal Regulations, Title 42, Part 493; and

(b) emergency laboratory services are available 24 hours a day.

R432-108-7. Rural Health Network.

(1) The participating REH licensee shall be a member of a rural health network, as evidenced by a signed, written agreement with at least one referral hospital that is a member of the network.

(2) The agreement shall address the following:

(a) patient referral and transfer;

(b) the development and use of communications system; and

(c) emergency and non-emergency transportation.

R432-108-8. Penalty.

Any person who violates any part of this rule may be subject to the penalties enumerated in Section 26B-2-208 and Rule R432-3 and be charged with a class A misdemeanor as provided in Section 26B-2-216.

KEY: health care facilities
Date of Last Change: 2023
Authorizing, and Implemented or Interpreted Law: 26B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R432-700**	**Filing ID: 55351**

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Facility Licensing	
Room number:	1st Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R432-700. Home Health Agency Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual.

Additionally, there was a change from 63 days to 60 days for the federal requirement impacting Subsections R432-700-24(5) and (6), R432-700-25(7), and the change points to the statute requiring the change.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The revisions include more specific language consistent with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no fiscal costs or savings to state government as a result of this rule filing.

B) Local governments:

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for local governments because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no fiscal costs or savings to local governments as a result of this rule filing.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no fiscal costs or savings to small businesses as a result of this rule filing.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no fiscal costs or savings to non-small businesses as a result of this rule filing.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no fiscal costs or savings to affected persons as a result of this rule filing.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

There are no added compliance costs for compliance with this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-2-202

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	04/24/2023

R432. Health and Human Services, [~~Family~~]Health Care [~~and Preparedness,~~]Facility Licensing.
R432-700. Home Health Agency Rule.
R432-700-1. Authority.

This rule is [~~adopted pursuant to Title 26, Chapter 21 Health Care Facility Licensing and Inspection Act.~~]authorized by Section 26B-2-202.

R432-700-2. Purpose.

The purpose of this rule is to promote [~~the~~]public health and welfare through the establishment and enforcement of licensure standards[~~. This rule sets standards~~] for the operation of a home health [~~agencies~~]agency.

R432-700-3. Compliance.

A [~~H~~]home health [~~agencies~~]agency shall comply with [~~these~~]this rule[~~s~~] and their own policies and procedures.

R432-700-4. Definitions.

Terms used in this rule are defined in Section 26B-2-201[~~26-21-2,~~] and [~~s~~]Section R432-1-3. In addition:

(1) [~~"Certification in Cardiopulmonary Resuscitation" (CPR) refers to certification issued after completion of an in- person course, to include skills testing and evaluation on-site with a licensed instructor.~~]"Administrator" means the individual the home health agency's governing body appoints to be responsible for the overall functions of the agency.

(2) [~~"Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.~~]"Ancillary Services" means services that support clinical services and are usually diagnostic in nature. These services do not require direct care or oversight by a nurse or physician including labs, radiology, cardiac testing, outpatient services, and diabetic teaching.

(3) [~~"Primary Care Provider" means the physician, physician assistant, or advanced practice registered nurse who is the primary care provider of the patient, and who has education and experience to assess and evaluate the health care needs of the patient. This definition also applies to a physician, physician assistant, or advanced practice registered nurse who is on call for the primary care provider of the patient.~~]"Certification in Cardiopulmonary Resuscitation" (CPR) refers to certification issued after completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor.

(4) [~~"Service Agreement" means a written agreement for services between the client and the personal care provider which outlines how the services are to be provided according to the requirements of Section R432-700-24.~~]"Clinical Services" means medical services that are provided by licensed physicians or nurses or under their direct care and supervision.

(5) "Home health agency" is defined in 26B-2-201 and means an institutionally based home care program, freestanding public and proprietary home health agency, and any subdivision of an organization, public agency, hospital, or nursing home licensed to provide intermittent part-time services or full-time private duty services to clients in their places of residence.

(6) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the client.

(7) "Primary Care Provider" means the physician, physician assistant, or advanced practice registered nurse who is the primary care provider of the client, and who has education and experience to assess and evaluate the health care needs of the client. This definition also applies to a physician, physician assistant, or advanced practice registered nurse who is on call for the primary care provider of the client.

(8) "Service Agreement" means a written agreement for services between the client and the personal care provider that outlines how the services are to be provided according to the requirements of Section R432-700-23.

(9) "Therapy Services" means therapeutic services including physical, occupational, speech and nutrition therapy services.

[~~**R432-700-5. Categories of Home Health Agencies.**~~

~~Home health agencies include institutionally based home care programs, freestanding public and proprietary home health agencies, and any subdivision of an organization, public agency, hospital, or nursing home licensed to provide intermittent part-time services or full-time private duty services to patients in their places of residence.~~

]

R432-700-[~~6~~]5. Services Provided by a Home Health Agency.

(1) A [~~home health agency~~]licensee shall provide services to [~~patients~~]a client in their place of residence, or [~~in~~]under special circumstances, in their place of employment.

(2) Services shall be directed and supervised by a licensed practitioner.

(3) Professional and supportive personnel shall be responsible [~~to the home health agency~~]for any of the following services that they may perform:

(a) [~~provision of~~]providing skilled services authorized by a primary care provider;

(b) nursing services assessed, provided, or supervised by a registered nurse[~~s~~]; or

(c) other related health services approved by a licensed practitioner.

R432-700-[~~7~~]6. Licensure Required.

(1) Rule R432-700, Home Health Agency [~~Rule~~]does not apply to a single individual providing professional services under the authority granted by a professional license or registration.

(2) The [~~home health agency~~]licensee shall comply with Rule R432-2, General Licensing Provisions.

R432-700-[~~8~~]7. Governing Body and Policies.

(1) The home health agency shall be organized under a governing body that assumes full legal responsibility for the conduct of the home health agency.

(2) The governing body shall:[~~ develop an organization chart that shows the administrative structure of the home health agency.~~]

([~~3~~]a) [~~The governing body shall assume responsibility to:~~]develop an organization chart that shows the administrative structure;

([~~a~~]b) [~~comply with federal regulations, state rules, and local laws;~~]be responsible for compliance with federal regulation, state rules, and local laws;

([~~b~~]c) [~~adopt policies and procedures which describe functions or services of the home health agency and protect patient rights;~~]ensure there is no discrimination on the basis of race, color, sex, religion, ancestry, national origin;

([~~c~~]d) [~~adopt a statement that there is no discrimination because of race, color, sex, religion, ancestry, or national origin; and~~]adopt policies and procedures that describe functions or services and protect client rights;

([~~d~~]e) [~~develop and implement bylaws which shall include at least:~~]review and make available to the department, the written annual evaluation report from the administrator and make recommendations as necessary;

([~~i~~]f) [~~a statement of purpose;~~]provide resources and equipment to provide a safe working environment for personnel; and

([~~ii~~]g) [~~a statement of qualifications for membership and methods to select members of the governing board;~~]establish a system of financial management and accountability;

([~~iii~~]3) [~~a provision for the establishment, selection and term of office for committee members and officers;~~]The governing body shall have the authority and responsibility to develop and implement bylaws to include:

([~~iv~~]a) [~~a description of functions and duties of the governing body, officers and committees;~~]a statement of purpose;

([~~v~~]b) [~~a statement of the authority and responsibility delegated to the administrator;~~]a statement of qualifications for membership and methods to select members of the governing board;

([~~vi~~]c) [~~a policy statement relating to conflict of interest of members of the governing body or employees who may influence home health agency decisions;~~]a process for the establishment, selection, and term of office for committee members and officers;

([~~vii~~]d) [~~required meetings as stated in bylaws, at least annually; and~~]a description of functions and duties of the governing body, officers, and committees;

([~~viii~~]e) [~~appointment by name and in writing of a qualified administrator who is responsible for the home health agency's overall functions.~~]a statement of the authority and responsibility delegated to the administrator;

([4]f) [~~The governing body shall review the written annual evaluation report from the administrator and make recommendations as necessary. Documentation of this review shall be available to the Department.~~]a statement relating to conflict of interest of members of the governing body or employees who may influence licensee decisions;

([~~5~~]g) [~~The governing body shall make provision for resources and equipment to provide a safe working environment for personnel.~~]annually required meetings as stated in bylaws; and

([~~6~~]h) [~~The governing body shall establish a system of financial management and accountability.~~]appointment by name and in writing of a qualified administrator who is responsible for the agency's overall functions.

R432-700-[~~9~~]8. Administrator Responsibilities.

(1) The administrator [~~is the individual the home health agency's governing body appoints to be responsible for the overall functions of the home health agency.~~]shall have at least one year of managerial or supervisory experience.

(2) The administrator shall [~~have at least one year of managerial or supervisory experience.~~]be responsible to:

([~~3~~]a) [~~The administrator shall~~]designate in writing a qualified person who shall act in their absence;[~~. The administrator's designee shall have sufficient power, authority, and freedom to act in the best interests of patient safety and well-being.~~]

([4]b) [~~The administrator or designee shall be available during the home health agency's hours of operation.~~]ensure that the administrator or designee has enough power, authority, and freedom to act in the best interests of client safety and well-being;

([~~5~~]c) [~~The administrator shall have the responsibility to:~~]ensure that administrator or designee is available during the agency's hours of operation;

([~~a~~]d) complete, submit and file records and reports required by the [~~D~~]department;

([~~b~~]e) review [~~home health agency~~]policies and procedures at least annually and revise as necessary and document the date of review;

([~~e~~]f) implement [~~home health agency~~]policies and procedures;

([~~d~~]g) organize and coordinate functions of the [~~home health~~]agency by delegating duties and establishing a formal means of staff accountability;

([~~e~~]h) appoint the following:[~~ a primary care provider, registered nurse, or health care professional to provide general supervision, coordination, and direction for professional services of the home health agency;~~]

([~~f~~]i) [~~appoint a registered nurse to be the director of nursing services;~~]a primary care provider:

([~~g~~]ii) [~~appoint the members and their terms of membership in the interdisciplinary quality assurance committee;~~]a registered nurse, or healthcare professional to provide general supervision coordination and direction for professional services in the agency;

(iii) the members and their terms of membership in the interdisciplinary quality assurance committee; and

([~~h~~]iv) [~~appoint~~]other committees as deemed necessary[~~, describe committee functions and duties, and make provision for selection, term of office and responsibilities of committee members~~];

(i) describe each committee functions and duties;

(j) develop processes for selection, term of office and responsibilities of each committee member;

[~~(i) designate a person responsible for maintaining a clinical record system on each patient;~~]

([~~j~~]k) [~~maintain current written designations or letters of appointment in the home health agency;~~]designate a person responsible for maintaining a clinical record system on each client;

([~~k~~]l) [~~employ or contract with competent personnel whose qualifications are commensurate with job responsibilities and authority, and who have the appropriate license or certificate of completion;~~]maintain current written designations or letters of appointment in the home health agency;

([~~l~~]m) [~~develop job descriptions that delineate functional responsibilities and authority;~~]employ or contract with competent personnel whose qualifications are commensurate with job responsibilities and authority, and who have the appropriate license or certificate of completion;

([~~m~~]n) [~~develop a staff communication system that coordinates implementation of plans of treatment, utilizes services or resources to meet patient needs and promotes an orderly flow of information within the organization;~~]develop job descriptions that delineate functional responsibilities and authority;

[~~(n) provide staff orientation as well as continuing education in applicable policies, rules, regulations and resource materials;~~]

(o) [~~secure contracts for services not directly provided by the home health agency;~~]develop a staff communication system that coordinates implementation of plans of treatment, utilizes services or resources to meet client needs and promotes an orderly flow of information within the organization;

(p) [~~implement a program of budgeting and accounting; and~~]provide staff orientation as well as continuing education in applicable policies, rules, regulations, and resource materials;

(q) [~~establish a billing system which itemizes services provided and charges submitted to the payment source.~~]secure contracts for services not directly provided by the home health agency;

(r) implement a program of budgeting and accounting; and

(s) establish a billing system which itemizes services provided and charges submitted to the payment source.

R432-700-[~~10~~]9. Personnel.

(1) The administrator shall employ qualified personnel who are competent to perform their respective duties, services, and functions.

(2) The [~~home health agency~~]administrator shall develop written policies and procedures that address [~~at least~~]the following:

(a) job descriptions, qualifications, validation of licensure or certificates of completion for each position held;

(b) orientation for direct and contract employees;

(c) criteria for, and frequency of, performance evaluations;

(d) work schedules, method and period of payment, [~~fringe~~]benefits such as sick leave, vacation, and insurance;

(e) frequency and documentation of in-service training;[~~and~~]

(f) contents of personnel files[~~.~~]; and

(g) emergency and after-hours care policies and procedures that are made available to the client and family.

(3) Each employee shall be licensed, certified, or registered as required by the Utah Department of Commerce, Division of [~~Occupational and~~]Professional Licensing.

[~~(4) Failure to ensure that staff are licensed, certified or registered may result in sanctions to the home health agency license.~~]

([~~5~~]4) The [~~home health agency~~]licensee shall document that staff have been trained annually in the reporting requirements for suspected abuse, neglect, and exploitation.

R432-700-[~~11~~]10. Health Surveillance.

(1) The [~~home health agency~~]licensee shall establish and implement a policy and procedure for employee health screenings [~~of home health agency health care workers~~]to identify any situation which would prevent the employee from performing assigned duties in a satisfactory manner.

(2) Employee health screening and immunization components of personnel health programs shall be developed by the [~~home health agency~~]licensee, in accordance with Rule R386-702, Communicable Disease Rules.

(3) Employees shall be tested for tuberculosis by the Mantoux Method or other FDA approved in-vitro serologic test in accordance with Rule R388-804, Special Measures for Control of Tuberculosis.

(a) The licensee shall ensure that employees are skin-tested for tuberculosis within two weeks of:

(i) initial hiring;

(ii) suspected exposure to a person with active tuberculosis; [~~and~~]or

(iii) development of symptoms of tuberculosis.

(b) Skin testing shall be exempted for employees with a known positive reaction to skin tests.

(4) Infections and communicable diseases reportable by law shall be reported by the [~~home health agency~~]licensee to the local health department in accordance with Section R386-702-3.

R432-700-[~~12~~]11. Orientation.

(1) The [~~home health agency~~]licensee shall document in writing that each employee[~~s are~~] is oriented to the home health agency and the job [~~for which~~]that they are hired to perform.

(2) The licensee shall ensure that o[~~O~~]rientation [~~under Subsection (1) shall~~]includes:

(a) the functions of [~~home health~~]agency employees and the relationships between various positions or services;

(b) job descriptions;

(c) duties [~~for which~~]that persons are trained, certified, or licensed [~~for~~]to perform;

(d) ethics, confidentiality, and [~~patients'~~]client rights training;

(e) information about other community agencies including emergency medical services;

(f) opportunities for continuing education appropriate to the [~~patient~~]client population served; and

(g) reporting requirements for suspected abuse, neglect, or exploitation.

R432-700-[~~13~~]12. Contracts.

(1) The administrator shall secure written contracts or agreements from other providers, or independent contractors, who provide [~~patient~~]client services through the [~~home health~~]agency and shall arrange for an orientation to ensure that the contractor is prepared to meet the job expectations.

(2) The [~~home health agency~~]licensee shall make any contract [~~under Subsection (1)~~]available for review by the [~~D~~]department.

(3) [~~The~~]Each contract shall include:

(a) the effective and expiration dates;

(b) a description of goods or services to be provided; and

(c) a copy of the contractor's professional license.

R432-700-[~~14~~]13. Acceptance Criteria.

(1) The [~~home health agency~~]licensee shall develop written acceptance criteria and shall make [~~these policies~~]criteria policy information available to the public upon request.

(2) The [~~home health agency~~]licensee shall accept [~~patients~~]a client for treatment if the [~~patient's~~]client's needs can be met by the [~~home health~~]agency in the [~~patient's~~]client's place of residence. The [~~home health agency~~]licensee shall base the acceptance determination on an assessment that the client needs skilled nursing services and meets[~~using~~] the following criteria:

[~~(a) the patient needs skilled nursing services which meet the following criteria:~~]

([~~i~~]a) the complexity of prescribed services can be safely or effectively performed only by, or under the close supervision of, technical or professional personnel;

([~~ii~~]b) care is needed to prevent, to the extent possible, deterioration of the condition or to sustain current capacities of a [~~patient~~]client, such as one with terminal cancer;[~~ and~~]

([~~iii~~]c) special medical complications [~~necessitate~~]require service performance or close supervision by technical or professional persons, [~~as in~~]such as the care of a diabetic [~~patient~~]client with impaired circulation, fragile skin, [~~and~~]or a fractured leg in a cast;

([~~b~~]d) the [~~patient~~]client needs therapy services or support services as outlined in this rule;

([~~c~~]e) the [~~patient~~]client, responsible family members, guardians, or legal representatives request care at home; or

([~~d~~]f) the physical facilities in the [~~patient's~~]client's place of residence can be adapted to provide a safe environment for care.

R432-700-[~~15~~]14. Termination of Services Policies.

(1) The [~~home health agency~~]licensee may discharge a [~~patient~~]client under [~~one or more~~]any of the following circumstances:

(a) a licensed practitioner signs a discharge statement for termination of services;

(b) treatment objectives are met;

(c) the [~~patient's~~]client's status changes, [~~which~~]that makes treatment objectives unattainable and new treatment objectives are not an alternative;

(d) the family situation changes and affects the delivery of services;

(e) the [~~patient~~]client or family is uncooperative in efforts to attain treatment objectives;

(f) the [~~patient~~]client moves from the geographic area served by the [~~home health~~]agency;

(g) the primary care provider fails to renew orders as required by the rules for skilled nursing or therapy services;[~~, or the patient changes primary care providers and the home health agency~~

~~cannot obtain orders for continuation of services from the new primary care provider;~~]

(h) the client changes primary care providers and the licensee cannot obtain orders for continuation of services from the new primary care provider;

([~~h~~]i) the [~~patient's~~]client's payment sources [~~are~~]become exhausted and the [~~home health agency~~]licensee is fiscally unable to provide free or reduced care;

([~~i~~]j) the [~~home health agency~~]licensee discontinues a particular service or terminates services;

([~~j~~]k) the [~~home health agency~~]licensee can no longer provide quality care in the place of residence;

([~~k~~]l) the [~~patient~~]client or family requests [~~home health~~]agency services to be discontinued;

([~~l~~]m) the [~~patient~~]client dies;

([~~m~~]n) the [~~patient~~]client or family [~~is unable~~]cannot or is unwilling to provide an environment that ensures safety for the both the [~~patient~~]client and provider of service; or

([~~n~~]o) the [~~patient's~~]client's payer excludes the [~~home health agency~~]licensee from participating as a covered provider or refuses to authorize services the [~~home health agency~~]licensee determines are medically necessary.

(2) The person who is assigned to supervise and coordinate care for a particular [~~patient~~]client shall complete a discharge summary when services to the [~~patient~~]client are terminated.

R432-700-[~~16~~]15. [~~Patients'~~]Client Rights.

(1) Written [~~patients'~~]client's rights shall be established by the [~~home health agency~~]licensee and made available to the [~~patient~~]client, guardian, next of kin, sponsoring agency, representative payee, and the public.

(2) [~~Home health agency policy~~]The licensee shall determine in policy how [~~patients'~~]client's rights information is distributed.

(3) The [~~home health agency~~]licensee shall ensure that each [~~patient~~]client receiving care has the following rights:

(a) to be fully informed of these rights and rules governing [~~patient~~]client conduct, as evidenced by documentation in the clinical record;

(b) to be fully informed of services and related charges [~~for which~~]that the [~~patient~~]client or a private insurer may be responsible, and to be informed of changes in charges;

(c) to be fully informed of the [~~patient's~~]client's health condition, unless medically contraindicated and documented in the clinical record;

(d) to be [~~afforded~~]given the opportunity to participate in the planning of home health services, including referral to health care institutions or other agencies, and to refuse to participate in experimental research;

(e) to refuse treatment to the extent permitted by law and to be informed of the medical consequences if treatment is refused;

(f) to be assured confidential treatment of personal and medical records, and to approve or refuse their release to any individual outside the home health agency, except [~~in the case of transfer~~]when transferring to another home health agency or health facility, or as required by law or third-party payment contract;

(g) to be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;

(h) to be assured the [~~patient~~]client, family members or other individuals providing care to the [~~patient~~]client will be taught about required services, so the [~~patient~~]client can develop or regain self-care skills and the family members or other individuals providing care to the [~~patient~~]client can understand and help the [~~patient~~]client;

(i) to be assured that personnel who provide care demonstrate competency through education and experience to carry out the services [~~for which~~]that they are responsible;

(j) to receive proper identification from the individual providing home health services; and

(k) to receive information concerning the procedures to follow to submit complaints about services being performed.

R432-700-[~~17~~]16. Primary Care Provider Orders.

[~~(1)~~]The licensee shall incorporate p[~~P~~]rimary care provider orders [~~shall be incorporated~~]into the plan of care when skilled care is being provided that may include[~~.~~]:

[~~(2) Primary care provider orders in Subsection (1) may include:~~]

([~~a~~]1) diet and nutritional requirements;

([~~b~~]2) medications;

([~~c~~]3) frequency and type of service;

([~~d~~]4) treatments;

([~~e~~]5) medical equipment and supplies; and

([~~f~~]6) prognosis.

R432-700-[~~18~~]17. [~~Patient~~]Client Records.

(1) The [~~home health agency~~]licensee shall develop and implement record-keeping policies and procedures that address use of [~~patient~~]client records by authorized staff, content, confidentiality, retention, and storage.

(2) Records [~~in Subsection (1)~~]shall be maintained in an organized format.

(3) [~~To facilitate locating each patient's current or closed record, the home health agency shall maintain a patient record identification system.~~]The agency shall maintain a client record identification system to facilitate locating each client's current or closed record.

(4) An accurate, up-to-date record shall be maintained by the [~~home health agency~~]licensee, for [~~every patient~~]each client receiving service through the [~~home health~~]agency.

([~~5~~]a) Each person who has [~~patient~~]client contact or provides a service in the [~~patient's~~]client's place of residence shall enter a clinical note of that contact or service in the [~~patient's~~]client's record.

([~~6~~]b) The licensee shall ensure that client record [~~E~~]entries are [~~in Subsection (5) shall be~~]dated and authenticated with the signature, or identifiable initials of the person making the entry.

([~~7~~]c) The licensee shall document each s[~~S~~]ervice[~~s~~] provided by the [~~home health agency~~]licensee and outcomes of these services [~~shall be documented~~]in the individual [~~patient~~]client record.

([~~8~~]5) The licensee shall ensure that e[~~E~~]ach [~~patient~~]client record [~~shall~~]contains [~~at least~~]the following information:

(a) identification data including [~~patient's~~]client name, address, age, and date of birth;[~~, name and address of nearest relative or responsible individual, name and telephone number of the primary care provider with responsibility for patient care, and the name and telephone number of any person or family member who provides care in the place of residence;~~]

(b) name and address of nearest relative or responsible individual;

(c) name and telephone number of the primary care provider with responsibility for client care;

(d) name and telephone number of any person or family member who provides care in the place of residence;

([~~b~~]e) a written plan of care;

([~~e~~]f) a signed and dated [~~patient~~]client assessment [~~which~~]that identifies pertinent information required to carry out the plan of care;

([~~d~~]g) reasons for referral to the home health agency;

([~~e~~]h) statement of the suitability of the [~~patient's~~]client's place of residence for the provision of health care services;

([~~f~~]i) documentation of telephone consultation or case conferences with other individuals providing services;

([~~g~~]j) signed and dated clinical notes for each [~~patient~~]client contact or home visit including services provided; and

([~~h~~]k) a written termination of services summary [~~which~~]that describes:

(i) the care or services provided;

(ii) the course of care and services;

(iii) the reason for discharge;

(iv) the status of the [~~patient~~]client at time of discharge; and

(v) the name of the agency or facility if the [~~patient~~]client was referred or transferred.

([~~9~~]6) For[~~ those patients~~] a client who receives skilled services, the [~~home health agency~~]licensee shall additionally include the following items in the [~~patient~~]client record:[~~ in addition to the items under Subsection (8):~~]

(a) diagnosis;

(b) pertinent medical and surgical history;

(c) a list of medications and treatments;

(d) allergies or reactions to drugs or other substances;

(e) any clinical summaries or other documents obtained when necessary for promoting continuity of care, especially when a [~~patient~~]client receives care elsewhere, [~~such as~~]to include:

(i) a hospital;

(ii) an ambulatory surgical center;

(iii) a nursing home;

(iv) a primary care providers or consultant's office; or

(v) other home health agency; and

(f) clinical notes to include a description of the [~~patient~~]client condition and significant changes such as:

(i) objective signs of illness, disorders, and body malfunction;

(ii) subjective information from the [~~patient~~]client and family;

(iii) general physical condition;

(iv) general emotional condition;

(v) positive or negative physical and emotional responses to treatments and services;

(vi) general behavior; and

(vii) general appearance.

R432-700-[~~19~~]18. Confidentiality and Release of Information.

(1) The [~~home health agency~~]licensee shall:[~~ develop and implement policies and procedures to safeguard patient records against loss, destruction or unauthorized use.~~]

(a) develop and implement policies and procedures to safeguard client records against loss, destruction, or unauthorized use;

(b) have written procedures for the use, release, and removal of medical records, including photographs, that require the written consent of the client;

(c) keep client records confidential and only disclose client information to authorized persons;

(d) allow authorized representatives of the Department to review records to determine compliance with licensure rules and standards; and

(e) provide for filing, safe storage, and easy access to medical records.

(2) When a client is referred to another agency or facility, the licensee may release information only with the written consent of the client.

[~~(2) The home health agency shall have written procedures for the use and removal of medical records. The release of information, including photographs, shall require the written consent of the patient.~~]

[~~(3) The home health agency shall keep patient records confidential. Information may be disclosed only to authorized persons in accordance with federal regulations, state rules and local laws.~~]

[~~(4) Authorized representatives of the Department shall be allowed to review records to determine compliance with licensure rules and standards.~~]

[~~(5) When a patient is referred to another agency or facility, the home health agency may release information only with the written consent of the patient.~~

~~(6) The home health agency shall make provisions for filing, safe storage and easy access to medical records.~~]

R432-700-[~~20~~]19. Quality Assurance.

(1) The quality, appropriateness, and scope of services [~~rendered~~]provided shall be reviewed and evaluated [~~at least~~]annually by the governing body to determine overall effectiveness in meeting [~~home health~~]agency objectives.

(2) The administrator shall conduct an annual evaluation of the [~~home health agency~~]licensee's overall program and submit a written report of the findings to the governing body.

(3) The [~~home health agency~~]licensee shall demonstrate concern for cost of care by evaluating:

(a) relevance of health care services;

(b) appropriateness of treatment frequency;

(c) use of less expensive, but effective resources when[~~ever~~] possible; and

(d) use of ancillary services consistent with [~~patient~~]client needs.

(4) An interdisciplinary quality assurance committee shall evaluate [~~patient~~]client services on a quarterly basis. A written report of findings from each meeting shall be submitted to the administrator and shall be available in the home health agency.

(a) Each member of the interdisciplinary quality assurance committee shall be appointed by the administrator for a given term of membership.

(b) The interdisciplinary quality assurance committee shall have a minimum of three members who represent [~~at least~~]three different licensed or certified health care professions.

(5) The methodology for evaluation by the interdisciplinary quality assurance committee shall include:

(a) review and evaluation of active and closed [~~patient~~]client records to [~~assure~~]ensure that established policies and procedures are being followed. [~~Home health agency~~]The licensee shall ensure that the policy and procedure [~~will~~]determines the methods for selecting and reviewing a representative sample of records;

(b) review and evaluation of coordination of services through documentation of written reports, telephone consultation, or case conferences; and

(c) review and evaluation of plans of treatment for content, frequency of updates and whether clinical notes correspond to goals written in the plan of care.

R432-700-[~~21~~]20. Nursing Services.

(1) Nursing services provided through a home health agency shall be conducted under the supervision of a director of nursing services.

(2) Nursing services shall be provided by or under the supervision of a registered nurse and according to the plan of care.

(3) When a [~~home health agency~~]licensee provides or contracts for services, the service shall be provided according to the plan of care and supervised by designated, qualified personnel.

(4) The nursing staff of the home health agency shall observe, report and record written clinical notes.

(5) [~~Nursing services provided through a home health agency~~]The licensee shall recognize and use opportunities to teach health concepts to the [~~patient~~]client and family.

(6) A [~~R~~]registered nurse[~~s~~] or licensed practical nurse[~~s~~] employed by or contracted with the [~~home health agency~~]licensee shall have a valid license from the Utah Department of Commerce.

(7) [~~A licensed nurse of the home health agency shall include the following responsibilities~~]Responsibilities of a licensed nurse employed or contracted by the home health agency shall include the following:

(a) administer prescribed medications and treatments[~~according to law and~~] lawfully and as permitted within the scope of the individual's license;

(b) perform nursing care according to the needs of the [~~patient~~]client and as indicated in the written plan of care;

(c) inform the primary care provider and other personnel of changes in the [~~patient's~~]client's condition and needs;

(d) [~~write~~]document clinical notes in the individual [~~patient~~]client record for each visit or contact;

(e) teach self-care techniques to the [~~patient~~]client or family[~~, or both~~];

(f) develop plans of care; and

(g) participate in in-service programs.

(8) [~~The director of nursing services of the home health agency shall be responsible for and shall be accountable for the following functions~~]The director of nursing services shall:

(a) designate a registered nurse to act as director of nursing services during their absence;

(b) assume responsibility for the quality of nursing services provided[~~ by the home health agency~~];

(c) develop nursing service policies and procedures that shall be reviewed annually and revised as necessary;

(d) establish work schedules for nursing personnel according to [~~patient~~]client needs;

(e) assist in development of job descriptions for nursing personnel;

(f) complete performance evaluations for nursing personnel according to [~~home health agency~~]policy; and

(g) direct in-service programs for nursing personnel.

(9) [~~In addition to the responsibilities in Subsection (7), a~~]The registered nurse [~~of the home health agency~~]shall[~~ include the following responsibilities~~]:

(a) make the initial nursing evaluation visit;

(b) re-evaluate nursing needs based on the [~~patient's~~]client's status and condition;

(c) initiate the plan of care and make necessary revisions;

(d) provide services that require specialized nursing skills;

(e) initiate appropriate preventive and rehabilitative nursing procedures;

(f) supervise staff assignments based on specific [~~patient~~]client needs, family capabilities, staff training and experience, and degree of supervision needed;

(g) assist in coordinating services provided;

(h) prepare termination of services statements;

(i) supervise and consult with licensed practical nurses as necessary;

(j) provide written instructions for a certified nursing aide to ensure provision of required services written in the plan of care;

(k) supervise any certified nursing aide in the [~~patient's~~]client's home as necessary, and be readily available for consultation by telephone; and

(l) make supervisory visits with or without [~~the~~]certified nursing aide's presence as follows:

(i) for initial assessment;

(ii) every two weeks to [~~patients~~]clients who receive skilled services;

(iii) every three months to [~~patients~~]clients who require long-term maintenance services; and

(iv) any time there is a question of change in the [~~patient's~~]client's condition.

(10) The licensed practical nurse [~~of the home health agency~~]shall:[~~ include the following responsibilities:~~]

(a) work under the supervision of a registered nurse;

(b) observe, record, and report to the immediate supervisor the general physical or mental condition of the [~~patient~~]client;

(c) assist the registered nurse in performing specialized procedures; and

(d) assist in development of the plan of care.

R432-700-[~~22~~]21. Certified Nursing Aide.

(1) A [~~c~~]Certified [~~n~~]Nursing [~~a~~]Aide [~~of the home health agency~~]may have the following responsibilities:

(a) provide only those services written in the plan of care and received as written instructions from the registered nurse supervisor, if the service is an extension of therapy, the instructions shall be written by the licensed therapist;

(b) perform normal household services essential to health care at home;

(c) make occupied or unoccupied beds;

(d) supervise the [~~patient's~~]client's self-administration of medication;

(e) observe, record, and report basic [~~patient~~]client status;

(f) perform activities of daily living as written in the plan of care;

(g) give nail care as described in the plan of care;

(h) observe and record food and fluid intake when ordered;

(i) change dry dressings according to written instructions from the supervisor;

(j) administer emergency first aid;

(k) provide escort and transportation to appointments for [~~patient~~]client care services;

(l) provide social interaction and reassurance to the [~~patient~~]client and family in accordance with the plan of care; and

(m) write clinical notes in individual [~~patient~~]client records.

(2) A [~~e~~]Certified Nursing Aide shall:[~~ be at least 18 years old.~~]

(a) be at least 18 years old;

([~~3~~]b) [~~A certified Nursing Aide shall~~]have a certificate of completion for the employment position within six months of the date of hire[~~.~~]; and

([4]c) [~~A certified Nursing Aide shall~~]be certified in CPR and emergency procedures.

R432-700-[~~23~~]22. Personal Care Aides.

(1) A [~~p~~]Personal [~~e~~]Care [~~a~~]Aide (PCA) shall be [~~at least~~]18 years [~~of age~~]old.[~~ and include the following responsibilities:~~]

(2) The licensee shall ensure that PCAs:

(a) receive written instructions from the supervisor;

(b) perform only the tasks and duties outlined in the service agreement;

(c) [~~have~~]know[~~ledge~~] of home health agency policy and procedures;

(d) receive first aid training;

(e) receive orientation and training in aspects of care;

(f) demonstrate competency in areas of training for personal care; and

(g) receive a minimum of six hours in-service training per calendar year, prorated in the first year of employment.

[~~(d) be trained in first aid;~~

~~(e) be oriented and trained in aspects of care to be provided to clients;~~

~~(f) be able to demonstrate competency in areas of training for personal care; and~~

~~(g) maintain a minimum of six hours of in-service training per calendar year, prorated for the first year of employment.~~]

([~~2~~]3) A [~~personal Care Aide~~]PCA may assist clients with the following activities:

(a) self-administration of medications by:

(i) reminding the client to take medications[~~,~~]; and

(ii) opening containers for the client;

(b) housekeeping;

(c) personal grooming and dressing;

(d) eating and meal preparation;

(e) oral hygiene and denture care;

(f) toileting and toilet hygiene;

(g) arranging for medical and dental care including transportation to and from appointments;

(h) taking and recording [~~oral~~]temperatures;

(i) administering emergency first aid;

(j) providing or arranging for social interaction; and

(k) providing transportation.

([~~3~~]4) A [~~personal Care Aide~~]PCA shall document observations and services in the individual client record.

R432-700-[~~24~~]23. Plan of Care.

(1) For each [~~patient~~]client, the [~~home health agency~~]licensee shall:

(a) establish a plan of care for any care, services, or treatment provided by the licensee or any contractor:

[~~(a) establish a plan of care for any care, services, or treatment provided by:~~

~~(i) the home health agency; or~~

~~(ii) any indirect contracted services;~~]

(b) describe the plan of care[~~ under Subsection (a)~~] in the [~~patient's~~]client's record; and

(c) document the activities of the [~~home health agency~~]licensee or [~~indirect contracted services~~]contractor to implement the plan of care[~~ under Subsection (1)~~] in the [~~patient's~~]client's record.

(2) The plan of care[~~ under Subsection (1)~~] shall be developed and signed by a licensed health care professional in consultation with other agency staff or contract personnel.

[~~(3) The plan of care under Subsection (1) shall be developed with consultation from other home health agency staff or contract personnel.~~]

([~~4~~]3) Modifications or additions to the initial plan of care shall be made by a licensed health care professional as necessary.

([~~5~~]4) Each plan of care[~~ under Subsection (1)~~] shall be reviewed and approved by the licensed health care professional as the [~~patient's~~]client's condition warrants, at intervals not to exceed [~~63~~]60 days in accordance with the Code of Federal Regulations, Title 42, Part 60, Section c, 2023 edition.

([~~6~~]5) [~~For patients receiving skilled services, the written plan of care under Subsection (1)~~]Each written plan of care for skilled services shall be approved by a primary care provider at intervals not to exceed [~~63~~]60 days in accordance with the Code of Federal Regulations, Title 42, Part 60, Section c, 2023 edition.

([~~7~~]6) The person who is assigned to supervise and coordinate care for a [~~patient~~]client shall have the primary responsibility to notify the attending primary care provider and other [~~home health agency~~]staff of any significant changes in the [~~patient's~~]client's status. Any notifications shall be made part of the client's record.

[~~(8) Notifications under Subsection (7) shall be made part of the patient's record.~~]

([~~9~~]7) The plan of care[~~ under Subsection (1)~~], developed in accordance with the referring primary care provider's orders, shall include:

(a) name of the [~~patient~~]client;

(b) diagnoses;

(c) treatment goals stated in measurable terms;

(d) services to be provided, at what intervals, and by whom;

(e) needed medical equipment and supplies;

(f) medications to be administered by designated, licensed [~~home health agency~~]personnel;

(g) supervision of self-administered medication;

(h) diet or nutritional requirements;

(i) necessary safety measures;

(j) instructions to [~~patient~~]client and family; and

(k) date the plan was initiated and dates of subsequent review.

R432-700-[~~25~~]24. Medication and Treatment.

(1) Skilled treatment[~~s~~] shall be administered only by licensed personnel to comply with a signed order[~~s~~] from a person lawfully authorized to give the order.[~~ The order may be remotely given but shall be subsequently signed by the person giving the order within 31 days.~~]

(2) Medication[~~s~~] shall be administered according to signed orders from a person lawfully authorized to give the order.[~~The order may be remotely given but shall be subsequently signed by the person giving the order within 31 days.~~]

(3) An order that is [~~Orders~~]remotely given shall be:[~~received and verified only by licensed personnel lawfully authorized to accept the order. Remotely given orders shall be recorded in the patient's record.~~]

(a) subsequently signed by the person giving the order within 31 days;

(b) received and verified only by licensed personnel lawfully authorized to accept the order; and

(c) recorded in the client's record.

(4) If medication[~~s are~~] is administered by [~~home health~~]agency personnel, the orders and subsequent changes in orders shall be signed by the primary care provider and included in the [~~patient's~~]client's record.

(5) Unlicensed staff may administer medication[~~s~~] only after delegation by a licensed health care professional under the professional scope of practice with the following requirements:

(a) the delegation shall be in accordance with Section R156-31B-701;

(b) the medication[~~s~~] shall be administered according to the prescribing order;

(c) the delegating authority shall provide and document supervision, evaluation and training of unlicensed assistive personnel assisting with medication administration; and

(d) the delegating authority or another registered nurse shall be readily available either in person or by [~~telecommunication~~]telephone.

(6) An o[~~O~~]rder[~~s~~] for therapy services shall include the procedures to be used, the frequency of therapy and the duration of therapy.

(7) An o[~~O~~]rder[~~s~~] for skilled services shall be reviewed or renewed by the attending primary care provider at intervals not to exceed 6[~~3~~]0 days. Primary care provider's signature and date shall be evidence of this review or renewal.

(8) Primary care provider orders may be transmitted by facsimile machine. The home health agency shall obtain the original signature, upon request, if verification of the signature is requested.

R432-700-[~~26~~]25. Therapy Services.

(1) [~~Physical, occupational, speech and nutrition therapy services~~]Therapy services offered by the [~~home health agency~~]licensee, as either direct or contract services, shall be provided by, or under the supervision of, a licensed or certified therapist in accordance with the plan of care.

(2) The qualified therapist[~~ in Subsection (1)~~] shall have the following general responsibilities:

(a) provide treatment as ordered and approved by the attending primary care provider;

(b) evaluate the home environment and make recommendations;

(c) develop the plan of care for therapy;

(d) observe and report findings about the [~~patient's~~]client's condition to the attending primary care provider and other [~~home health agency~~]staff and document information in the [~~patient's~~]client's record;

(e) advise, consult, and instruct other [~~home health agency~~]personnel and family about the [~~patient's~~]client's therapy program;

(f) provide written instructions for the [~~certified nursing aide~~]CNA to promote extension of therapy services;

(g) supervise other [~~home health agency~~]personnel when appropriate; and

(h) participate in in-service programs.

(3) [~~In addition to the general responsibilities in Subsection (2), a~~]A physical, speech, or occupational therapist may additionally perform the following:

(a) provide written instructions for personal care aides and certified nursing aides to ensure provision of required services written in the plan of care;

(b) supervise aides in the [~~patient's~~]client's home as necessary, and be readily available for consultation by phone; and

(c) make supervisory visits with or without the aide's presence, as required.

R432-700-[~~27~~]26. Medical Supplies and Equipment.

The [~~home health agency~~]licensee shall develop and follow written medical supply policies and procedures [~~which~~]that describe:

(1) [~~home health agency provision~~]supply of or use of durable medical equipment and disposable medical supplies;

(2) categories of medical supplies and equipment available through the [~~home health~~]agency;

(3) charges and reimbursement for medical supplies and equipment; and

(4) processes for billing medical supplies and equipment to the [~~patient~~]client, insurance carrier, or an[-]other payment source.

[~~R432-700-28. Emergency and After-Hours Care.~~

~~Emergency and after-hours care shall be described in home health agency written policies and procedures and made available to the patient and family.~~]

R432-700-[~~29~~]27. Social Services.

(1) When medical social services are provided by the [~~home health agency~~]licensee, the services shall be provided by a certified social worker or by a social service worker supervised by a certified social worker, in accordance with the plan of care.

(2) The social worker[~~ in Subsection (1)~~] shall be responsible to:

(a) assist team members in understanding significant social and emotional factors related to health problems;

(b) participate in the development of the plan of care;

(c) prepare clinical notes according to rules and [~~home health agency~~]policy;

(d) utilize community resources; and

(e) participate in in-service programs.

R432-700-[~~30~~]28. Penalties.

Any person who violates [~~any provision of~~]this rule may be subject to the penalties enumerated in Section [~~26-21-11~~]26B-2-208 and [~~Section~~]Rule R432-3[~~-7~~] and may be [~~punished for violation of~~]charged with a class A misdemeanor as provided in Section [~~26-21-16~~]26B-2-216.

KEY: health care facilities
Date of Last Change: 2023[~~February 14, 2022~~]
Notice of Continuation: August 13, 2021
Authorizing, and Implemented or Interpreted Law: [~~26-21-5; 26-21-2.1~~]26B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-1**	**Filing ID: 55359**

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room number:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141531
City, state and zip:	Salt Lake City, UT 84114-1531

Contact persons:

Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R477-1. Definitions

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

H.B. 67, passed in the 2023 General Session, altered the definition of veteran so the agency is altering the definition in rules to match the statute.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment ties the definition of veteran directly to the statutory definition.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**

Fiscal Benefits	FY2023	FY2024	FY2025
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-17-106	Section 63A-17-301	Section 63A-17-306

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-1. Definitions.
R477-1-1. Definitions.

The following definitions apply to Title R477 unless otherwise indicated within the text of each rule.

(1) "Abandonment of Position" means an act of resignation resulting when an employee is absent from work for three consecutive working days without approval.

(2) "Actual FTE" means the total number of full time equivalents based on actual hours paid in the state payroll system.

(3) "Actual Hours Worked" means time spent performing duties and responsibilities associated with the employee's job assignments.

(4) "Actual Wage" means the employee's assigned wage rate in the central personnel record maintained by the Division of Human Resource Management.

(5) "ADA" means the Americans With Disabilities Act, 42 U.S.C. 12102.

(6) "Administrative Leave" means leave with pay granted to an employee at management discretion that is not charged against the employee's leave accounts.

(7) "Administrative Adjustment" means a DHRM approved adjustment to a job or salary range that is not a Market Comparability Adjustment, a Structure Adjustment, or a Reclassification. It is for administrative purposes only. An Administrative Adjustment will result in an increase to incumbent pay only when necessary to bring salaries to the minimum of the salary range.

(8) "Administrative Salary Decrease" means a decrease in an employee's current actual wage based on non-disciplinary administrative reasons determined by an agency head.

(9) "Administrative Salary Increase" means an increase in an employee's current actual wage based on special circumstances determined by an agency head.

(10) "Agency" means an entity of state government that is:

(a) directed by an executive director, elected official, or commissioner defined in Title 67, Chapter 22, State Officer Compensation, or in other sections of the code;

(b) authorized to employ personnel; and

(c) subject to Title 63A, Chapter 17, Utah State Personnel Management Act.

(11) "Agency Head" means the executive director or commissioner of each agency or a designated appointee.

(12) "Agency Human Resource Field Office" means an office of the Division of Human Resource Management located at another agency's facility.

(13) "Alternative State Application Program (ASAP)" means a program designed to appoint a qualified person with a disability through an on the job examination period.

(14) "Appeal" means a formal request to a higher level for reconsideration of a grievance decision.

(15) "Appointing Authority" means the officer, board, commission, person, or group of persons authorized to make appointments in their agencies.

(16) "Break in Service" means a point at which an individual has an official separation date and is no longer an employee of the State of Utah.

(17) "Budgeted FTE" means the total number of full time equivalents budgeted by the Legislature and approved by the Governor.

(18) "Career Mobility" means a temporary assignment of an employee to a different position for professional development or to fulfill specific organizational needs.

(19) "Career Service Employee" means an employee who has successfully completed a probationary period in a career service position.

(20) "Career Service Exempt Employee" means an employee who serves at the pleasure of the appointing authority and may be separated from state employment at any time for any reason or for no reason.

(21) "Career Service Exempt Position" means a position in state service that is exempt from career service provisions under Section 63A-17-301.

(22) "Career Service Status" means status granted to an employee who successfully completes a probationary period following appointment to a career service position.

(23) "Category of Work" means a job series an agency head designates as having positions to be eliminated agency wide through a reduction in force. Category of work may be further reduced as follows:

(a) a unit smaller than the agency upon providing justification and rationale for approval, including:

(i) unit number;

(ii) cost centers;

(iii) geographic locations; or

(iv) agency programs.

(b) positions identified by a set of essential functions, including:

(i) position analysis data;

(ii) certificates;

(iii) licenses;

(iv) special qualifications; or

(v) degrees that are required or directly related to the position.

(24) "Change of Workload" means a change in position responsibilities and duties or a need to eliminate or create particular positions in an agency caused by legislative action, financial circumstances, or administrative reorganization.

(25) "Classification Grievance" means the approved procedure by which an agency or a career service employee may grieve a formal classification decision regarding the classification of a position.

(26) "Classified Service" means positions that are subject to the classification and compensation provisions stipulated in Section 63A-17-307.

(27) "Classification Study" means a classification review conducted by DHRM under Section R477-3-4. A study may include single or multiple job or position reviews.

(28) "Compensatory Time" means time off that is provided to an employee in lieu of monetary overtime compensation.

(29) "Contractor" means an individual who is contracted for service, is not supervised by a state supervisor, but is responsible for providing a specified service for a designated fee within a specified time. The contractor shall be responsible for paying any taxes and FICA payments, and may not accrue benefits.

(30) "Critical Incident Drug or Alcohol Test" means a drug or alcohol test conducted on an employee as a result of the behavior, action, or inaction of an employee that is of such seriousness it requires an immediate intervention by management.

(31) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

(32) "Position Management Report" means a document that lists an agency's authorized positions, incumbent's name and hourly rate, job identification number, salary range, and schedule.

(33) "DHRM" means the Division of Human Resource Management.

(34) "DHRM Approved Recruitment and Selection System" means the state's recruitment and selection system, which is a centralized and automated computer system administered by the Division of Human Resource Management.

(35) "Direct Supervisor" means an employee's primary supervisor who normally directs day to day job activity such as assigning work, approving time records, and considering leave requests.

(36) "Disability" has the same definition found in the Americans With Disabilities Act of 1990, 42 U.S.C. 12101 (2008); Equal Employment Opportunity Commission regulation, 29 CFR 1630 (2008); including exclusions and modifications.

(37) "Disciplinary Action" means action taken by management under Rule R477-11.

(38) "Dismissal" means a separation from state employment for cause under Section R477-11-2.

(39) "Dual State Employment" means an employee works for more than one agency and meets the employee criteria which is located in the Division of Finance accounting policy 11-18.00.

(40) "Drug-Free Workplace Act" means a congressional act, 41 U.S.C. Section 8101, et seq., requiring a drug-free workplace certification by state agencies that receive federal grants or contracts.

(41) "Employee Personnel Files" means the files or records maintained by DHRM and agencies as required by Section R477-2-5 for purposes of Title 67, Chapter 18, Employees' Personnel Files and Title 63A, Chapter 17, Utah State Personnel Management Act. This does not include employee information maintained by supervisors.

(42) "Employment Eligibility Verification" means a requirement of the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324 that employers verify the identity and eligibility of individuals for employment in the United States.

(43) "Escalator Principle" means returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301, et seq. (USERRA).

(44) "Excess Hours" means a category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's actual hours worked, plus additional hours paid, exceed an employee's normal work period.

(45) "Employee's Family Member" means an employee's relative or household member as defined in Section 52-3-1 but also including, stepsiblings, stepparents, and stepchildren.

(46) "Fitness For Duty Evaluation" means evaluation, assessment, or study by a licensed professional to determine if an individual can meet the performance or conduct standards required by the position held, or is a direct threat to the safety of self or others.

(47) "FLSA Exempt" means employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(48) "FLSA Non-Exempt" means employees who are not exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(49) "Follow Up Drug or Alcohol Test" means unannounced drug or alcohol tests conducted for up to five years on an employee who has previously tested positive or who has successfully completed a voluntary or required substance abuse treatment program.

(50) "Furlough" means a temporary leave of absence from duty without pay for budgetary reasons or lack of work.

(51) "GOPB" means Governor's Office of Planning and Budget.

(52) "Grievance" means a career service employee's claim or charge of the existence of injustice or oppression, including dismissal from employment resulting from an act, occurrence, omission, condition, discriminatory practice or unfair employment practice not including position classification or schedule assignment, or a complaint by a reporting employee as defined in Section 67-19a-101.

(53) "Grievance Procedures" means the statutory process of grievances and appeals as set forth in Title 67, Chapter 19a, Grievance Procedures, and the rules promulgated by the Career Service Review Office.

(54) "Gross Compensation" means an employee's total earnings, taxable and nontaxable, as shown on the employee's pay statement.

(55) "Highly Sensitive Position" means a position approved by DHRM that includes the performance of:

(a) safety-sensitive functions:

(i) requiring an employee to operate a commercial motor vehicle under 49 CFR 383;

(ii) directly related to law enforcement;

(iii) involving direct access or having control over direct access to controlled substances;

(iv) directly impacting the safety or welfare of the general public; or

(v) requiring an employee to carry or have access to firearms; or

(b) data sensitive functions permitting or requiring an employee to access an individual's highly sensitive, personally identifiable, private information, including:

(i) financial assets, liabilities, and account information;

(ii) social security numbers;

(iii) wage information;

(iv) medical history;

(v) public assistance benefits; or

(vi) driver license.

(56) "Hiring List" means a list of qualified and interested applicants who are eligible to be considered for appointment or conditional appointment to a specific position created in the DHRM approved recruitment and selection system.

(57) "Incompetence" means inadequacy or unsuitability in performance of assigned duties and responsibilities.

(58) "Inefficiency" means wastefulness of government resources including time, energy, money, or staff resources or failure to maintain the required level of performance.

(59) "Intern" means an individual in a college degree or certification program assigned to work in an activity where on the job training or community service experience is accepted.

(60) "Job" means a group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same salary range is applied to each position in the group.

(61) "Job Description" means a document containing the duties, distinguishing characteristics, knowledge, skills, and other requirements for a job.

(62) "Job Family" means a group of jobs that have related or common work content, that share common skills, responsibilities, and requirements, and that normally represents a general occupation area.

(63) "Job Requirements" means skill requirements defined at the job level.

(64) "Job Series" means two or more jobs in the same functional area having the same job title, but distinguished and defined by increasingly difficult levels of skills, responsibilities, knowledge, and requirements; or two or more jobs with different titles working in the same functional area that have licensure, certification, or other requirements with increasingly difficult levels of skills, responsibilities, knowledge, and requirements.

(65) "Leave Benefit" means a benefit provided to an employee that includes: Annual leave, sick leave, converted sick leave, and holiday leave. These benefits are not provided to non-benefited employees.

(66) "Legislative Salary Adjustment" means a legislatively approved salary increase for a specific category of employees based on criteria determined by the Legislature.

(67) "Malfeasance" means intentional wrongdoing, deliberate violation of law or standard, or mismanagement of responsibilities.

(68) "Management" means the agency head and any other officers or employees who have responsibility and authority to establish, implement, and manage agency policies and programs.

(69) "Market Based Bonus" means a one-time lump sum monies given to a new hire or a current employee to encourage employment with the state.

(70) "Market Comparability Adjustment" means a legislatively approved adjustment to a salary range that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources. The Market Comparability Adjustment may also change incumbent pay resulting in a budgetary impact for an agency.

(71) "Misconduct" means wrongful, improper, unacceptable, or unlawful conduct or behavior that is inconsistent with prevailing agency practices or the best interest of the agency.

(72) "Misfeasance" means the improper or unlawful performance of an act that is lawful or proper.

(73) "Nonfeasance" means failure to perform either an official duty or legal requirement.

(74) "Pay for Performance Award" means a type of cash incentive award where an employee or group of employees may receive a cash award for meeting or exceeding well-defined annual production or performance standards, targets, and measurements.

(75) "Pay for Performance" means a plan for incentivizing employees for meeting or exceeding production or performance goals, in which the plan is well-defined before work begins, eligible work groups are defined, specific goals and targets are determined, measurement procedures are in place, and specific incentives are provided when goals and targets are met.

(76) "Performance Evaluation" means a formal, periodic evaluation of an employee's work performance.

(77) "Performance Improvement Plan" means a documented administrative action to address substandard performance of an employee under Section R477-10-2.

(78) "Performance Management" means the ongoing process of communication between the direct supervisor and the employee which defines work standards and expectations, and assesses performance leading to a formal annual performance evaluation.

(79) "Performance Plan" means a written summary of the standards and expectations required for the successful performance of each job duty or task. These standards normally include completion dates and qualitative and quantitative levels of performance expectations.

(80) "Performance Standard" means specific, measurable, observable and attainable objectives that represent the level of performance to which an employee and direct supervisor are committed during an evaluation period.

(81) "Personnel Adjudicatory Proceedings" means the informal appeals procedure contained in Title 63G, Chapter 4, Administrative Procedures Act for human resource policies and practices not covered by the state employee's grievance procedure promulgated by the Career Service Review Office, or the classification appeals procedure.

(82) "Phased Retirement" means employment on a half-time basis of a retiree with the same participating employer immediately following the retiree's retirement date where the retiree will receive a reduced retirement allowance.

(83) "Position" means a unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

(84) "Position Description" means a document that describes the detailed tasks performed, as well as the knowledge, skills, abilities, and other requirements of a specific position.

(85) "Position Identification Number" means a unique number assigned to a position for FTE management.

(86) "Post Accident Drug or Alcohol Test" means a drug or alcohol test conducted on an employee who is involved in a vehicle accident while on duty or driving a state vehicle:

(a) the employee was performing safety-sensitive functions with respect to the vehicle the employee was operating and the accident involves the loss of human life;

(b) the driver receives a citation under state or local law for a moving traffic violation arising from the accident and the accident involved:

(i) the loss of human life or bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other vehicle; or

(c) where there is reasonable suspicion that the employee had been driving while under the influence of alcohol or a controlled substance.

(87) "Pre-employment Drug Test" means a drug test conducted on:

(a) final applicants who are not current employees;

(b) final candidates for a highly sensitive position;

(c) employees who are final candidates for transfer or promotion from a non-highly sensitive position to a highly sensitive position; or

(d) employees who transfer or are promoted from one highly sensitive position to another highly sensitive position.

(88) "Probationary Employee" means an employee hired into a career service position who has not completed the required probationary period for that position.

(89) "Probationary Period" means a period[~~ of time~~] for management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted to the employee. The length of the period is identified at the job level and the period is considered part of the selection process.

(90) "Proficiency" means an employee's overall quality of work, productivity, skills demonstrated through work performance and other factors that relate to employee performance or conduct.

(91) "Promotion" means an action moving an employee from a position in one job to a position in another job having a higher salary range maximum.

(92) "Protected Activity" means opposition to discrimination or participation in proceedings covered by the antidiscrimination statutes or the Utah State Grievance and Appeal Procedure. Harassment based on protected activity can constitute unlawful retaliation.

(93) "Random Drug or Alcohol Test" means unannounced drug or alcohol testing of a sample of an employee in a highly sensitive position done in accordance with federal regulations or state rules, policies, and procedures, and conducted in a manner such that each highly sensitive employee has an equal chance of being selected for testing.

(94) "Reappointment" means return to work of an individual from the reappointment register after separation from employment.

(95) "Reappointment Register" means a register of individuals who have, before March 2, 2009:

(a) held career service status and been separated in a reduction in force;

(b) held career service status and accepted career service exempt positions without a break in service and were not retained, unless discharged for cause; or

(c) by Career Service Review Board decision, been placed on the reappointment register.

(96) "Reasonable Suspicion Drug or Alcohol Test" means a drug or alcohol test conducted on an employee based on specific, contemporaneous, articulated observations concerning the appearance, behavior, speech, or body odors of the employee.

(97) "Reassignment" means an action mandated by management moving an employee from one job or position to a different job or position with an equal or lesser salary range maximum for administrative reasons. A reassignment may not include a decrease in actual wage except as provided in federal or state law.

(98) "Reclassification" means a DHRM reallocation of a single position or multiple positions from one job to another job to reflect management initiated changes in duties and responsibilities.

(99) "Reduction in Force (RIF)" means abolishment of positions resulting in the termination of career service employment. RIFs can occur due to inadequate funds, a change of workload, or a lack of work.

(100) "Reemployment" means return to work of an employee who resigned or took military leave of absence from state employment to serve in the uniformed services covered under USERRA.

(101) "Salary Range" means established minimum and maximum wage rates assigned to a job.

(102) "Schedule" means the designation of a position as career service (schedule B) or career service exempt (schedule A) under Title 63A, Chapter 17, Utah State Personnel Management Act.

(103) "Separation" means an employee's voluntary or involuntary departure from state employment.

(104) "Settling Period" means a sufficient amount of time, determined by agency management, for an employee to fully assume new or higher level duties required of a position.

(105) "Structure Adjustment" means a DHRM approved adjustment to a salary range that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources.

(106) "Tangible Employment Action" means a significant change in employment status, such as dismissal, demotion, failure to promote, work reassignment, or a decision which changes benefits.

(107) "Transfer" means an action not mandated by management moving an employee from one job or position to another job or position with an equal or lesser salary range maximum for which the employee qualifies. A transfer may include a decrease in actual wage.

(108) "Uniformed Services" means the United States Army, Navy, Marine Corps, Air Force, Coast Guard; Reserve units of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army National Guard or Air National Guard; Commissioned Corps of Public Health Service, National Oceanic and Atmospheric Administration (NOAA), National Disaster Medical Systems (NDMS) and any other category of persons designated by the President in time of war or emergency. Service in [~~Uniformed Services~~]uniformed services includes: voluntary or involuntary duty, including active duty; active duty for training; initial active duty for training; inactive duty training; full time National Guard duty; or absence from work for an examination to determine fitness for any of the types of duty listed in this subsection.

(109) "Unlawful Discrimination" means an action against an employee or applicant based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, protected activity under the antidiscrimination statutes, political affiliation, military status or affiliation, or any other factor, as prohibited by law.

(110) "USERRA" means the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301, et seq. requires state governments to re-employ eligible veterans who resigned or took a military leave of absence from state employment to serve in the uniformed services and who return to work within a specified time period after military discharge.

(111) "Veteran" means the same as that term is defined in Section 68-3-12.5.[~~an individual who has separated or retired under honorable conditions following service:~~

~~(a) on active duty in the armed forces for more than 180 consecutive days; or~~

~~(b) as a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized.~~]

(112) "Veteran Employment Opportunity Program (VEOP)" means a program designed to appoint a qualified veteran through an on the job examination period.

(113) "Volunteer" means any person who donates services to the state or its subdivisions without pay or other compensation except actual and reasonable expenses incurred, as approved by the supervising agency.

(114) "Wage" means the fixed hourly rate paid to an employee.

(115) "Work Period" means the maximum number of hours an employee may work before accruing overtime or compensatory hours based on variable payroll cycles outlined in Section 63A-17-502 and 29 CFR 553.230.

KEY: personnel management, rules and procedures, definitions
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-301; 63A-17-306

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-2**	**Filing ID: 55372**

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room number:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141531
City, state and zip:	Salt Lake City, UT 84114-1531

Contact persons:

Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R477-2. Administration

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found a need for a clarifying change and several minor changes to match procedures in Rule R477-15.
(EDITOR'S NOTE: The proposed amendment to Rule R477-15 is under ID 55370 in this issue, May 15, 2023, of the Bulletin.)

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment revises language to ensure consistency between two rule provisions which touch the same process and to standardize the language referring to the DHRM Director.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 52-3-1	Section 63G-5-201	Title 63G, Chapter 7
Section 63A-17-106	Section 63A-17-306	Section 63A-17-307

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-2. Administration.
R477-2-2. Compliance Responsibility.

Management shall comply with Title R477.

(1) Except where prohibited by statute, the DHRM Division Director[~~, DHRM,~~] may authorize exceptions to Title R477 when:

(a) applying the rule prevents the achievement of legitimate government objectives; or

(b) applying the rule infringes on the legal rights of an employee.

(2) Agency personnel records, practices, policies and procedures, employment, and actions shall comply with Title R477, and are subject to compliance audits by DHRM.

R477-2-3. Fair Employment Practice and Discrimination.

State personnel actions shall provide equal employment opportunity for individuals.

(1) Employment actions including appointment, tenure or term, condition, or privilege of employment shall be based on the ability to perform the essential duties, functions, and responsibilities assigned to a particular position.

(2) Employment actions may not be based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, or protected activity under the antidiscrimination statutes, political affiliation, military status or affiliation, or any other non-job related factor, except under Subsection 63A-17-301(2)(b)(ii).

(3) An employee who alleges unlawful discrimination may:

(a) follow the procedures in Section R477-15-3; or[~~submit a complaint to the agency head; and~~]

(b) file a charge with the Utah Labor Commission Antidiscrimination and Labor Division within 180 days of the alleged harm, or directly with the [~~EEOC~~]Equal Employment Opportunity Commission within 300 days of the alleged harm.

(4) A state official may not impede any employee from timely filing a discrimination complaint in accordance with state or federal requirements.

R477-2-4. Control of Personal Service Expenditures.

(1) The Governor's Office of Planning and Budget, the Division of Human Resource Management, and the Division of Finance share responsibility for the statewide control of personal service expenditures.

(2) The DHRM Division Director[~~, DHRM~~] or designee shall approve changes in job identification numbers, salary ranges, or number of positions listed in the position management report.

(3) No person shall be placed or retained on an agency payroll unless that person occupies a position listed in an agency's approved position management report.

KEY: administrative responsibility, confidentiality of information, fair employment practices, public information
Date of Last Change: 2023[~~July 1, 2022~~]

Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 52-3-1; 63G-2; 63G-5-201; 63G-7; 63A-17-106; 63A-17-306; 63A-17-307

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-4**	**Filing ID: 55362**

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R477-4. Filling Positions

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found a need for organizational adjustments to enhance clarity, makes final implementation of H.B. 104, passed in the 2022 General Session, and standardizes references to the DHRM Director.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment reorganizes rule provisions for clarity, strikes provisions relating to longevity to implement H.B. 104(2002), and adds a statutory citation for confidentiality of recruitment records.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-17-106	Section 67-20-8	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	Date:	04/27/2023

R477. Government Operations, Human Resource Management.
R477-4. Filling Positions.
R477-4-1. [~~Authorized~~]Recruitment[~~ System~~].

(1) Management shall use the DHRM approved recruitment and selection system unless an alternate system has been pre-approved by DHRM.

(2) Management shall notify DHRM of filling any position at least three working days before the employee's start date.

(3) Appointments to fill an employee's position who is on approved leave may not be permanent.

R477-4-2. Career Service Exempt Positions.

(1) The DHRM Division Director[~~, DHRM,~~] may approve the creation and filling of career service exempt positions, as defined in Section 63A-17-301.

(2) Management [~~may use any pre-approved~~]shall consult with DHRM regarding the process to select an employee for a career service exempt position. Management may make appointments without competitive examination, provided job requirements are met.

(3) [~~Appointments to fill an employee's position who is on approved leave may not be permanent.~~

~~(4)~~]Appointments made on a temporary basis shall be career service exempt and:

(a) be Schedule IN, in which the employee is hired to work part time indefinitely and may not work [~~1560~~]1,560 hours or more per fiscal year; or

(b) be Schedule TL, in which the employee is hired to work on a time limited basis.

[~~(5) Management may offer benefits to an employee appointed under Subsection (4) if the employee works a minimum of 40 hours per pay period.~~

~~(6)~~](4) Agency management shall consult with DHRM to review possible alternative options if the required work hours of the position meet or exceed 1,560 hours per fiscal year for Schedule IN or if the position exceeds anticipated time limits for Schedule TL.

[~~(7)~~](5) Only career service exempt appointments made from a hiring list under Section R477-4-8 may be considered for conversion to career service.

[~~(8)~~](6) Management shall ensure that new hire appointees in Schedules AB, AC, AD, AR, and AS submit a disclosure statement under Section 67-16-7 and submit to a background check.

R477-4-4. Recruitment and Selection for Career Service Positions.

(1) Before initiating a recruitment, management may administer any of the following personnel actions:

(a) reemployment of a veteran eligible under USERRA;

(b) reassignment within an agency initiated by an employee's reasonable accommodation request under the ADA;

(c) fill a position with an employee who is returning to work from long term disability or workers compensation at the same or lesser salary range;

(d) reassignment or transfer made to avoid a reduction in force, or for reorganization purposes;

(e) reassignment, transfer, or career mobility of qualified employees to better utilize skills or assist management in meeting the organization's mission;

(f) reclassification; or

(g) conversion from schedule A to schedule B as authorized by Subsection R477-5-1(3).

(2) Management shall use the DHRM approved recruitment and selection system for any career service position vacancy. This includes recruitments open within an agency, across agency lines, or to the general public. Recruitments shall comply with federal and state laws and DHRM rules and procedures.

(a) Recruitment announcements shall include:

(i) information about the DHRM approved recruitment and selection system; and

(ii) opening and closing dates.

(b) Recruitments for career service positions shall be posted for a minimum of three business days, excluding state holidays.

(3) An agency may carry out the steps for recruitment and selection of vacant career service positions concurrently. Management shall appoint a qualified applicant who meets minimum qualifications from the reappointment register created before March 2, 2009, before making an appointment from a hiring list of qualified applicants for the position, or from another process pre-approved by the DHRM Division Director[~~, DHRM~~].

R477-4-5. Transfer and Reassignment.

(1) Positions may be filled through a transfer or reassignment.

(a) [~~The receiving agency~~]Management shall verify the employee's career service status and that the employee meets the job requirements for the position.

(b) Management receiving a transfer or reassignment of an employee shall accept that employee's previously accrued sick, annual, and converted sick leave on the official leave records.

(c) A transfer may not include an increase but may include a decrease in actual wage.

(d) A reassignment may not include a decrease in actual wage except as provided in federal or state law.[

~~(e) An employee who is transferred or reassigned to a position where the employee's current actual wage is above the salary range maximum of the new position, is considered to be above maximum and may not immediately be eligible for a longevity increase. Employees shall be eligible for a longevity increase only after they have been above the salary range maximum for 12 months and other longevity criteria are met.~~

~~(f) An employee with a wage that is above the salary range maximum because of a longevity increase who is transferred or reassigned and remains at or above the salary range maximum, shall receive their next longevity increase three years from the date they received the most recent increase when all other longevity criteria are met.~~]

(2) A reassignment or transfer may include assignment to:

(a) a different job or position with an equal or lesser salary range maximum;

(b) a different work location; or

(c) a different organizational unit.

R477-4-7. Examinations.

(1) Examinations shall be designed to measure and predict applicant job performance.

(2) Examinations shall be based on documented job related criteria and include the following:

(a) an initial, impartial screening of the individual's qualifications;

(b) an impartial evaluation and results; and

(c) reasonable accommodation for qualified individuals with disabilities.

(3) Examinations and ratings shall remain confidential and secure pursuant to Subsections 63G-2-302(2)(a) and 63G-2-305(5).

R477-4-8. Hiring Lists.

(1) In consultation with DHRM, management shall:

(a) define criteria related to the job, job series, or position;

(b) evaluate applicants for career service positions; and

(c) place them on a hiring list.

(2) The hiring list shall include [~~the names of applicants~~]a unique identifier for each applicant to be considered for appointment or conditional appointment to a specific job, job series, or position.

[~~(a)~~](3) An individual shall be considered an applicant when the individual applies for a particular position identified through a specific recruitment.

[~~(b) Hiring lists shall be constructed using a DHRM approved recruitment and selection system.~~

~~(c) Applicants for career service positions shall be evaluated and placed on a hiring list based on job, job series, or position related criteria.~~

~~(d)~~](4) Applicants included on a hiring list shall be examined with the same examination or examinations.

[~~(2)~~](5) An individual who falsifies any information in the job application, examination or evaluation processes may be disqualified from further consideration before hire, or disciplined if already hired.

[~~(3)~~](6) The appointing authority shall demonstrate and document that equal consideration was given to applicants on a hiring list whose final score or rating is equal to or greater than that of the applicant hired.

[~~(4)~~](7) The appointing authority shall ensure that any employee hired meets the job requirements as outlined in the official job description.

R477-4-13. Career Mobility Programs.

(1) A career mobility is a temporary assignment of an employee to a different position for purposes of professional growth or fulfillment of specific organizational needs. Career mobility assignments may be to any salary range.

(2) Management may provide career mobility assignments inside or outside state government in any position for which the employee qualifies.

(3) An employee or management may initiate a career mobility.

(a) Career mobility assignments may be made without going through the competitive process but shall remain temporary.

(b) Career mobility assignments shall only become permanent if:

(i) the position was originally filled through a competitive recruitment process; or

(ii) a competitive recruitment process is used [~~at the time~~]when management determines a need for the assignment to become permanent.

(4) Management shall use a written career mobility agreement with the employee outline any program provisions and requirements. The career mobility shall be both voluntary and mutually acceptable.

(5) A participating employee [~~shall~~]may choose to retain any rights, privileges, entitlements, career service status subject to Section R477-5-2, and benefits from the previous position while on career mobility.

(a) If a reduction in force affects a position vacated by a participating employee, the participating employee shall be treated the same as other RIF employees.

(b) If a career mobility assignment does not become permanent at its conclusion, the employee shall return to the previous position or a similar position at a salary rate described in Subsection R477-6-6(10).

(6) An employee who has not attained career service status before a career mobility assignment cannot permanently fill a career service position until the employee obtains career service status through a competitive process.

R477-4-14. Assimilation.

An employee assimilated by the state from another government career service system to fill a schedule B position shall receive career service status after completing a probationary period if originally selected through a competitive examination process judged by the DHRM Division Director[~~, DHRM,~~] to be equivalent to the process prescribed in DHRM [~~Rule~~]rule.

(1) Assimilation agreements shall specify whether there are employees eligible for reemployment under USERRA in positions affected by the agreement.

(2) An assimilated employee accrues leave based on years of assimilated service plus benefits-eligible state service under Subsection R477-7-3(1).

R477-4-15. Hiring of Administrative Law Judges.

(1) Section 63A-17-704 applies to hiring Administrative Law Judges. Section 63A-17-704 does not apply to:

(a) an administrative law judge who is appointed by the governor; or

(b) procurement of administrative law judge service under Section 63G-6a-116.

(2) The hiring panel shall consist of:

(a) the head or designee of the hiring agency;

(b) the DHRM Division Director[~~, DHRM,~~] or designee; and

(c) the head or designee of another agency, as appointed by the DHRM Division Director[~~, DHRM~~].

(3) Only the agency heads described in Subsection (2) may designate another individual to serve on the hiring panel on the agency head's behalf in consultation with the designee of the DHRM Division Director[~~, DHRM~~].

(4) The hiring agency may select one or more additional subject matter experts to serve on the panel, in consultation with DHRM, in addition to the panel members established in Subsection (2).

KEY: employment, fair employment practices, hiring practices
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 67-20-8

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R477-5-2	Filing ID: 55363

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R477-5-2. Probationary Period

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found a need to clarify a provision by removing a non-exhaustive list and correct a passive voice provision.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment revises language to clarify provisions and correct style errors.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0

Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-17-106	Subsection 63A-17-305(5)(b)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-5. Employee Status and Probation.
R477-5-2. Probationary Period.

The probationary period allows management to evaluate an employee's ability to perform the duties, responsibilities, skills, and other related requirements of the assigned career service position. The probationary period shall be considered part of the selection process.

(1) Management shall provide each employee an opportunity to demonstrate competence in a career service position by establishing a performance plan and giving the employee feedback on performance in relation to that plan.

(a) During the probationary period, management may separate an employee from state employment in accordance with Subsection R477-11-2(1).

(b) At the end of each employee's probationary period, management shall evaluate the employee's performance. DHRM shall enter the evaluations into the human resource information system as the performance evaluation that reflects successful or unsuccessful completion of probation.

(2) DHRM shall assign a probationary period to each career service position consistent with its job.

(a) [~~The probationary period may be extended for periods of leave including leave without pay, long term disability, workers compensation leave, temporary transitional assignment, FMLA, postpartum recovery leave, or donated leave from an approved leave bank. The probationary period may not be extended for any absence covered by USERRA.~~]Except for absences covered by USERRA, management may extend the probationary period for any period of absence or temporary transitional assignment.

(b) [~~The designated probationary period may not be reduced~~]Management may not reduce the designated probationary period after an employee is appointed to the position.

(c) An employee who has completed a probationary period and obtained career service status may not be required to serve a new probationary period, including when changing agencies, unless there is a break in service.

(3) An employee in a career service position who works at least 50% of the regular work schedule or more shall acquire career service status after working the same amount of elapsed time in hours as a full time employee would work with the same probationary period.

(4) An employee serving probation in a career service position may accept a transfer, reassignment, promotion, or career mobility to another career service position. Each new appointment to a career service position shall include a new probationary period unless management determines that the required duties or knowledge, skills, and abilities of the old and new position are similar enough not to warrant a new probationary period. The probationary period shall be the full probationary period defined in the job description of the new position.

KEY: employment, personnel management, state employees
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-305(5)(b)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-6**	**Filing ID: 55364**

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room number:	2100
Building:	Taylorsville State Office Building

Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R477-6. Compensation

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found a need for changes to implement H.B. 104, passed in the 2022 General Session, address outdated provisions, correct spelling errors, and standardize language.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

These amendments finish implementation of H.B. 104 (2022) regarding pay for performance and the elimination of longevity, revises language to clarify applicability of rule provisions, adjusts noncash incentive limits to be governed by finance policy, corrects spelling errors, and standardizes references to the DHRM Director.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0

Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-16-105	Section 63A-17-106	Subsection 63A-17-302(4)
Section 63A-17-307	Section 63A-17-803	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-6. Compensation.
R477-6-1. Pay Plans.

With approval of the Governor, the DHRM Division Director[~~, DHRM,~~] shall develop salary ranges for pay plans for each job.

(1) DHRM shall include a salary range in each job description.

(2) Management may increase an employee's wage up to the salary range maximum. A wage increase shall be at least 1/2% of the current wage unless the difference between the current wage and the salary range maximum is less than 1/2%.

(3) Management may not increase an employee's wage above the salary range maximum except for [~~longevity~~]pay for performance increases under Subsection R477-6-6(3).

(4) Management may decrease an employee's wage down to the salary range minimum. A wage decrease shall be at least 1/2% of the current wage unless the difference between the current wage and the salary range minimum is less than 1/2%.

(5) Management may not decrease or establish an employee's wage below the salary range minimum.

R477-6-2. Allocation to the Pay Plans for Classified Employees.

(1) For each job in classified service, DHRM shall:

(a) assign the job to a salary range and job family;

(b) survey the job in the market in accordance with the benchmark jobs; and

(c) include the job in a market comparability adjustment recommendation if warranted.

(2) DHRM may adjust salary ranges by:

(a) an administrative adjustment determined appropriate by DHRM for administrative purposes that is not based on a change of duties and responsibilities, nor based on a comparison to salary data in the market;

(b) a structure adjustment when any agency involved agrees to resolve budgetary impacts before implementation; or

(c) a market comparability adjustment to a job's salary range based upon salary data and other relevant information for similar jobs in the market through an annual compensation benchmark survey or other sources.

(i) DHRM shall include market comparability adjustment recommendations in the annual compensation plan and are submitted to the Governor.

(ii) If a market comparability adjustment would cause a budgetary impact, DHRM may not make the adjustment unless the Legislature has approved funding for the adjustment.

(iii) If market comparability adjustments are funded and approved for benchmark jobs, DHRM shall adjust salary ranges for other jobs in the same job family by relative ranking with the benchmark job.

(3) DHRM may not adjust salary ranges more frequently than on an annual basis unless approved by the DHRM Division Director[~~, DHRM~~].

R477-6-3. [~~Pay Plans~~]Compensation for Unclassified Employees Designated as Schedule AD and AR.

(1) Pursuant to Subsection 63A-17-301(4)(d), DHRM shall assign each job [~~in an~~]with AD or AR pay plan to a salary range that is no more than 40% above and below the salary range midpoint.

(2) DHRM may adjust salary ranges through:

(a) an administrative adjustment determined appropriate by DHRM for administrative purposes; or

(b) a structure adjustment.

(i) DHRM shall consult with the Governor's Office of Planning and Budget (GOPB) before making structure adjustments that require legislative funding. Adjustments that impact deputy directors or issues addressed in state code require GOPB approval.

(ii) If a structure adjustment would cause a budgetary impact, DHRM may not approve the adjustment unless the Legislature has approved funding for the adjustment or any agency involved agrees to resolve budgetary impacts before implementation.

(iii) DHRM may include structure adjustment recommendations that require funding in the annual compensation plan.

(iv) DHRM may not implement a structure adjustment more frequently than on an annual basis unless approved by the DHRM Division Director to address a critical need.

R477-6-4. [~~Pay Plans~~]Compensation for Unclassified Employees Designated As Schedule AC, AG, AH, AS, AN, AO, AP, IN, TL, AU, AQ, and Employees of the State Board of Education.

(1) [~~For~~]Pursuant to Subsection 63A-17-301(4)(d), for each job exempted from classified service that is identified in positions under Subsection R477-3-1(1), the affected agency's management shall determine a salary range with a beginning and ending salary.

R477-6-6. Salary.

(1) Promotions.

(a) Management may increase an employee's wage when the employee is promoted.

(b) Management may promote an employee when the employee meets the requirements and skills specified in the job description and position specific criteria as determined by management for the position.

(c) Any wage increase granted under this subsection shall be at least 1/2% or up to the salary range maximum.

(2) Reclassifications.

(a) Management may grant an employee a wage increase of at least 1/2% or up to the salary range maximum when the employee is reclassified to a job with a salary range maximum exceeding the employee's current salary range maximum. Management shall place the employee within the new salary range.[~~An employee's eligibility for a longevity salary increase shall be consistent with Subsection (3).~~]

(b) Management may not decrease the wage of an employee whose job is reclassified to a job with a lower salary range.

[~~(3) Longevity Salary Increase.~~

~~(a) Management shall grant an employee an initial longevity salary increase of 2.75% when:~~

~~(i) the employee has been in state service for eight years or more, including service in more than one agency;~~

~~(ii) the employee has been at or above the maximum of the current salary range for at least one year; and~~

~~(iii) the employee received a passing performance appraisal rating within the 12-month period preceding the longevity increase.~~

~~(b) A change in salary range the employee does not choose, such as a reassignment or legislative action, does not reset the one year period under Subsection (3)(a)(ii). Any change in salary range the employee seeks or voluntarily accepts resets the one year period.~~

~~(c) Management shall grant an employee who meets the conditions of Subsection (3)(a) and has received the initial longevity increase an additional 2.75% wage increase every three years. To be eligible for these additional increases, an employee shall receive a passing performance appraisal rating within the 12-month period preceding each longevity increase.~~

~~(d) For an employee with a wage that is above the salary range maximum because of a longevity salary increase:~~

~~(i) management may not change the employee's current actual wage when the employee receives an administrative adjustment, is reassigned, or is reclassified to a job with a lower salary range maximum; and~~

~~(ii) management may increase an employee's current actual wage when the employee is reclassified to a job with a higher salary range maximum if the current actual wage is less than the salary range maximum of the new job.~~

~~(A) Any such salary increase shall be at least 1/2% or up to the salary range maximum of the new job.~~

~~(B) If the employee is placed at the maximum of the new salary range, this action does not interrupt continued eligibility for longevity under Subsection (3)(a)(ii).~~

~~(iii) management may increase the current actual wage of an employee who is promoted only if the current actual wage is less than the salary range maximum of the new job.~~

~~(A) The wage increase may be up to the salary range maximum of the new job.~~

~~(B) If the employee is placed at the maximum of the new salary range, this action does not interrupt continued eligibility for longevity under Subsection (3)(a)(ii).~~

~~(iv) if the employee is promoted, reclassified, transferred, reassigned, or receives an administrative adjustment and remains at or above the salary range maximum, management shall grant a longevity salary increase three years from the date the employee received the most recent increase under Subsection (3)(a).~~

~~(e) An employee with a wage that is not at or above the salary range maximum who is reclassified, transferred, reassigned, or receives an administrative adjustment, and has a current actual wage that is above the salary range maximum of the new job is not eligible for a longevity salary increase until the employee meets the requirements of Subsection (3)(a).~~

~~(f) Management may not grant a longevity increase to an employee in Schedules AB, AN, IN, or TL.~~]

(3) Pay for Performance Increase

The agency head authorizes and approves pay for performance increases under the following parameters.

(a) An increase shall be at least 1/2%.

(b) The increase may exceed the salary range maximum.

(c) Management may not grant a pay for performance increase unless the agency has sufficient funding within the enacted budget for the fiscal year in which the incrase is given and sufficient ongoing funding to cover the increase in future fiscal years.

(d) Management confirms that the employee has at least two quarters of performance evaluations.

(e) The increase is granted pursuant to an agency policy that meets the requirements of Section R477-10-1.

(f) The agency head determines that the requirements of Section R477-10-1 have been met.

(4) Administrative Adjustment.

Management may not adjust the current actual wage of an employee whose position has been allocated by DHRM from one job to another job or salary range for administrative purposes unless the employee's wage is below the minimum of the new salary range.

(5) Reassignment.

Management may not decrease an employee's current actual wage except as provided in federal or state law.

(6) Transfer.

(a) Management may decrease the current actual wage of an employee who transfers to another job with the same or lower salary range maximum.

(b) An employee who applies for a job with a lower salary range maximum shall be placed within the salary range of the new job.

(7) Demotion.

Management may reduce the current actual wage of an employee demoted under Section R477-11-2 by at least 1/2%, or

down to the salary range minimum as determined by the agency head or designee.

(8) Administrative Salary Increase.

The agency head authorizes and approves administrative salary increases under the following parameters.

(a) Any increase shall be at least 1/2% or up to the employee's salary range maximum.

(b) Management may not grant an administrative salary increase unless the agency has sufficient funding within their annualized base budgets for the fiscal year in which the adjustment is given.

(c) Justification for an administrative salary increase shall be:

(i) in writing;

(ii) approved by the agency head or designee; and

(iii) supported by unique situations or considerations in the agency.

(d) The agency head or designee shall answer any challenge or grievance resulting from an administrative salary increase.

(e) Management may grant an administrative salary increase to an employee during the probationary period. Wage increases shall be at least 1/2% or up to the salary range maximum.

(f) Management may not grant an administrative salary increase to an employee whose wage is at or above the salary range maximum.

(g) DHRM shall process an administrative salary increase separately from any other action.

(9) Administrative Salary Decrease.

The agency head authorizes and approves administrative salary decreases for nondisciplinary reasons according to the following:

(a) management may not decrease the final wage below the salary range minimum;

(b) management shall decrease the employee's wage by at least 1/2% or down to the salary range minimum;

(c) justification for an administrative salary decrease shall be:

(i) in writing;

(ii) approved by the agency head; and

(iii) supported by issues such as previous written agreements between management and the employee to include career mobility, reasonable accommodation, or other unique situations or considerations in the agency; and

(d) the agency head or designee shall answer any challenge or grievance resulting from an administrative salary decrease;

(10) Career Mobility.

(a) When commencing a career mobility assignment, management shall determine the new wage by following the rules governing the appropriate underlying action such as:

(i) promotion;

(ii) reassignment; or

(iii) transfer.

(b) If a career mobility assignment does not become permanent at its conclusion, management shall return the employee to the employee's previous position or a similar position and grant, at a minimum, the same wage and the same or higher salary range that the employee would have received had the career mobility assignment not occurred.

R477-6-7. Incentive Awards.

(1) Management shall write and publish incentive award and bonus policies before rewarding any employee with incentive awards or bonuses. Incentive awards and bonuses are discretionary, not an entitlement, and are subject to the availability of funds in the agency.

(a) DHRM shall review agency incentive award policies to ensure that they are consistent with standards established in [~~these rules~~]this rule and the Department of Government Operations, Division of Finance, rules, and procedures.

(b) Management may not grant individual awards greater than $4,000 per pay period and $8,000 in a fiscal year, except when approved by DHRM and the governor.

(i) Management shall include documentation of the work units affected and any cost savings in a request for an exception to Subsection (b) for a retirement incentive award.

(ii) A single payment of up to $8,000 may be granted as a retirement incentive.

(c) Any cash and cash equivalent incentive awards and bonuses shall be subject to payroll taxes.

(2) Performance Based Incentive Awards.

(a) Cash Incentive Awards.

(i) Management may grant a cash incentive award to an employee or group of employees that demonstrates exceptional effort or accomplishment beyond what is normally expected on the job for a unique event or over a sustained period[~~ of time~~].

(ii) To implement a Pay for Performance cash incentive awards program, management shall include the program in the agency's incentive awards policy pursuant to Section R477-10-1.

(A) The policy shall include information supporting the following:

(1) sustainability of the funding for the cash incentive program;

(2) the positions eligible to participate in the Pay for Performance program;

(3) goals of the program;

(4) type of work to be incentivized; and

(5) ability to track the effectiveness of the program.

(iii) The agency head or designee shall approve any cash awards and ensure that documentation relating to the award is maintained.

(b) Noncash Incentive Awards.

(i) Management may recognize an employee or group of employees with noncash incentive awards.

(ii) Individual noncash incentive awards may not exceed [~~a value of $50 per occurrence and $200 for each fiscal year~~]the limits in Finance Policy 05-03.06.

(iii) Noncash incentive awards may include cash equivalents such as gift certificates or tickets for admission. Cash equivalent incentive awards shall be subject to payroll taxes and shall follow standards and procedures established by the Department of Government Operations, Division of Finance.

(3) Cost Savings Bonus.

(a) Management may establish a bonus policy to increase productivity, generate savings within the agency, or reward an employee who submits a cost savings proposal.

(i) Management shall document the cost savings involved.

(4) Market Based Bonuses.

Management may award a cash bonus as an incentive to acquire or retain an employee with job skills that are critical to the state and difficult to recruit in the market. Any market based bonuses shall be approved by the DHRM Division Director or designee.

(a) When requesting market based awards, management shall submit documentation specifying how the agency will benefit by granting the bonus based on:

(i) budget;

(ii) recruitment difficulties;

(iii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iv) other market based reasons.

(b) Eligible reason types for market based bonuses include:

(i) Retention Bonus.

Management may award a bonus to an employee who has unusually high or unique qualifications that are essential for the agency to retain.

(ii) Recruitment or Signing Bonus.

Management may award a bonus to a qualified job candidate to incentivize the candidate to work for the state.

(iii) Scarce Skills Bonus.

Management may award a bonus to a qualified job candidate that has the scarce skills required for the job.

(iv) Relocation Bonus.

Management may award a bonus to a current employee who is required to relocate to accept a position in a different commuting area.

(v) Referral Bonus.

Management may award a bonus to a current employee who refers a job applicant who is subsequently selected.

(vi) Geographic Job Market Bonus.

Management may award a bonus to incentivize an employee to accept or continue an assignment in a specific geographic area.

R477-6-9. Career Service Status Change.

(1) When management changes an occupied schedule B position to schedule AC, AD, AR, [~~or~~]AS, or AX, management shall offer the career service employee in that position the opportunity to convert to the new schedule code. The employee may, within 60 days from the date of offer, elect to convert from career service to career service exempt.

(a) If the employee chooses to convert, management shall offer the employee:

(i) an administrative salary increase of at least 1/2% or up to the current salary range maximum; and

(ii) state paid term life insurance coverage if determined eligible by the Group Insurance Office to participate in the Term Life Program, Public Employees Health Plan, as provided in Section R477-6-10.

(b) For an employee at or above the current salary range maximum at the time of conversation, management shall grant, in lieu of the salary adjustment from Subsection (1)(a)(i), a one time bonus, as determined by the agency head or designee, not to exceed limits in Subsection R477-6-7(1)(b).

(c) For an employee electing to convert to career service exempt after the 60 day election period, management may not grant the wage increase, but shall permit the employee to apply for the insurance coverage through the Group Insurance Office.

(d) An employee electing not to convert to career service exempt status retains career service status even though the employee's position shall be designated as schedule AC, AD, AR, [~~or~~]AS, or AX. When these career service employees vacate these positions, any subsequent incumbent is career service exempt.

(e) Management shall communicate the conditions and limitations of this incentive program to any employees currently or imminently affected by the program.

(2) An agency head may reorganize so that a current career service exempt position no longer meets the criteria for exemption.

(a) An affected employee:

(i) shall resume career service status if the employee previously earned career service status and had no break in service;

(ii) is no longer eligible for severance pay under Section R477-6-10;

(iii) shall accrue annual leave based on service time under Subsection R477-7-3(1); and

(iv) shall work with management and the Group Insurance Office to discontinue exempt life insurance coverage.

(b) Management may not convert a career service exempt employee to career service status unless:

(i) the employee had prior career service status with no break in service; or

(ii) the employee was hired from a hiring list under Subsection R477-4-2(7).

R477-6-10. State Paid Life Insurance.

(1) Management shall pay [~~the premiums for~~]term life insurance [~~coverage~~]premiums for a benefits eligible career service exempt employee [~~on~~]in schedule AA, AB, AD, AR, AT, or AX if the employee is determined eligible by the Group Insurance Office and approved through underwriting to participate in the Term Life Program offered through the Public Employees Health Plan at the following [~~leves~~]levels:

(a) hourly wage $24.03 or less shall receive $125,000 of term life insurance;

(b) hourly wage between $24.04 and $28.84 shall receive $150,000 of term life insurance; and

(c) hourly wage $28.85 or higher shall receive $200,000 of term life insurance.

(2) The appointing authority may provide these benefits to an employee [~~on~~]in schedule AC, AE, or AS.

R477-6-12. Human Resource Transactions.

The DHRM Division Director[~~, DHRM,~~] shall publicize procedures for processing payroll and human resource transactions and documents.

KEY: wages, employee benefit plans, insurance, personnel management
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-16-105; 63A-17-106; 63A-17-302(4); 63A-17-307; 63A-17-803

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-7**	**Filing ID: 55365**

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management

Room number:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141531
City, state and zip:	Salt Lake City, UT 84114-1531

Contact persons:

Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R477-7. Leave

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found a need to clarify and correct errors regarding the use of sick and bereavement leave, the conditions for payout of leave balances, and the procedures for using leave to supplement pay under Workers Compensation.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment reorganizes for clarity and to correct errors.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0

Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 34-43-103	Section 39-3-1	Section 63G-1-301
Section 63A-17-106	Section 63A-17-504	Section 63A-17-505

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-7. Leave.
R477-7-1. Conditions of Leave.

(1) An employee is eligible for a leave benefit when:

(a) in a position designated by management as eligible for benefits; and

(b) in a position which normally requires working a minimum of 40 hours per pay period.

(2) An eligible employee accrues annual, sick, and holiday leave in proportion to the time paid as determined by DHRM.

(3) An employee shall use leave in no less than quarter hour increments.

(4) An employee may not use annual or sick leave before it is accrued. Leave accrued during a pay period may not be used until the following pay period.

(5) An employee may not use annual leave, converted sick leave used as annual leave, or use excess or compensatory hours without advance approval by management.

(6) Management may not require employees to maintain a minimum balance of accrued leave.

(7) An employee may not use any type of leave except military and jury leave to accrue excess hours.

(8) Any leave used for purposes described in Subsection R477-7-4(2) is subject to the requirements of Subsections R477-7-4(6) and (7).

(9) An employee transferring from one agency to another retains any accrued annual, sick, and converted sick leave at the new agency.

(10) Management shall make a lump sum payment to an employee separating from state service or changing from a benefited to a non-benefited position for:

(a) annual leave hours;

(b) excess leave hours;

(c) compensatory hours earned by a FLSA non-exempt employee; and

(d) converted sick leave if the employee is not retiring under Title 49, Utah State Retirement and Insurance Benefit Act.

(11) Management may not approve the use of leave after an employee's last day worked except for:

(a) leave without pay;

(b) administrative leave;

(c) leave granted under the FMLA; or

(d) leave granted for other medical or pregnancy related reasons that management approved before the commencement of the leave period.

(12) Management may separate an employee from employment after 18 workweeks cumulative leave in a 24 month period regardless of paid leave status unless prohibited by state or federal law. This rule incorporates by reference 29 CFR 825.205 (March 21, 2021) for purposes of calculating workweeks. The agency head shall make the decision to separate the employee in consultation with DHRM.

(13) Management may not pay contributions to benefits on cashed out leave, other than FICA tax, except as it applies to converted sick leave in Subsection R477-7-5(2) and the retirement benefit in Section R477-7-6.

R477-7-4. Sick Leave.

(1) An eligible employee accrues sick leave, not to exceed four hours per pay period. Sick leave accrues without limit.

(2) Management may approve the use of sick leave [~~for~~]when:

(a) an employee becomes a parent as described in Subsection R477-7-20(5);

(b) an employee is absent from duty because of illness, injury, or disability of the employee, their spouse, their child, their parent, or any individual for whom the employee is a legal guardian;

(c) any individual listed in Subsection (2)(b) receives preventive health or dental care; or

(d) a qualifying FMLA purpose.

[~~(a) preventive health and dental care;~~

~~(b) maternity;~~

~~(c) paternity;~~

~~(d) adoption care; or~~

~~(e) absence from duty because of illness, injury, or disability of:~~

~~(i) the employee;~~

~~(ii) a spouse;~~

~~(iii) children;~~

~~(iv) parents;~~

~~(v) an individual for whom the employee is a legal guardian; or~~

~~(vi) a qualifying FMLA purpose.~~]

(3) Agency management may approve the use of sick leave for other unique medical situations.

(4) When management approves the use of sick leave, an employee may use any combination of Program I, Program II, and Program III sick leave.

(5) An employee shall contact management before the beginning of the scheduled workday the employee is absent due to illness or injury.

(6) Management shall require an employee to produce administratively acceptable evidence to support any request for leave to cover an absence that exceeds three consecutive working days.

(7) Management may require an employee to produce administratively acceptable evidence regardless of the number of leave hours used for the reasons in Subsection (2) or (3) if there is reason to believe that an employee is using the leave for reasons not listed in Subsection (2) or (3).

(8) An employee separating from state employment forfeits any unused sick leave without compensation unless the leave is utilized for the sick leave retirement benefit under Section R477-7-6.

(a) Management shall reinstate forfeited sick leave when an employee is rehired into a benefited position within one year of separation due to a reduction in force. Sick leave shall be reinstated as Program I, Program II, and Program III as accrued before the reduction in force.

(b) Management shall reinstate forfeited sick leave when an employee is appointed to a benefits eligible position within one year of leaving a benefits eligible position for reasons other than a reduction in force. Reinstated sick leave shall be Program III sick leave.

(c) Management may not reinstate forfeited sick leave when an employee retires from state service under Title 49, Utah State Retirement and Insurance Benefit Act and is rehired.

R477-7-7. Administrative Leave.

(1) Management may grant administrative leave to any employee consistent with agency policy for the following reasons:

(a) administrative;

(i) governor approved holiday leave;

(ii) during management decisions that benefit the organization;

(iii) when no work is available due to unavoidable conditions or influences; or

(iv) other reasons consistent with agency policy;

(b) protected;

(i) suspension with pay pending hearing results;

(ii) personnel decision-making before discipline;

(iii) removal from adverse or hostile work environment situations;

(iv) fitness for duty or employee assistance; or

(v) other reasons consistent with agency policy;

(c) reward in lieu of cash;

(i) the agency head or designee may grant paid administrative leave up to one day per occurrence;

(ii) management may not grant administrative leave exceeding one day without written approval from the agency head;

(iii) management may not grant more than 40 hours of administrative leave per fiscal year as a reward in lieu of cash;

(iv) management may grant administrative leave as a reward in lieu of cash to employees of another agency if both agency heads agree in advance; or

(d) employee education assistance.

(2) Management shall grant an employee up to two hours of administrative leave to vote in an official election if the employee has fewer than three total hours off the job between the time the polls open and close, and the employee applies for the leave at least 24 hours in advance. Management may specify the hours when the employee may be absent.

(3) Management shall include employees who are on leave under the FMLA or military leave under USERRA in a grant of administrative leave for non-performance based purposes if the leave would have been given had the employee been in a working status.

(4)[~~With the exception of administrative leave used as a reward under Subsection R477-7-7(1)(c), only the agency head or designee may grant paid administrative leave.~~

~~(5)~~] Administrative leave taken shall be documented in the employee's leave record.

[~~(6)~~](5) Administrative leave is not an employee right and management may grant it disparately within its workforce depending on agency needs.

R477-7-9. Bereavement Leave.

[~~Management may grant at least three work days of bereavement leave per occurrence with pay following the death of a member of the employee's immediate family. Management may not charge bereavement leave against an employee's accrued sick or annual leave.~~]Upon request from the employee, management shall grant at least three work days of bereavement leave per occurrence with pay following the death of a member of the employee's immediate family or when a pregnancy ends in miscarriage or stillbirth under the conditions set forth in Section 63A-17-106.

(1) "Immediate Family" means relatives of the employee or spouse including in-laws, step-relatives, or equivalent relationship as follows:

(a) spouse;

(b) parents;

(c) siblings;

(d) children;

(e) any level of grandparents; or

(f) any level of grandchildren.

(2) Management may grant bereavement leave for other unique family relationships.

(3) Management [~~shall grant at least three work days of bereavement leave to an employee when a pregnancy ends in stillbirth or miscarriage under the conditions set forth in Section 63A-17-106~~]may not charge bereavement leave against an employee's accrued leave balances.

R477-7-16. Workers' Compensation Leave.

(1) An employee may use accrued leave benefits to supplement the workers' compensation benefit.

(a) The combination of paid leave[~~ benefit~~], wages, and workers compensation time-loss benefit may not exceed the

[~~employee's~~]gross [~~salary~~]pay the employee would have received if the accident had not intervened.

(b) An employee may not use accrued leave to supplement the workers' compensation benefit when:

(i) the employee is declared medically stable by a licensed medical authority;

(ii) the workers compensation fund terminates the benefit;

(iii) the employee refuses to accept appropriate employment offered by the state; or

(iv) the employee is notified of approval for Long Term Disability or Social Security Disability benefits.

(c) An employee shall refund to the state any accrued leave paid which exceeds [~~the employee's gross salary for the period for which the benefit was received~~]the gross pay the employee would have received if the accident had not intervened.

(2) Workers' compensation hours count for purposes of annual, sick, and holiday leave accrual while the employee is receiving a workers' compensation time-loss benefit for up to six months from the last day worked in the regular position.

(3) Health insurance benefits continue for an employee on leave without pay while receiving workers' compensation benefits. The employee is responsible for the payment of the employee share of the premium.

(4) If an employee can return to work in the employee's regular position, management shall place the employee in the previously held position or a similar position at a comparable salary range.

(5) If an employee cannot return to work in the regular position, or if documentation from one or more qualified health care providers clearly establishes that the employee has a permanent condition preventing the employee from returning to the last held regular position, management may separate the employee from state employment unless prohibited by state or federal law. Exceptions may be granted by the agency head in consultation with DHRM.

(6) Management shall take disciplinary action under Rule R477-11 when an employee files a fraudulent workers compensation claim.

KEY: holidays, leave benefits, vacations
Date of Last Change: [~~January 24,~~] 2023
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 34-43-103; 39-3-1; 63G-1-301; 63A-17-106; 63A-17-504; 63A-17-505

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-8**	**Filing ID: 55366**

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room number:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141531
City, state and zip:	Salt Lake City, UT 84114-1531
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R477-8. Working Conditions
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The Division of Human Resource Management (DHRM) found a need for citation updates, adjustments to alleviate the need for frequent exceptions, and language revisions for consistency and clarity.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**
This amendment updates citations and revises language for clarity and consistency.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.
B) Local governments:
These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 34A-2-114	Section 63A-17-106	Section 63A-17-602
Section 20A-3-103		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-8. Working Conditions.
R477-8-1. Workweek.

(1) The state's standard workweek begins Saturday at midnight and ends the following Friday at 11:59 p.m. FLSA non-exempt employees may not deviate from this workweek.

(2) State offices are typically open Monday through Friday from 8 a.m. to 5 p.m. Management may adopt alternative business hours under Section 67-[~~25-201~~]27-103.

(3) Management shall establish work schedules and may approve a flexible starting and ending time for an employee as long as scheduling is consistent with Section R477-8-4.

(4) An employee shall work the assigned schedule and be at work on time. When an employee is late, regardless of the reason, including inclement weather, management may require the employee to use accrued leave, leave without pay, or adjust their work schedule to account for the lost time.

(5) An employee's time worked is calculated in increments of 15 minutes. This rule incorporates by reference 29 CFR 785.48 (2012) for rounding practices when calculating time worked.

R477-8-5. Compensatory Time for FLSA Non-Exempt Employees.

(1) An FLSA non-exempt employee shall sign a prior overtime agreement authorizing management to compensate the employee for overtime worked by actual payment or accrual of compensatory time at time and one-half.

(a) An FLSA non-exempt employee may receive compensatory time for overtime up to a maximum of 80 hours. Only with prior approval of the DHRM Division Director[~~, DHRM,~~] may compensatory time accrue up to 240 hours for regular employees or up to 480 hours for peace or correctional officers, emergency, or seasonal employees. Once an employee reaches the maximum, management shall pay any additional overtime on the payday for the period in which it was earned.

(b) Management shall pay compensatory time balances for an FLSA non-exempt employee down to zero at the rate of pay in the old position in the same pay period that the employee is:

(i) transferred from one agency to a different agency; or

(ii) promoted, reclassified, reassigned, or transferred to an FLSA exempt position.

(c) Management may pay down any portion of compensatory time balances for FLSA non-exempt employees at any time.

R477-8-6. Compensatory Time for FLSA Exempt Employees.

(1) An FLSA exempt employee may not work more than 80 hours in a pay period without management approval. Compensatory time accrues when the employee actually works more than 80 hours in a work period. Leave and holiday time taken within the work period are not hours worked when calculating compensatory time. Management shall compensate an FLSA exempt employee who works overtime by granting time off. For each hour of overtime worked, an FLSA exempt employee accrues an hour of compensatory time.

(a) Management shall establish in written policy a uniform overtime year either for the agency as a whole or by unit number and communicate it to employees. Overtime years shall be set at one of the following pay periods: Five, Ten, Fifteen, Twenty, or the last pay period of the calendar year. If management fails to establish a uniform overtime year, the DHRM Division Director[~~, DHRM,~~] and the Director of Finance, Department of Government Operations, will establish the date for the agency as the last pay period of the calendar year. Management may change the established overtime year [~~only after the current overtime year has lapsed, unless justifiable reasons exist and the Division Director, DHRM,~~]for the following calendar year by notifying DHRM of the change by December 31 of the current year. Management may not change the pay period during the current overtime year unless justifiable reasons exist and the DHRM Division Director has granted a written exception.

(b) The limit on compensatory time accrued by an FLSA exempt employee may not be less than 80 hours.

(i) Any compensatory time earned by an FLSA exempt employee over the limit shall be paid out in the pay period it is earned.

(c) Any compensatory time earned by an FLSA exempt employee is not an entitlement, a benefit, nor a vested right.

(d) Any compensatory time earned by an FLSA exempt employee shall lapse upon occurrence of any one of the following events:

(i) at the end of the employee's established overtime year;

(ii) upon assignment to another agency;

(iii) change in FLSA status to non-exempt; or

(iv) when an employee terminates, retires, or otherwise does not return to work before the end of the overtime year.

R477-8-7. Non-Exempt Public Safety Personnel.

(1) To be considered for overtime compensation under this rule, a law enforcement or correctional officer shall:

(a) be a uniformed or plain clothes sworn officer;

(b) be empowered by statute or local ordinance to enforce laws designed to maintain public peace and order, to protect life and property from accidental or willful injury, and to prevent and detect crimes;

(c) have the power to arrest;

(d) be POST certified or scheduled for POST training; and

(e) perform over 80% law enforcement duties.

(2) Management shall select one of the following maximum work hour thresholds to determine when overtime compensation is granted to law enforcement or correctional officers designated FLSA non-exempt and covered under this rule:

(a) 171 hours in a work period of 28 consecutive days; or

(b) 86 hours in a work period of 14 consecutive days.

(3) Management shall select one of the following maximum work hour thresholds to determine when overtime compensation is granted to fire protection employees:

(a) 212 hours in a work period of 28 consecutive days; or

(b) 106 hours in a work period of 14 consecutive days.

(4) Management may designate a lesser threshold in a 14 day or 28 day consecutive work period as long as it conforms to the following:

(a) Section 207(k), Fair Labor Standards Act;

(b) 29 CFR 553.230;

(c) the state's payroll period; and

(d) the approval of the DHRM Division Director[~~, DHRM~~].

R477-8-8. Time Reporting.

(1) Employees shall complete and submit a state approved biweekly time record that accurately reflects the hours actually worked, including:

(a) approved and unapproved overtime;

(b) on-call time;

(c) stand-by time;

(d) meal periods of public safety and correctional officers who are on duty more than 24 consecutive hours; and

(e) approved leave time.

(2) Management may discipline an employee who fails to accurately record time.

(3) Management may not develop or use time records unless the records have the same elements of the state approved time record and are approved by the Department of Government Operations, Division of Finance.

(4) Management may discipline a supervisor who directs an employee to submit an inaccurate time record or knowingly approves an inaccurate time record.

(5) A Non-exempt employee who believes FLSA rights have been violated may submit a complaint directly to the DHRM Division Director[~~, DHRM,~~] or designee.

R477-8-13. Excess Hours.

An employee may use excess hours the same way as annual leave.

(1) An employee may not work hours which would lead to the accrual of excess hours without prior management approval.

(2) An employee may not use any leave time, other than holiday, military, and jury leave, that results in the accrual of excess hours.

(3) An employee may not accumulate more than 80 excess hours.

(4) Management shall pay out excess hours:

(a) for any hours accrued above the limit set by DHRM;

(b) when an employee is assigned from one agency to another; and

(c) upon separation.

(5) Management may pay out excess hours:

(a) automatically in the same pay period accrued;

(b) at any time during the year as determined appropriate by a state agency or division; or

(c) upon request of the employee and approval by [~~the agency head or designee~~]management.

R477-8-17. Temporary Transitional Assignment.

(1) Management may place an employee in a temporary transitional assignment when an employee cannot perform essential job functions due to temporary health restrictions including:

(a) when management determines that there is a direct threat to the health or safety of self or others;

(b) in conjunction with an internal investigation, corrective action, performance or conduct issues, or discipline;

(c) where there is a bona fide occupational qualification for retention in a position; or

(d) while an employee is being evaluated to determine if reasonable accommodation is appropriate.

(2) Time spent in a temporary transitional assignment may be counted as leave for purposes of [~~Subsection~~]Subsections R477-5-2(2) and R477-7-1(12)[~~ R477-7-1(11)~~].

R477-8-18. Change in Work Location.

Management may not change an employee's work location if the change requires the employee to commute or relocate 50 miles or more, one-way, beyond the current one-way commute, unless:

(1) the employee agrees to the change;

(2) the change in work location is communicated to the employee at appointment to the position requiring the change in location;

(3) management pays to move the employee consistent with [~~Section R25-6-8 and~~]Finance Policy FIACCT 05-03.03; or

(4) management reimburses commuting expenses up to the cost of a move.

KEY: breaks, telecommuting, overtime, dual employment
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 34A-2-114; 63A-17-106; 63A-17-602; 20A-3-103

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-10**	**Filing ID: 55367**

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R477-10. Employee Development

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found an opportunity to more clearly state the requirements for employee performance evaluation.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment revises language to better clarify the performance evaluation process and standardizes references to the DHRM Director.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-17-106		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-10. Employee Development.
R477-10-1. Performance Evaluation.

Management shall utilize the Utah Performance Management (UPM) system for employee performance plans and evaluations.

(1) Management shall establish a performance management system that:

(a) defines an overall performance rating scale;

(b) identifies performance standards and expectations for each employee in a performance plan; and

(c) defines incentives for meeting or exceeding [~~production~~]expectations, before work begins, that include:

(i) eligible employees or groups;

(ii) specific standards, goals, or [~~targets~~]expectations;

(iii) [~~measurement~~]evaluation procedures; and

(iv) specific incentives.

(2) Management shall notify employees when their performance plans are implemented or modified.

(3) Management shall evaluate an employee's performance in writing at least quarterly.

(a) An employee may include written comments pertaining to the employee's performance evaluation.

(b) Management may issue a written performance evaluation to a probationary employee at the end of the probationary period.

(4) Management shall provide employees with regular verbal and written feedback based on the standards of performance and behavior outlined in their performance plans.

R477-10-4. Employee Development and Training.

(1) Management may establish programs for training and staff development that shall be agency specific or designed for highly specialized or technical jobs and tasks.

(2) Management shall consult with the DHRM Division Director[~~, DHRM,~~] when proposed training and development activities may have statewide impact or may be offered more cost effectively on a statewide basis. The DHRM Division Director,[~~DHRM,~~] shall determine whether DHRM will be responsible for the training standards.

(3) The DHRM Division Director[~~, DHRM,~~] shall work with management to establish standards to guide the development of statewide activities and to facilitate sharing of resources statewide.

(4) When [~~an~~]management directs an employee to participate in an educational program, management shall pay full costs.

(5) Management shall provide refresher training and make reasonable efforts to requalify veterans reemployed under USERRA, as long as it does not cause an undue hardship to the employing agency.

(6) Management shall ensure that training is presented or made available online unless there is a physical or interactive component, the training takes place over consecutive, full-day sessions, or no attendee travels more than 50 miles from their primary residence or place of employment, whichever is closer to the training site, to attend the training.

KEY: educational tuition, employee performance evaluations, employee productivity, training programs
Date of Last Change: [~~March 27,~~] 2023
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-12**	**Filing ID: 55368**

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R477-12. Separations

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found a need to clarify a provision relating to resignations.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment clarifies that the resignation procedure apples to all employees and standardizes references to the DHRM Director.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-17-106	Section 63A-17-306	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-12. Separations.
R477-12-1. Resignation.

[~~A career service~~]An employee may resign or retire by giving written or verbal notice to the direct supervisor or an appropriate representative of management.

(1) After giving notice, an employee may not withdraw the resignation or retirement unless the agency head or designee consents to the withdrawal.

R477-12-3. Reduction in Force.

Reductions in force (RIF) are governed by DHRM rules and standard operating procedures.

(1) When management intends to reduce staff in one or more categories of work, management shall develop a work force adjustment plan (WFAP). Management may only give formal, written notification to a career service employee after a WFAP has been reviewed by the DHRM Division Director[~~, DHRM,~~] or designee and approved by the agency head or designee. The following items shall be addressed in the WFAP:

(a) the categories of work to be eliminated;

(b) specific measures taken, if any, to facilitate the placement of affected employees through reassignment or transfer to vacant positions the employee is qualified to fill;

(c) job-related criteria as identified in Subsection R477-12-3(3)(a) used for determining retention points; and

(d) when more than one employee is affected, employees shall be listed in order of retention points.

(2) Management may RIF a career service employee, including an employee covered by USERRA, only when the employee has been identified in a WFAP and notified of the RIF in accordance with Subsection (5).

(3) Management shall calculate retention points when more than one employee is affected within a category of work by giving appropriate consideration for proficiency and seniority with proficiency being the primary factor.

(a) Management may consider performance evaluations and performance information for the past three years when assessing job proficiency.

(b) Management shall calculate seniority as the length of the most recent continuous career service which commenced in a career service position for which the probationary period was successfully completed. Exempt service time after attaining career service status with no break in service shall be counted for purposes of seniority.

(c) In each WFAP, management shall specify the criteria they will use for determining retention points.

(i) Management shall consult with the DHRM Division Director[~~, DHRM,~~] or designee.

(ii) WFAPs shall comply with current DHRM standard operating procedures.

(4) Management shall separate employees in the following order:

(a) first, temporary employees in schedule IN or TL positions;

(b) second, probationary employees; and

(c) third, career service employees with the lowest retention points.

(5) When an employee, including one covered under USERRA, is identified for separation due to a RIF, management shall provide the employee written notification of:

(a) the pending RIF; and

(b) final written notification of separation due to a RIF on the day of separation.

(6) Management shall notify a career service employee separated due to a RIF that they may appeal to the agency head by submitting a written notice of appeal within 20 working days after the date of separation. When an employee submits such an appeal, the agency head shall notify the employee that they may appeal the agency head's decision according to the grievance procedures of the Career Service Review Office.

(7) A career service employee who is separated in a RIF is governed by the rules in place at the time of separation.

(8) When a career service employee who is separated in a RIF applies for a career service position, management shall give preferential consideration to the individual's application score when developing the hiring list as outlined in DHRM standard operating procedures until the individual accepts a career service position.

(9) Management may allow an individual rehired to a career service position to buy back any accumulated annual and converted sick leave that was cashed out when the individual was separated from employment through a RIF.

KEY: administrative procedures, employees' rights, grievances, retirement
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-306

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-13**	**Filing ID: 55369**

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R477-13. Volunteer Programs

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Human Resource Management (DHRM) found a need to implement H.B. 11, passed in the 2023 General Session.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment revises language to be consistent with revisions to the Volunteer Government Workers Act.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 63A-17-106	Section 67-20-3	Section 67-20-4
Section 67-20-8		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-13. Volunteer Programs.
R477-13-1. Volunteer Programs.

(1) Management may establish a volunteer program.[~~(a)~~] A volunteer program shall include:

[~~(i)~~](a) documented agreement of the type of work and duration for which the volunteer services will be provided;

[~~(ii)~~](b) orientation to the conditions of state service and the volunteer's specific assignments;

[~~(iii)~~](c) adequate supervision of the volunteer;[~~ and~~]

[~~(iv)~~](d) documented hours worked by a volunteer[~~.~~]; and

(e) compliance with Title 67, Chapter 20, Volunteer Government Workers Act.

(2) A volunteer may not donate any service to an agency unless the volunteer's services are approved by the agency head or designee[~~, and by DHRM~~].

[~~(a)~~](3) Volunteers may not serve the state or any agency or subdivisions of the state until management approves work programs for volunteers.

[~~(3)~~](4) A volunteer is considered a government employee for purposes of workers' compensation, operation of motor vehicles or equipment if properly licensed and authorized to do so, and liability protection and indemnification.

[~~(4)~~](5) State employees who volunteer for any state agency may only perform services that are distinctly different from their primary work activities.

[~~(5) The Division Director, DHRM, may authorize exceptions to this rule consistent with Subsection R477-2-2(1).~~]

KEY: personnel management, administrative rules, rules and procedures, volunteers
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 67-20-3; 67-20-4; 67-20-8

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-15**	**Filing ID: 55370**

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R477-15. Workplace Harassment Prevention
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The Division of Human Resource Management (DHRM) found a need to revise language to make similar processes consistent across rules.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**
This amendment revises language for consistency, corrects rules styling errors, and standardizes references to the DHRM Director.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-17-106	Section 63A-17-306	Section 63G-2-305
E.O. No. 2019-1		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/27/2023

R477. Government Operations, Human Resource Management.
R477-15. Workplace Harassment Prevention.
R477-15-3. Complaint Procedure.

Management shall permit employees who allege workplace harassment or retaliation to file complaints and engage in a review process free from bias, collusion, intimidation, or retaliation. Complainants shall be provided a reasonable amount of work time to prepare for and participate in internal complaint processes.

(1) An employee who feels they are being subjected to workplace harassment or retaliation should do the following:

(a) document the occurrence;

(b) continue to report to work; and

(c) identify witnesses, if applicable.

(2) An employee may file an oral or written complaint of workplace harassment or retaliation with their direct supervisor, any other supervisor within their direct chain of command, or the Division of Human Resource Management, including the agency human resource field office the Utah Labor Commission Antidiscrimination and Labor Division, or the Equal Employment Opportunity Commission.

(a) Any employee, witness, volunteer, or other individual may submit a complaint.

(b) A complaint may be made through either oral or written notification and shall be handled in compliance with investigative procedures and records requirements in Sections R477-15-4 and R477-15-5.

(c) Any supervisor who has knowledge of workplace harassment or retaliation shall take immediate, appropriate action in consultation with DHRM and document the action.

(3) Management shall act on any complaints of workplace harassment or retaliation following receipt of the complaint.

(4) Management shall notify the complainant if investigation is unwarranted.

R477-15-4. Investigative Procedure.

(1) When an investigation is warranted, the investigation[~~s~~] shall be conducted based on DHRM standards.

(2) Results of Investigation.

(a) If the investigation finds the allegations to be sustained, management shall take appropriate administrative action.

(b) If an investigation reveals evidence of criminal conduct in workplace harassment or retaliation allegations, the agency head or DHRM Division Director[~~, DHRM,~~] may refer the matter to the appropriate law enforcement agency.

(c) At the conclusion of the investigation, the appropriate parties shall be notified.

R477-15-5. Workplace Harassment Records.

(1) DHRM shall maintain and store a separate, confidential file of any workplace harassment and retaliation complaints in the agency human resource field office, or in the possession of an authorized official.

(a) Files shall be retained in accordance with the retention schedule after the active case ends.

(b) Any information contained in the complaint file shall be classified as protected under Section 63G-2-305.

(c) No person may release information contained in the workplace harassment and retaliation file unless the agency head or DHRM Division Director[~~, DHRM,~~] determines the release is required by law.

(2) A supervisor may not keep separate files related to complaints of workplace harassment or retaliation.

(3) Any participant in any workplace harassment or retaliation proceeding shall treat any information pertaining to the case as confidential.

KEY: administrative procedures, hostile work environment
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-306; 63G-2-305; E.O. No. 2019-1 "Prohibiting Unlawful Workplace Harassment, Discrimination, and Retaliation and Ordering a Mandatory Supervisor Training Program"

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R477-16-3**	**Filing ID: 55371**

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Salt Lake City, UT 84114-1531	
Contact persons:		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R477-16-3. Investigative Procedure
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The Division of Human Resource Management (DHRM) found a need to revise language to make similar processes consistent across rules.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment revises language for consistency, corrects rules styling errors, and standardizes references to the DHRM Director.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63A-17-106	Section 67-26-101	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	07/01/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	John Barrand, Division Director	**Date:**	04/23/2023

R477. Government Operations, Human Resource Management.
R477-16. Abusive Conduct Prevention.
R477-16-3. Investigative Procedure.

(1) When an investigation is warranted, the investigation[~~s~~] shall be conducted based on DHRM standards.

(2) Results of Investigation.

(a) If an investigation finds the allegations of abusive conduct to be sustained, management shall take appropriate administrative action.

(b) If an investigation reveals evidence of criminal conduct in abusive conduct allegations, the agency head or DHRM Division Director[~~, DHRM,~~] may refer the matter to the appropriate law enforcement agency.

(c) At the conclusion of the investigation, management shall ensure that the appropriate parties are notified of investigative findings and the procedure to request an administrative review of findings pursuant to Section 67-19a-501.

(3) Participants in any abusive conduct investigation shall treat any information pertaining to the case as confidential.

KEY: abusive conduct, administrative procedures, hostile work environment
Date of Last Change: 2023[~~July 1, 2022~~]
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 67-26-101

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R501-11**	**Filing ID: 55380**

Agency Information

1. Department:	Health and Human Services
Agency:	Human Services Program Licensing
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116

Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R501-11. Social Detoxification Programs

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The revisions include more specific language and formatting consistent with the Utah Rulewriting Manual.

Additionally, it removes outdated citations and removes duplicative content that is now reflected in Rule R501-1 General Provisions for Human Services Program licensing. This rule is being submitted for manual compliance only and is currently being discussed with multiple stakeholders to address the gaps between medical and social detoxification services as governed by the Department of Health and Human Services (Department).

This hybrid approach to allowing medical detox in a social detox setting is a compromise reached between OSUMH, stakeholders, and the Department until more discussions can produce a more comprehensive social/medical detox continuum under the Office of Licensing.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The state government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure, now that there is one office for health and human services licensure.

No change to the state budget is expected because this amendment modifies and replaces outdated language and citations, most of the stricken content is now located in Rule R501-1.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The Social Detoxification Programs are regulated by the Department and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved. There are no fiscal impacts to local governments resulting from the nonsubstantive changes in this rule content.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

Small businesses impacted will be insignificant, as the new rule content was amended to address duplicative content across all rule categories. Rule R501-1 is the streamlined and updated version of the stricken content of this rule as it applies to all license categories. Substantive changes offer licensees an option to provide an additional level of care, do not require it.

There are no fiscal impacts to small businesses resulting from the nonsubstantive changes in this rule content.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

Non-Small businesses impacted will be insignificant, as the new rule content was amended to address duplicative content across all rule categories. Rule R501-1 is the streamlined and updated version of the stricken content of this rule as it applies to all license categories. Substantive changes offer licensees an option to provide an additional level of care, do not require it.

There are no fiscal impacts to non-small businesses resulting from the substantive or non-substantive changes in this rule content.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to any affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The nonsubstantive changes being made clarify and outline existing industry standards and requirements for the protection of clients in social detoxification programs.

The substantive changes allow licensees the option to serve medical clients in social settings and bill Medicaid for the service.

There will be no fiscal impacts on any affected persons as a result of this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

This rule amendment does not introduce any processes that will incur a cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 26B-2-104		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/01/2023

R501. Health and Human Services, [~~Administration, Administrative Services,~~]Human Services Program Licensing.
R501-11. Social Detoxification Programs.
R501-11-1. Authority.

[~~Pursuant to 62A-2-101 et seq., the Office of Licensing, shall license social detoxification programs according to the following rules.~~]This rule is authorized by Section 26B-2-104.

R501-11-2. Purpose.

[~~A social detoxification program offers room, board and specialized rehabilitation services to persons who are in an intoxicated state, or withdrawing from alcohol or drugs. In social detoxification, individuals are assisted in acquiring the sobriety and a drug free condition necessary for living in the community and the program places an emphasis on helping the individual obtain further care after detoxification.~~]The purpose of this rule is to set foundational health and safety standards for programs providing social detoxification services.

R501-11-3. Definition.

[~~Social detoxification Program means a short-term non-medical treatment service for individuals unrelated to the owner or provider in accordance with 62A-2-101(18).~~]Social detoxification is an organized service delivered by trained staff who provide 24-hour supervision, observation, and support for individuals who are intoxicated or experiencing withdrawal. This level of service is characterized by its emphasis on peer and social support rather than nursing or medical care. This level of service provides care for individuals whose intoxication or withdrawal symptoms are sufficiently severe to require 24-hour structure and support, however not in need of the full resources of a medically monitored level of care.

R501-11-4. Administration.

[~~A.~~]In addition to [~~the following rules, all~~]this rule, each social detoxification program[~~s~~] shall comply with Rules R501-[~~2, Core Rules~~]1, General Provisions for Licensing and R501-14 Human Services Background Screening.
[~~B. A current list of enrollment of all registered consumers shall be on-site at all times.~~]

[~~R501-11-5. Staffing.~~
~~A. Each program shall have an employed manager who is responsible for the day to day resident supervision and operation of the facility. The responsibilities of the manager shall be clearly defined. Whenever the manager is absent there shall be a substitute available.~~
~~B. Professional staff shall include at least one of the following individuals who have received training to work with substance abusers:~~
~~1. a licensed physician, or a consulting licensed physician, or~~
~~2. a licensed mental health therapist, or a consulting licensed mental health therapist, or~~
~~3. a licensed psychologist or consulting licensed psychologist, and~~
~~4. a licensed substance abuse counselor or unlicensed staff who work with substance abusers shall be supervised by a licensed clinical professional.~~
~~C. The program shall have a staff person trained, by a certified instructor in standard first aid and CPR, on duty with the consumers at all times. Training shall be updated as required by the certifying agency.~~

~~R501-11-6. Direct Service.~~
~~Program service records shall contain the following:~~
~~A. name, address, telephone number and admission date,~~
~~B. emergency information with names, addresses and telephone number, of a preferred individual and next of kin. Services will not be refused if a person is too intoxicated to provide accurate and detailed emergency information. The program shall obtain thorough information as soon as the client is able to report, and~~
~~C. a statement indicating that the consumer meets the admission criteria.~~

~~R501-11-7. Physical Environment.~~
~~A. The program shall maintain appropriate documentation of compliance with the following items as applicable:~~
~~1. local zoning ordinances, for "I" occupancies only,~~
~~2. local business license,~~
~~3. local building codes,~~
~~4. local fire safety regulations, and~~
~~5. local health codes.~~
~~B. The program shall provide written approval from the appropriate local government agency for new program services or increased consumer capacity.~~

~~C. Building and Grounds~~

~~1. The program shall insure that the appearance and cleanliness of the building and grounds are maintained.~~

~~2. The program shall take reasonable measures to ensure a safe physical environment for consumers and staff.~~]

R501-11-[~~8~~]5. Physical Facility.

[~~A.~~](1) This section supersedes conflicting requirements of Rule R501-1.[~~Staff Quarters: A 24 hour live-in staff shall have separate living space with a private bathroom.~~

~~B. The program shall have space to serve as an administrative office for records, secretarial work and bookkeeping.~~

~~C. Sleeping Space.~~]

(2) Each provider shall ensure that the physical facility is compliant with the following:

(a) 24 hour live-in staff have a separate living space with a private bathroom;

[~~1.~~](b) a[~~Large rooms~~] large room may be used as a dormitory style bedroom[~~s.~~];

[~~2.~~](c) [~~A~~]a minimum of 50 square feet per [~~consumer~~]individual, excluding storage space, [~~shall be~~]is provided [~~in~~]for a multiple occupant bedroom[~~.~~];[~~ Storage space shall not be counted.~~]

[~~3.~~](d) [~~A~~]a minimum of 70 square feet per individual, excluding storage space [~~shall be~~]is provided [~~in~~]for a single occupant bedroom[~~.~~];[~~ Storage space shall not be counted.~~]

[~~4. Sleeping areas shall have a source of natural light, and shall be ventilated by mechanical means or equipped with a screened window that opens.~~]

[~~5.~~](e) [~~There shall be~~]there is an escape window for each sleeping room unless there are two ways to exit the room[~~.~~]; and

[~~6. Each bed, none of which shall be portable, shall be solidly constructed and be provided with clean linens after each consumer stay and at least weekly.~~

~~7. Sleeping quarters serving male and female residents shall be structurally separated.~~

~~D. Bathrooms~~]

[~~1.~~](f) each [~~B~~]bathroom[~~s shall~~] meets a minimum ratio of one toilet, one [~~lavatory~~]sink, and one tub or shower for each eight residents.[~~ These shall be maintained in good operating order and in a clean and safe condition.~~

~~2. Toilets and baths or showers shall allow for individual privacy. They shall also accommodate consumers with physical disabilities, as required by the state building code.~~

~~3. Bathroom mirrors shall be secured to the walls at convenient heights.~~

~~4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene.~~

~~5. Bathrooms shall be ventilated by mechanical means or equipped with a screened window that opens.~~]

[~~R501-11-9. Equipment.~~

~~A. Furniture and equipment shall be of sufficient quantity, variety and quality to meet program and consumer needs.~~

~~B. All furniture and equipment shall be maintained in a clean and safe condition.~~

~~R501-11-10. Laundry Service.~~

~~A. Programs which provide for common laundry of linens and clothing, shall provide containers for soiled laundry separate from storage for clean linens and clothing.~~

~~B. Laundry appliances shall be maintained in good operating order and in a clean and safe condition.~~

~~R501-11-11. Food Service.~~

~~A. One person shall be responsible for food service. If this person is not a professionally qualified dietician, annual consultation with a qualified dietitian shall be obtained.~~

~~B. The person responsible for food service shall maintain a current list of consumers with special nutritional needs, record in the consumer's service record information relating to special nutritional needs, and provide nutrition counseling where indicated.~~

~~C. Kitchens shall have clean and safe operational equipment for the preparation, storage, serving and clean up of all meals.~~

~~R501-11-12. Medication.~~

~~A. The program shall have locked storage for medications.~~

~~B. The program shall have locked storage for hazardous chemicals and materials according to the direction of the local fire authorities. Any flammable or hazardous chemicals or materials shall be stored in appropriate well-ventilated storage area.~~

~~C. The program shall have designated qualified staff, who shall be responsible to:~~

~~1. administer or supervise medication,~~

~~2. supervise self-medication,~~

~~3. record medication, including time and dosage, according to prescription, and~~

~~4. record effects of medication.~~]

R501-11-[~~13~~]6. Specialized Services.

[~~A. The program shall not admit those who are currently experiencing convulsions, in shock, delirium tremens, in a coma, or unconscious.~~]

(1) Social detoxification services shall serve clients who require a clinical managed residential withdrawal management level of care only until they can be stabilized and transition to a lower level of care, or medical necessity requires moving the individual to a higher level of care.

(2) A provider wishing to provide medically monitored inpatient withdrawal management under a social detoxification license may only do so under the following conditions:

(a) medical and nursing professionals provide 24-hour medically monitored evaluation and withdrawal management under physician-approved policies and physician-monitored procedures and protocols;

(b) justification is documented for how clients served at this level do not require services at the level of either a higher or lower level of care;

(c) the individual meets the admission and continued service criteria for medically monitored withdrawal management; and

(d) the program meets each requirement for medically monitored withdrawal management.

[~~B.~~](3) [~~—~~]The [~~program~~]provider shall complete a preliminary screening [~~at the time~~]when an individual presents for service to determine appropriateness for social model detox[~~. T~~] and shall complete the subsequent intake evaluation [~~is completed~~]within seven days.

[~~C. Consumers shall demonstrate~~](4) The provider shall require a client to provide recent evidence of a Tuberculosis screening or [~~be~~]get tested for Tuberculosis within one week[~~s~~] of presenting for service.[~~ Clients who exhibit signs of possible active~~

~~tuberculosis will be screened immediately with assistance from the local health department. Health department recommendations will be followed. Program staff will be tested every six months.~~]

(5) The provider shall ensure:

(a) a client who exhibits signs of possible active Tuberculosis is screened by the provider immediately with assistance from the local health department; and

(b) any local health department recommendations are followed.

[~~D.~~](6) Once [~~the~~]a client has completed the acute detoxification period as demonstrated by reasonable physical and psychological stability, [~~case managers will~~]the provider shall conduct an evaluation to determine the treatment referral.

KEY: licensing, human services, substance abuse
Date of Last Change: 2023[~~January 30, 2003~~]
Notice of Continuation: October 4, 2022
Authorizing, and Implemented or Interpreted Law: [~~62A-2-101 et seq.~~]26B-2-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R501-18**	**Filing ID: 55383**

Agency Information

1. Department:	Health and Human Services	
Agency:	Human Services Program Licensing	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R501-18. Recovery Residence Services

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The revisions include more specific language and formatting consistent with the Utah Rulewriting Manual.

Additionally, it removes outdated citations and aligns with current industry standards.

One substantive change addressing medical cannabis was added at the request of our sister agency, the Office of Substance Use and Mental Health, wording was approved by the directors of OSUMH and the Center for Medical Cannabis.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The state government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure.

No change to the state budget is expected because this amendment modifies and replaces outdated language and citations, most of the stricken content is now located in Rule R501-1.

B) Local governments:

Local government city business licensing requirements were considered.

This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. Recovery residence programs are regulated by the Department of Health and Human Services (Department) and not local governments.

There will be no change in local business licensing or any other item(s) with which local government is involved.

There are no fiscal impacts to local government resulting from the substantive or nonsubstantive changes in this rule content.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

Small businesses impacted will be insignificant, as the new rule content was amended to address duplicative content across all rule categories.

Rule R501-1 is the streamlined and updated version of the stricken content of this rule as it applies to all license categories.

There are no fiscal impacts to small businesses resulting from the substantive or nonsubstantive changes in this rule content.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

Non-small businesses impacted will be insignificant, as the new rule content was amended to address duplicative content across all rule categories.

Rule R501-1 is the streamlined and updated version of the stricken content of this rule as it applies to all license categories.

There are no fiscal impacts to non-small businesses resulting from the substantive or nonsubstantive changes in this rule content.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to any affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The substantive and nonsubstantive changes being made clarify and outline existing industry standards and requirements for the protection of clients in recovery residence programs.

There will be no fiscal impacts on any affected persons as a result of this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

This rule amendment does not introduce any new processes that will incur a cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-2-104	Section 26B-2-117	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	Date:	05/01/2023

R501. Health and Human Services, Administration, Administrative Services, Licensing.
R501-18. Recovery Residence Services.
R501-18-1. Authority.

[~~This Rule is authorized by~~]Sections 26B-2-104[~~62A-2-101 et seq.~~] and 26B-2-117 authorize this rule.

R501-18-2. Purpose.

This rule establishes:

(1) B[~~b~~]asic health and safety standards for recovery residences; and

(2) M[~~m~~]inimum administration requirements.

R501-18-3. Definitions.

(1) "Currently Enrolled Client" is an individual who is a participatory resident of the sober living environment of a recovery residence and is also referred to as [~~"Client"~~]client in [~~this chapter~~]Title R501.

[~~(2) "Manager" is an individual designated in writing by the director to oversee the day-to-day supervision of staff and clients as well as the overall operation of the facility. The manager or substitute manager cannot be a currently enrolled client.~~]

(2) "Provider" means the same as licensee as defined in Section 26B-2-101.

(3) "Recovery Residence" is [~~as~~]defined in S[~~ubs~~]ection 26B-2-101[~~62A-2-101(22)~~] and [~~includes a variety of~~]is also referred to as sober living.[~~ settings.~~]

R501-18-4. Legal Requirements.

(1) [~~A recovery residence shall comply with this R501-18 and:~~]In addition to this rule, the provider shall comply with Rules R501-1, General Provisions and R501-14, Human Service Program Background Screenings and any applicable local, state, and federal laws.

([~~a~~]2) [~~R501-1, General Provisions;~~]The provider shall comply with Rule R501-14 for background screenings by either:

[~~(b) R501-2, Core Rules;~~

~~(c) R501-14 by either:~~]

([~~i~~]a) participating in the background clearances for all staff; or

([~~ii~~]b) obtaining an approval by the [~~Office of Licensing~~]Division of Licensing and Background Checks for an exemption as outlined in Rule R501-14.

[~~(d) all applicable local, state, and federal laws.~~]

([~~2~~]3) A [~~recovery residence~~]provider [~~wishing to~~]that offers clinical treatment services, shall [~~comply with R501-19 and~~]obtain a residential treatment license or applicable separate outpatient or day treatment license.[~~ No clinical treatment shall occur at a recovery residence site.~~]

(a) Clinical treatment may not be a mandatory condition of residence.

(b) Clinical treatment may not be offered within the recovery residence.

([~~3~~]4) [~~A recovery residence~~]A provider [~~wishing to~~]that offers social detoxification services shall [~~comply with R501-11 and~~]obtain a separate social detoxification license [~~prior to~~]before offering any social detoxification services[~~ onsite~~]. The provider shall not provide housing or services to a client in active withdrawal.[~~No services shall be provided to those in active withdrawl at a recovery residence site.~~]

([~~4~~]5) A recovery residence program shall only serve adults.

R501-18-5. Administration.

(1) The [~~recovery residence~~]provider shall ensure that clients receive supportive services from a person associated with the licensee or from a licensed professional. [~~–~~]Supportive services include[~~ but are not limited to~~]:

(a) vocational services;

(b) peer support;

(c) skills training; [~~or~~]and

(d) community resource referral.

[~~(2) A list of current clients shall be maintained on-site at all times and available to the Department of Human Services Office of Licensing upon request.~~]

(2) The provider may not offer, entice, refer, or recommend medical cannabis for residents in a recovery residence or as treatment for substance use disorder, as it is not considered a qualifying condition in Subsection 26B-4-203(2).

R501-18-6. Staffing.

(1) [~~The program~~]The provider shall [~~employ,~~]contract with, or otherwise provide as needed, referral information for client access to the following:

(a) [~~P~~]physician;

(b) [~~P~~]psychiatrist;

(c) [~~M~~]mental health therapist (LCMHT); or

(d) [~~S~~]substance use disorder counselor (SUDSC).

(2) [~~The recovery residence~~]The provider shall [~~have an identified recovery residence~~]identify a director[~~(s)~~] who shall have:

(a) Utah licensure, in good standing, as a substance use disorder counselor, licensed clinical social worker or equivalent; or

(b) [~~a minimum of 2~~]two years experience in one of the following:

(i) administration of a recovery residence;

(ii) substance use disorder treatment education; or

(iii) recovery[~~/~~] or support services education.

(3) The director's responsibilities that shall not be delegated include:

(a) monitoring all aspects of the program and operation of the facility;

(b) policy and procedure development, implementation, compliance and oversight;[~~ per R501-2 Core Rule requirements and to also include:~~]

[~~(i)~~](c) clearly defining responsibilities of the director, manager, and staff of the program;

([~~c~~]d) supervision, and training [~~and oversight~~]of staff; and

([~~d~~]e) overseeing [~~all~~]client activities.

(4) The [~~recovery residence~~]director may manage directly or employ a manager [~~as defined in this chapter,~~]to work under the supervision of the director.

(a) The director shall perform the manager's duties when the manager is on scheduled or unscheduled leave unless the manager designates a substitute manager[~~ substitute~~].

(b) The manager or substitute manager may not be a currently enrolled client.

(5) In addition to the staff training requirements of Rule R501-1, [~~T~~]the director shall maintain[~~is responsible for maintaining~~

~~the following~~] documentation of 40 hours of training covering the following topics for [~~self~~]the director, manager and [~~all~~]any direct [~~service~~]care staff:

[~~(a) 40 hours of training completed prior to working with clients and ongoing training sufficient to maintain proficiency in the topics of:~~]

([~~i~~]a) recovery services in substance use disorder settings;

([~~ii~~]b) peer support;

([~~iii~~]c) emergency overdose reversal;

([~~iv~~]d) recognition and response to substance-related activities;[~~ and~~]

([~~v~~]e) current certification in First Aid and CPR[~~.~~]; and

[~~(b) documented training regarding compliance with current licensing rules to include:~~

~~(i) R501-1, General Provisions;~~

~~(A) including the annual required Licensing Code of Conduct; and~~

~~(B) Client Rights;~~

~~(ii) R501-2, Core Rules;~~

~~(iii) R501-18 Recovery Residence rules; and~~

~~(iv) all current program policies and procedures.~~]

(f) an employee may not work unsupervised with clients until training is completed and documented.

(6) [~~The recovery residence shall have a~~]The director or manager shall conduct daily on-site visits [~~daily in order~~]to ensure client safety and support clients.

(a) The director or manager shall document visits [~~Site visits shall be documented~~]per-site, not per-client[~~;~~].

(b) The director or manager shall utilize ~~s~~ite visits [~~shall~~]to assess and document the following:

(i) general safety;

(ii) general cleanliness;

(iii) verification that only admitted residents reside or stay overnight at the residence;

(iv) no presence of alcohol or substances of abuse unless lawfully prescribed; and

(v) medications are in locked storage.

(7) The director or manager shall have documented face-to-face or telephone daily contact with each admitted client.

(8) The [~~recovery residence~~]director or manager shall ensure administrative on-call availability at all times and remain able to respond to the recovery residence staff and the Office of Licensing immediately by phone, or at the residence in-person within one hour.

([~~b~~]9) The provider shall [~~have~~]ensure a [~~residence~~]director, manager, or substitute manager is on-site [~~a minimum of 7~~]seven days per week [~~in order~~]to assess safety and support clients. The provider shall schedule and document daily visits.[~~These visits shall be scheduled and documented;~~]

R501-18-7. Direct Service.

(1) [~~This subsection supersedes Core Rules, Section R501-2-5. T~~]In addition to client record requirements of Rule R501-1, the provider shall ensure that the recovery residence client records [~~shall~~]contain[~~ the following~~]:

[~~(a) name, address, telephone number, email;~~

~~(b) admission date;~~

~~(c) emergency contact information with names, address, email, and telephone numbers;~~

~~(d) all information that could affect the health, safety or well-being of the client to include:~~

~~(i) medications;~~

~~(ii) allergies;~~

~~(iii) chronic conditions; or~~

~~(iv) communicable diseases;~~]

([~~e~~]a) intake documentation indicating that the client meets the admission criteria, that includ[~~ing~~]es the following:

(i) the client is not currently using or withdrawing from alcohol or substances of abuse; and

(ii) the client is not presenting with a current clinical assessment that contraindicates this level of care;[~~.~~]

(b) any client medications;

(c) any client allergies;

(d) any client chronic conditions;

(e) any client communicable diseases;

(f) individual recovery plan[~~,~~] that includes[~~ing the signature and title of the program representative preparing the recovery plan and the signature of the client; the recovery plan shall include the following~~]:

(i) documentation of all services provided by the program, including a disclosure that no clinical treatment services occur on-site at the recovery residence; and

(ii) documentation of all referred supportive services, not directly associated with the recovery residence site[~~.~~];

(g) [~~the~~]a signed written lease agreement for the recovery residence, if required;

(h) a signed agreement indicat[~~ion~~]ing that the client was notified in writing [~~prior to~~]before admission regarding:

(i) program and client responsibilities related to transportation to and location of off-site services;

(ii) program and client responsibilities related to the provision of toiletries, bedding and linens, laundry, and other household items;

(iii) program and client responsibilities related to shopping, provision of food and preparation of meals;

(iv) fee disclosures includ[~~ed~~]ing Medicaid number, insurance information and identification of any other entities who may be billed for the client's services; and

(v) rules of the program.[~~;~~]

(2) The recovery plan shall contain the signature and title of the program representative that prepared the plan and the signature of the client.

[~~(vi) client rights~~

~~(vii) grievance and complaint policy;~~

~~(viii) critical incident reports involving the client; and~~

~~(iv) discharge documentation.~~]

R501-18-8. Building and Grounds.

(1) In addition to the physical facility requirements of Rule R501-1, the provider shall:[~~The recovery residence shall ensure that building and grounds are safe and well-maintained. Furnishings, finishings, fixtures, equipment, appliances and utilities are operational and in good condition.~~

~~(2) The recovery residence shall:~~

~~(a) have locking bathroom capability sufficient to preserve the privacy of the occupant;~~

~~(b) provide access to a toilet, sink, and a tub or shower; as follows per the International Building Code:~~]

([~~i~~]a) maintain a client to toilet ratio of 1:10[~~, and~~];

([~~ii~~]b) maintain a client to tub[~~/~~] or shower ratio of 1:8[~~.~~];

[~~(c) provide a mirror secured to a wall at convenient height;~~

~~(d) ensure that each bathroom is ventilated by a screened window that opens, a working fan or heating/air conditioning duct that circulates air;~~

~~(e) provide a minimum of 60 square feet per client in a multiple occupant bedroom and 80 square feet in a single occupant bedroom. Storage space shall not be counted;~~

~~(f) ensure that sleeping areas shall have a source of natural light, and shall be ventilated by a screened window that opens, a working fan, or heating/air conditioning duct that circulates air;~~

~~(g) ensure that each client is provided with a solidly constructed bed, box spring and mattress that is maintained and provides for client comfort and is commensurate with all other client beds in the residence;~~

~~(h) ensure that male and female bedrooms are separated within the residence either by floors, walls or locking doors. If locking doors are used, a policy must identify the use of locks to delineate separation;~~

~~(i) ensure that clients shall be allowed to decorate and personalize bedrooms with respect for other clients and property;~~]

([~~j~~]c) adhere to the following if a fire clearance is not required [~~or provided~~]from the local fire authority:

(i) a bedroom on the ground floor shall have a minimum of one window that may be used to evacuate the room in case of fire; and

(ii) a bedroom that is not on the ground floor [~~(this includes basements)~~]shall have a minimum of two exits, at least one of which shall exit directly to outside the building that may be used to evacuate the room in case of fire;

([~~k~~]d) [~~the recovery residences shall~~]provide either equipment or reasonable access to equipment for washing and drying of linens and clothing;

[~~(l) provide storage commensurate with the clients' assessed ability to safely access hazardous chemicals, materials and aerosols, including but not limited to:~~

~~(i) poisonous substances;~~

~~(ii) explosive or flammable substances;~~

~~(iii) bleach; and~~

~~(iv) cleaning supplies;~~

~~(m) maintain hazardous chemicals, materials, and aerosols in their original packaging and follow the manufacturer's instructions printed on the label.~~]

([~~n~~]e) maintain an [~~sober~~]environment free from non-prescribed substances and alcohol[~~.~~];

(f) ensure client mail addressed to the program site is opened by the client in the presence of program staff to ensure that no contraband enters the program; and

(g) ensure any unlawful items found onsite are turned over to law enforcement and a critical incident report made to the office.

[~~R501-18-9. Food Service.~~

~~(1) Meals may be catered, prepared by staff or prepared by clients.~~

~~(2) The recovery residence shall have at least one kitchen.~~

~~(3) If the recovery residence allows staff or clients to prepare food for clients, it shall comply with food service requirements as follows:~~

~~(a) develop and follow a food service policy to address:~~

~~(i) how special dietary needs and food allergies will be tracked and accommodated;~~

~~(ii) how safe food preparation and cleanup will be ensured;~~

~~(b) document compliance with, or exemption from, requirements of the local health department to include:~~

~~(i) health inspections and clearances; and~~

~~(ii) food handler's permits for anyone preparing food for anyone other than self;~~

~~(c) food of sufficient nutrition and variety shall be provided;~~

~~(d) menus shall be available upon request; and~~

~~(e) this does not prohibit clients from preparing their own food and choosing to share with other clients.~~

~~(4) The recovery residence shall provide enough seating at tables or tray tables to accommodate all clients simultaneously.~~]

R501-18-[~~10~~]9. Medical Standards.

(1) [~~The recovery residence~~]The provider shall not admit anyone who is currently in an intoxicated state or withdrawing from alcohol or drugs or otherwise unable to understand terms and consent to reside in the recovery residence.

[~~(2) Before admission or employment, clients and staff shall be screened for Tuberculosis by a questionnaire approved by the local health department; if further screening is indicated, clients and staff will:~~

~~(a) follow appropriate protocol according to the local health department;~~

~~(b) provide proof of negative test results for Tuberculosis; and~~

~~(c) test annually or more frequently as required.~~

~~(3) A recovery residence that manages clients' medications shall keep all prescription and non-prescription medications in locked storage that is not accessible by clients when not in active use.~~]

([~~4~~]2) A [~~recovery residence~~]provider shall ensure that clients who manage their own medications keep all prescription and non-prescription medications in individually accessed locked storage that is not accessible to other clients.[~~ when not in active use.~~]

[~~(5) Non-prescription and prescription medications shall be stored in their original manufacturer's packaging together with manufacturer/pharmacy directions and warnings.~~]

([~~6~~]3) [~~Naloxone~~]The provider shall ensure that a non-expired opioid reversal kit [~~shall be~~]is safely maintained and available onsite, and staff and clients[~~ shall be~~] are trained in its proper use.

(4) Medical cannabis is permitted in a recovery residence only as follows:

(a) for an individual who has a medical cannabis card issued by the Department of Health and Human Services (DHHS);

(b) the cannabis is obtained from a DHHS licensed pharmacy with identifying information on the label; and

(c) the cardholder is instructed and adheres to the requirement to ensure medication is not shared and remains locked at all times when not in active use.

KEY: licensing, human services, recovery residence
Date of Last Change: 2023[~~February 7, 2018~~]
Notice of Continuation: December 9, 2019
Authorizing, and Implemented or Interpreted Law: [~~62A-2-101; 62A-2-106~~]26B-2-104; 26B-2-117

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R590-237**	**Filing ID: 55387**

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R590-237. Access to Health Care Providers in Rural Counties

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Utah Rulewriting Manual standards.

Other changes make the language of the rule more clear, remove two facilities that no longer meet the definition of "independent hospital," and remove the Penalties (the old R590-237-9) section because penalties are already provided for in statute.

The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0

Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-45-501	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	05/01/2023

R590. Insurance, Administration.
R590-237. Access to a Health Care Provider[~~s~~] in a Rural [~~Counties~~]County.
R590-237-1. Authority.

This rule is promulgated by the commissioner pursuant to [~~Subsections 31A-2-201(3)(a) and 31A-45-501(8)(c) wherein the commissioner is empowered to administer and enforce Title 31A, Insurance Code, and make administrative rules to implement Section~~]Sections 31A-2-201 and 31A-45-501.

R590-237-2. Purpose and Scope.

(1) The purpose of this rule is to:

[~~(1)~~](a) identify each county [~~in Utah~~]with a population density of less than 100 people per square mile;

[~~(2)~~](b) identify independent hospitals[~~ in Utah~~];

[~~(3)~~](c) identify federally qualified health centers[~~ in Utah~~]; and

[~~(4)~~](d) describe how a managed care organization[~~ shall~~]:

[~~(a)~~](i) uses the information [~~identifying the counties, independent hospitals, and federally qualified health centers described in (1), (2), and (3) above~~]described in Subsections (1)(a), (b), and (c);

[~~(b) notify the subscribers,~~](ii) notifies enrollees, independent hospitals, and federally qualified health centers of the information described in Subsections (1)(a), (b), and (c); and

[~~(c) ensure a managed care organization~~](iii) provides [~~the~~]notice required by Subsection 31A-45-501(8)(d)(ii).

(2) This rule applies to a managed care organization.

R590-237-3. [~~Applicability and Scope.~~

~~This rule applies to a managed care organization as defined in Subsection 31A-45-102(2).~~

~~R590-237-4.~~]Definitions.

[~~In addition to the definitions in Sections 31A-1-301, 31A-8-101, and 31A-45-102, the following definitions apply for the purposes of this rule~~]Terms used in this rule are defined in Sections 31A-1-301 and 31A-45-102. Additional terms are defined as follows:

(1)(a) "Board of directors" means [~~the~~]a local board of directors for [~~the~~]an independent hospital that is directly responsible for the daily policy and financial decisions of the hospital.

(b) A board of directors does not include a corporate board of directors for [~~the~~]an entity that owns [~~the~~]an independent hospital.

(2)(a) "Local practice location" means [~~the~~]a provider's office where services are [~~rendered~~]provided.

[~~(a) The~~](b) A local practice location is:

(i) permanently located within a county with a population density of:

[~~(i)~~](A) less than 100 people per square mile [~~prior to~~]before December 31, 2000; or

[~~(ii)~~](B) less than 30 people per square mile[~~.~~]; and

[~~(b) The local practice location is~~](ii) within 30 miles of paved roads of:

[~~(i)~~](A) the place where [~~the~~]an enrollee lives or resides; or

[~~(ii)~~](B) the location of [~~the~~]an independent hospital or federally qualified health center [~~at which the~~]where an enrollee may receive [~~covered benefits pursuant to Subsections 31A-45-501(2) or 31A-45-501(3)~~]health care services.

(3) "Policy and financial decision[~~s~~]" means [~~the~~]a day-to-day decision[~~s~~] made by [~~the local~~]a board of directors [~~with regard to~~]regarding an independent hospital's policy and financial solvency.

(4) "Provider" means a person who:

(a) furnishes health care directly to [~~the~~]an enrollee; and

(b) is licensed or [~~otherwise~~]authorized to furnish [~~the~~]health care[~~ in Utah~~].

(5) "Referral" means:

(a) [~~the~~]a request by a health care provider for an item, service, test, or procedure to be performed by another health care provider;

(b) [~~the~~]a request by a physician for a consultation with another physician; or

(c) [~~the~~]a request [~~or establishment of~~]to establish a plan of care by a physician.

(6) "Rural county" means a county with a population density of less than 100 people per square mile.

R590-237-[~~5~~]4. Rural Counties.

[~~(1) For the purposes of Subsection 31A-45-501(8)(c)(ii)(A), the counties with a population density of less than 100 people per square mile are each county in Utah except Cache, Davis, Salt Lake, Utah, and Weber, as reported by the Utah Office of Vital Statistics, updated February 11, 2019, located at https://opendata.utah.gov/Government-and-Taxes/Population-Density-By-Land-Area-And-County-In-Utah/bzur-buif.~~

~~(2) For the purposes of Subsection 31A-45-501(2)(b), rural counties where an independent hospital was built prior to December 31, 2000 include each county in Utah except Davis, Salt Lake, Utah, and Weber.~~

~~(3) For the purposes of Subsection 31A-45-501(2)(b), rural counties where an independent hospital was built after December 31, 2000 include each county in Utah except Cache, Davis, Salt Lake, Utah, Washington, and Weber.~~

~~(4) For the purposes of Subsection 31A-45-501(6)(b)(i), non-contracting provider referrals to non-contracting providers are allowed in each county in Utah except Cache, Davis, Salt Lake, Utah, Washington, and Weber.~~]

(1) Under Subsection 31A-45-501(8)(c)(ii)(A), a county with a population density of less than 100 people per square mile, as reported by the Utah Office of Vital Statistics as of February 11, 2019, includes each county except:

(a) Cache;

(b) Davis;

(c) Salt Lake;

(d) Utah; and

(e) Weber.

(2) Under Subsection 31A-45-501(2)(b), a rural county where an independent hospital was built before December 31, 2000, includes each county except:

(a) Davis;

(b) Salt Lake;

(c) Utah; and

(d) Weber.

(3) Under Subsection 31A-45-501(2)(b), a rural county where an independent hospital was built after December 31, 2000, includes each county except:

(a) Cache;

(b) Davis;

(c) Salt Lake;

(d) Utah;

(e) Washington; and

(f) Weber.

(4) Under Subsection 31A-45-501(6)(b)(i), a non-contracting provider referral to a non-contracting provider is allowed in each county except:

(a) Cache;

(b) Davis;

(c) Salt Lake;

(d) Utah;

(e) Washington; and

(f) Weber.

R590-237-[~~6~~]5. Independent Hospitals.

[~~For the purposes of 31A-45-501(8)(c)(ii)(B) each of the following is considered an independent hospital for the purposes of~~]The following are independent hospitals under Subsections 31A-45-501(1)(e) and 31A-45-501(2)(b):

(1) [~~Ashley Regional Medical Center, Vernal, Uintah County, Utah;~~

~~(2)~~]Beaver Valley Hospital, Beaver, Beaver County[~~, Utah~~];

[~~(3)~~](2) Blue Mountain Hospital, Blanding, San Juan County[~~, Utah~~];

[~~(4) Castleview Hospital, Price, Carbon County, Utah;~~]

[~~(5)~~](3) Central Valley Medical Center, Nephi, Juab County[~~, Utah~~];

[~~(6)~~](4) Gunnison Valley Hospital, Gunnison, Sanpete County[~~, Utah~~];

[~~(7)~~](5) Kane County Hospital, Kanab, Kane County[~~, Utah~~];

[~~(8)~~](6) Milford Valley Memorial Hospital, Milford, Beaver County[~~, Utah~~];

[~~(9)~~](7) Moab Regional Hospital, Moab, Grand County[~~, Utah~~];

[~~(10)~~](8) San Juan Hospital, Monticello, San Juan County[~~, Utah~~]; and

[~~(11)~~](9) Uintah Basin Medical Center, Roosevelt, Duchesne County[~~, Utah~~].

R590-237-[~~7~~]6. Federally Qualified Health Centers.

[~~For the purposes of Subsection 31A-45-501(8)(c)(ii)(C) each of the following is considered a federally qualified health center for the purposes of~~]The following are federally qualified health centers under Subsection 31A-45-501(3)(b):

(1) Bear Lake Community Health Center, Garden City, Rich County[~~, Utah~~];

(2) Bear River Health Clinic, Tremonton, Box Elder County[~~, Utah~~];

(3) Blanding Family Chiropractic, Blanding, San Juan County[~~, Utah~~];

(4) Blanding Family Practice Community Health Center, Blanding, San Juan County[~~, Utah~~];

(5) Blanding Family Vision Center, Blanding, San Juan County[~~, Utah~~];

(6) Box Elder Community Health Center, Brigham City, Box Elder County[~~, Utah~~];

(7) Brigham City Community Health Center, Brigham City, Box Elder County[~~, Utah~~];

(8) Carbon Medical Service Association -- Helper Clinic, Helper, Carbon County[~~, Utah~~];

(9) Carbon Medical Service Association, Sunnyside, Carbon County[~~, Utah~~];

(10) Cedar Community Health Center, Cedar City, Iron County[~~, Utah~~];

(11) Family Healthcare, Cedar City, Iron County[~~, Utah~~];

(12) Green River Medical Center, Green River, Emery County[~~, Utah~~];

(13) Kanosh Community Health Center, Kanosh, Millard County[~~, Utah~~];

(14) Kazan Memorial Clinic, Escalante, Garfield County[~~, Utah~~];

(15) Koosharem Community Health Center, Richfield, Sevier County[~~, Utah~~];

(16) Montezuma Creek Community Health Center, Montezuma Creek, San Juan County[~~, Utah~~];

(17) Mountainlands Community Health Center, Vernal, Uintah County[~~, Utah~~];

(18) Southwest WCHC Mental Health, Panguitch, Garfield County[~~, Utah~~];

(19) Wayne Community Health Center, Hanksville, Wayne County[~~, Utah~~]; and

(20) Wayne Community Health Center, Bicknell, Wayne County[~~, Utah~~].

R590-237-[8]7. Rural Health Notification.

(1) A managed care organization shall provide to [~~a subscriber~~]an enrollee the notice [~~required by~~]under Subsection 31A-45-501(8)(d)(ii) no later than:

(a) at the time of enrollment; or

(b) when[~~the time~~] the group or individual contract and [~~evidence~~]certificate of coverage are issued[~~ and~~].

(2) A managed care organization shall provide the notice under Subsection 31A-45-501(8)(d)(ii) upon request thereafter.[~~ The information must be included and~~]

(3) The notice shall be easily accessible on the managed care organization's website.

(4) When a rural county, independent hospital, or federally qualified health center [~~changes~~]is reclassified, the managed care organization shall provide an updated notice to each affected [~~subscriber~~]enrollee within 30 days of the change.

[~~(2)~~](5) When an independent hospital or federally qualified health center [~~status changes~~]is reclassified, a managed care organization shall provide [~~a~~]notice to the independent hospital [~~and~~]or federally qualified health center [~~in the managed care organization's service area~~]within 30 days of the change.

R590-237-[~~9. Penalties.~~

~~A managed care organization found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

~~R590-237-10~~]8. Severability.

If any provision of this rule, R590-237, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule [~~which~~]that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: health care providers
Date of Last Change: 2023[~~September 22, 2020~~]
Notice of Continuation: August 12, 2021
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-45-501

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R590-262**	**Filing ID: 55389**

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901

Contact persons:

Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R590-262. Health Data Authority Health Insurance Claims Reporting

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Utah Rulewriting Manual standards.

Other changes make the language of this rule more clear, remove the Penalties (the old R590-262-16) and Enforcement Date (the old R590-262-17) sections, and update the Severability (the new R590-262-16) section to use the Department's current language.

The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-22-614.5	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	05/01/2023

R590. Insurance, Administration.
R590-262. Health Data Authority Health Insurance Claims Reporting.
R590-262-1. Authority.

This rule is promulgated by the commissioner pursuant to [~~Subsection 31A-22-614.5(3)(a) to coordinate with the provision of Subsection 26-1-37(2)(b) and Utah Department of Health rules R428-1 and R428-15~~]Sections 31A-2-201 and 31A-22-614.5.

R590-262-2. Purpose and Scope.

(1) [~~This rule~~]The purpose of this rule is to:

(a) establish[~~es~~] the requirements for [~~certain~~]entities that pay for health care to submit data to the Utah Department of Health[~~.~~] and Human Services;

(b) coordinate with:

(i) Sections 26-1-37 and 26-33a-106.1; and

(ii) Rules R428-1 and R428-15;

[~~(2) This rule allows~~](c) allow the data to be shared with the state's designated secure health information master [~~index person~~]patient index, Clinical Health Information Exchange (cHIE), to be used:

[~~(a)~~](i) in compliance with data security standards established by:

[~~(i)~~](A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936: and

[~~(ii)~~](B) the electronic commerce agreements established in a business associate agreement;

[~~(b) for the purpose of~~](ii) for coordination of health [~~benefit plans~~]insurance benefits; and

[~~(c)~~](iii) for the enrollment data elements identified in [~~Utah Administrative~~]Rule R428-15[~~, Health Data Authority Health Insurance Claims Reporting~~].

[~~(3)(a) This rule applies to an insurer offering:~~

~~(i) a health benefit plan; or~~

~~(ii) a dental plan.~~]

(2) This rule applies to an insurer offering or administering health insurance, including a self-funded plan that opts-in under Section R590-262-7.

[~~(b)~~](3) This rule does not apply to:

[~~(i)~~](a) an insurer that, as of the first day of the reporting period[~~:~~

~~(A)~~], covers fewer than 2,500 individual Utah residents;[~~or~~

~~(B) provides administrative services for fewer than 2,500 individual Utah residents covered under self-funded employee plans;~~

~~(ii) a fully insured employer group or self-funded employee plan whose primary place of business is outside the state of Utah and no more than 25% of the employees are residents of Utah;~~]

[~~(iii)~~](b) a long-term care insurance policy;[~~ or~~]

[~~(iv)~~](c) an income replacement policy[~~.~~]; or

[~~(c) Except~~](d) except as provided in Subsection [~~(4), this rule does not require a person to provide information concerning~~](2)(c), a self-funded employee welfare plan.

(4)(a) The submission of [~~health care claims~~]data by an insurer on behalf of a self-funded [~~employee~~]plan is considered mandatory if [~~and only if~~]the self-funded [~~employee plan~~]employer opts-in under Section R590-262-7.

(b) An insurer is not obligated to submit data on behalf of a self-funded [~~employee~~]plan that opts-out or fails to respond to an opt-in request[~~s~~] required in Section R590-262-7.

R590-262-3. Definitions.

[~~In addition to the definitions in Section 31A-1-301, the following definitions shall apply for the purpose of this rule:~~

~~(1) "Claim" means a request or demand on an insurer for payment of a benefit.~~

~~(2)~~]Terms used in this rule are defined in Sections 31A-1-301 and 26-33a-102. Additional terms are defined as follows:

(1) "[~~Health care claims data~~]Data" means information consisting of, or derived directly from, [~~member~~]enrollment, medical claims, dental claims, and pharmacy claims that this rule requires an insurer to report.

[~~(3) "Insurer" means:~~](2) "Insurer," for purposes of this rule, means:

(a) a person engaged in the business of offering [~~a health benefit plan or a dental plan, including a business under an administrative services organization or administrative services contract arrangement~~]health insurance;

(b) a third[~~-~~]-party administrator that [~~collects premiums or~~]settles claims for:

(i) health [~~care~~]insurance policies; or

(ii) a self-funded employee welfare benefit plan if the self-funded plan opts-in under Section R590-262-7;

(c) a governmental plan as defined in Section 414(d), Internal Revenue Code;

(d) a non-electing church plan as described in Section 410[ ](d), Internal Revenue Code; or

(e) a licensed professional employer organization that is acting as an administrator of a health [~~care~~]insurance policy.

[~~(4)~~](3) "Office" means [~~the Office of Health Care Statistics within the Utah Department of Health, which serves as staff to the Utah Health Data Committee~~]the Healthcare Information and Analysis Programs within the Department of Health and Human Services Division of Data, Systems, and Evaluation.

[~~(5)~~](4) "Reporting period" means a calendar year.

[~~(6)~~](5)(a) "Self-funded [~~employee~~]plan" means:

(i) an employee welfare benefit plan as defined in 29 U.S.C. Section 1002(1) whose health coverage is provided other than through an insurance policy[~~.~~]; and

(ii) the plan has opted-in under Section R590-262-7.

(b) Self-funded [~~employee~~]plan does not include:

(i) a governmental plan as defined in Section 414[~~-~~](d), Internal Revenue Code;

(ii) a non-electing church plan as described in Section 410[ ](d), Internal Revenue Code; or

(iii) the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

[~~(7)~~](6) "Technical specifications" means the technical specifications document published by the Health Data Committee describing the variables and formats of the data that are to be submitted as well as submission directions and guidelines.

R590-262-4. Reporting Requirements.

(1) [~~Each~~]An insurer shall submit [~~enrollment, medical claims, and pharmacy~~]the data described in this rule and Section R428-15-3[~~ and R590-262-5, where~~], if Utah is the patient's primary residence, for a service[~~s~~] provided in or out of [~~the state of~~]Utah.

(2) [~~Each~~]An insurer shall permit the Utah Department of Health and Human Services to redisclose the enrollment and eligibility information with the state designated entity for [~~the purpose of~~]coordination of benefits.

(3) [~~Each~~]An insurer shall submit monthly [~~health care claims data. Each monthly submission is due~~]data no later than the last day of the following month.

R590-262-5. Reporting Process.

(1) Submission procedures and guidelines are described in detail in the technical specifications published by the Health Data Committee.

(2) The [~~health care claims~~]data shall be formatted and submitted according to the technical specifications in Subsection (1).

R590-262-6. Required Data Elements.

[~~(1) The enrollment, medical claims, dental claims, and pharmacy data elements are described in detail in the technical specifications published by the Health Data Committee. Each insurer shall submit data for all fields contained in the submission specifications if the data are available to the insurer.~~

~~(2) Each insurer must submit the enrollment files, provider files, professional medical claims, institutional medical claims, and pharmacy claims data elements as required in R428-15.~~]

(1) An insurer shall submit the data required by Rule R428-15 and the Utah All-Payer Claims Database Data Submission Guide if the data are available to the insurer.

(2) The Utah All-Payer Claims Data Submission Guide is available on the Department of Health and Human Services website at https://healthcarestats.utah.gov.

R590-262-7. Voluntary Opt-In for a Self-Funded [~~Employee~~]Plan[~~s~~].

(1)(a) [~~Each~~]An insurer providing claim administration services for [~~an employer who maintains~~]a self-funded [~~employee~~]plan shall provide [~~an~~]the employer for the self-funded plan a copy of the APCD Self-funded Employee Health Plan Opt-In form[~~ for purposes of determining whether an~~], available on the department's website, https://insurance.utah.gov, to determine if the employer agrees to opt-in to submission of its self-funded [~~employee~~]plan's [~~health care claims~~]data as described in this rule.

(b) An insurer may use a form [~~that they have~~]the insurer has developed for multi-state use instead of the form referenced in Subsection (1)(a) if the form is substantially similar and is approved in advance by the [~~Office~~]office[~~in advance~~].

(c) [~~Each~~]An insurer shall provide the APCD Self-funded Employee Health Plan Opt-In form[~~:~~

~~(i) by December 15, 2016 for existing clients; or~~

~~(ii)~~] within 15 days after claims administration services are retained and it is determined the employer meets the requirements of this section[~~, for clients retained after December 1, 2016~~].

(2)(a) Except as provided in Subsection[~~s (b) and~~] (c), an opt-in is effective for the reporting period in which it is signed and all future reporting periods.

(b) An employer may not opt-in for a partial reporting period.

[~~(b) An opt-in signed by an employer and received by an insurer before March 1, 2017 shall be effective for the claims adjudicated in 2016 and not previously submitted to the Office, if otherwise required by this rule.~~]

(c) An employer that has opted-in may opt-out for subsequent reporting periods by notifying the insurer in writing at least 30 days before the beginning of the next reporting period.

(3) For a self-funded [~~employee~~]plan whose employer has made an affirmative election for the submission of [~~health care claims~~]data, the insurer shall[~~:~~

~~(a)~~] include the self-funded [~~employee~~]plan data as part of the insurer's data submission otherwise required by this rule[~~; and~~

~~(b) for plans that opt-in before March 1, 2017 as provided in Subsection (2)(b), include claims adjudicated in 2016 that were not previously submitted to the Office~~].

(4) [~~Each~~]An insurer shall file with the [~~Office~~]office, annually by January 31 of each year, the following for the prior calendar year:

(a) a list of [~~the~~]self-funded [~~employee~~]plans whose employer made an affirmative election for the submission of [~~their health care claim~~]data;

(b) a list of employers who previously filed an opt-in request and have elected to opt-out for future reporting periods as provided under Subsection (2)(c);[~~ and~~]

(c) a certification from an officer of the insurer that the insurer has taken reasonable efforts to provide the form to all known required employers; and

(d) a list identifying the employers to whom the form was provided and their contact information.

(5) The APCD Self-funded Employee Health Plan Opt-In form is for use only with self-funded [~~employee~~]plans and does not affect the mandatory reporting otherwise required by this rule.

(6) Nothing in this section requires an insurer to submit data for claims processed before the insurer was contracted to provide services.

R590-262-8. Third-party Contractors.

The [~~Office~~]office may contract with a third party to collect and process the [~~health care claims~~]data and [~~will~~]shall prohibit [~~it~~]the third party from using the data in any way [~~but those~~]not specifically designated in the scope of work.

R590-262-9. Insurer Registration.

[~~Each~~]An insurer shall register with the [~~Office~~]office by completing the registration [~~online at http://health.utah.gov/hda/apd/~~]on the office's website, https://stats.health.utah.gov/, no later than 30 days after becoming subject to this rule and annually thereafter by no later than September 1.

R590-262-10. Testing of Files.

[~~Insurers that become~~]An insurer that becomes subject to this rule shall submit to the [~~Office~~]office a dataset for determining compliance with the standards for data submission no later than 90 days after the first date of becoming subject to the rule.

R590-262-11. Rejection of Files.

[~~The Office~~](1) The office or its designee may reject and return any data submission that fails to conform to the submission requirements.[~~ Paramount among submission requirements are: First Name, Last Name, Member ID, Relationship to Subscriber, Date of Birth, Address, City, State, Zip Code, Sex, which are key data fields that the insurer must submit for each enrolled member and claim.~~]

(2) An insurer whose submission is rejected shall resubmit the data in the appropriate, corrected format to the [~~Office~~]office, or its designee, within ten state business days of notice that the data does not meet the submission requirements.

R590-262-12. Replacement of Data Files.

(1) An insurer may replace a complete dataset submission if no more than one year has passed since the end of the month in which the file was submitted.[~~ However, the Office~~]

(2) The office may allow a later submission if the insurer can establish exceptional circumstances for the replacement.

R590-262-13. Provider Notification.

(1) The following notification [~~must~~]shall be provided to a person that receives shared data[~~,~~]: "This shared data is provided for informational purposes only. Contact the insurer for current, specific eligibility, or benefits coverage determination."

(2) The notification in this [~~Section~~]section shall be provided in coordination with provider participation in the master [~~index~~]patient index and the cHIE programs.

R590-262-14. Limitation of Liability.

(1) A person furnishing information [~~of the kind~~]described in this rule is immune from liability and civil action if the information is furnished to or received from:

(a) the commissioner[~~ of the Insurance Department~~], the executive director of the Utah Department of Health and Human Services, or [~~their~~]employees or representatives of the Utah Insurance Department or the Utah Department of Health and Human Services;

(b) federal, state, or local law enforcement or regulatory officials or their employees or representatives; or

(c) the insurer that issued the policy connected with the data set.

(2) As provided in Section 26-25-1, an[~~y~~] insurer that submits data pursuant to this rule cannot be held liable for having provided the required information to the [~~Office~~]office.

R590-262-15. Exemptions and Extensions.

(1) The [~~Office~~]office may grant [~~exemptions or extensions~~]an exemption or extension from reporting requirements in this rule under certain circumstances.

(2) The [~~Office~~]office may grant an exemption from a reporting requirement in this rule to an insurer when the insurer demonstrates that compliance imposes an unreasonable cost.

(a)(i) An insurer may request an exemption from any particular requirement or set of requirements of this rule.

(ii) The insurer must submit a request for exemption no less than 30 calendar days before the date the insurer would have to comply with the requirement.

(b)(i) The [~~Office~~]office may grant an exemption for a maximum of one calendar year.

(ii) An insurer wishing an additional exemption must submit an additional, separate request.

(3) The [~~Office~~]office may grant an extension from a reporting requirement in this rule to an insurer when the insurer demonstrates that technical or unforeseen difficulties prevent compliance.

(a)(i) An insurer may request an extension for any deadline required in this rule.

(ii) For each deadline for which the insurer requests an extension, the insurer must submit its request no less than seven calendar days before the deadline in question.

(b)(i) The [~~Office~~]office may grant an extension for a maximum of 30 calendar days.

(ii) An insurer wishing an additional extension must submit an additional, separate request.

(4) [~~The~~]An insurer requesting an extension or exemption shall include:

(a) [~~The~~]the insurer's name, mailing address, telephone number, and contact person;

(b) the dates the exemption or extension is to start and end;

(c) a description of the relief sought, including reference to specific sections or language of the requirement;

(d) a statement of facts, reasons, or legal authority in support of the request; and

(e) a proposed alternative to the requirement or deadline.

[~~**R590-262-16. Penalties.**~~

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

~~**R590-262-17. Enforcement Date.**~~

~~The commissioner will begin enforcing this rule upon the rule's effective date.~~

]

R590-262-[~~18~~]16. Severability.

[~~If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~]If any provision of this rule, Rule R590-262, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: health insurance claims reporting
Date of Last Change: 2023[~~March 10, 2017~~]
Notice of Continuation: March 3, 2022
Authorizing, and Implemented or Interpreted Law: 31A-22-614.5(3)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R920-50-3**	**Filing ID: 55374**

Agency Information

1. Department:	Transportation	
Agency:	Operations, Traffic and Safety	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	**Phone:**	**Email:**
Leif Elder	801-580-8296	lelder@utah.gov

Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R920-50-3. Governing Standards

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Department of Transportation (Department) proposes changing this rule to adopt the most recent standard and safety requirements for arial tramways, arial lifts, surface lifts, tows, and conveyors.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The proposed change to the governing standards replaces ANSI B77.1 (2017) with ANSI B77.1 (2022).

The updated standard, ANSI B77.1 (2022) primarily applies to the design of ski lifts that operators install in the future. However, there are changes that apply to existing ski lifts and these changes primarily clarify existing requirements.

There are new standards for aerial lift work carriers that apply to all aerial lifts. Please contact the Department for a complete list of the changes to the general standards.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Passenger Ropeway Safety Committee reimburses the state for its operations costs from fees it collects for its services.

The proposed change does not change the way the committee's funding mechanism works. Therefore, the proposed change will not affect the state's budget.

B) Local governments:

This proposed change could affect the budget of a local government that operates a passenger ropeway.

The latest governing standard this proposed change incorporates, ANSI B77.1 (2022), includes changes that can affect existing ropeways. If one of the new standards requires an operator of an existing ropeway to modify the ropeway, the operator may incur costs. However, any such costs are speculative and impossible to estimate.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

Skiing facilities are the firms most likely to be ropeway operators. The NAICS Code for Skiing facilities is 713920.

The Department of Workforce Services FirmFind database includes 18 firms in Utah with the NAICS Code 713920, five of those firms have fewer than 50 employees.

Therefore, this proposed change could affect the budgets of five small businesses that operate a passenger ropeway. The latest governing standard this proposed incorporates, ANSI B77.1 (2022), includes changes that can affect existing ropeways.

If one of the new standards requires an operator of an existing ropeway to modify the ropeway, the operator may incur costs. However, any such costs are speculative and impossible to estimate.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The Department of Workforce Services FirmFind database includes 13 firms in Utah with the NAICS Code 713920 that have more than 50 employees.

Therefore, this proposed change could affect the budgets of 13 non-small businesses that might operate a passenger ropeway. The latest governing standard this proposed change incorporates, ANSI B77.1 (2022), includes changes that can affect existing ropeways.

If one of the new standards requires an operator of an existing ropeway to modify the ropeway, the operator may incur costs. However, any such costs are speculative and impossible to estimate.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The Department cannot find any persons other than small businesses, non-small businesses, state, or local government entities that operate passenger ropeways.

Therefore, it is not likely this proposed change will have a fiscal impact on such persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
It is not possible to accurately estimate the possible cost this proposed change might have on affected persons because any such costs are speculative.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of Transportation, Carlos M Braceras, PE, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 72-11-210		

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyers – Safety Requirements - ANSI B77.1-2022
Publisher	American National Standard (ANSI)
Issue Date	May 5, 2022

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Carlos M Braceras, PE, Executive Director	**Date:**	04/28/2023

R920. Transportation, Operations, Traffic and Safety.
R920-50. Ropeway Operation Safety.
R920-50-3. Governing Standards.

(1) Passenger ropeways operating in Utah must conform to the requirements of [~~ANSI B77.1-2017~~]ANSI B77.1-2022[~~,~~] and ANSI B77.2-2020, which are incorporated by reference as part of this rule and to the revised and additional provision listed in [~~Subsection~~]Section R920-50-11. Use of these standards is authorized by Section 72-11-201.

(2) The Utah Passenger Ropeway Safety Committee reserves the right to add, alter, or delete provisions included in the Governing Standard for use in Utah.

(3) Existing installations need not comply with the new or revised requirements of the Governing Standard in this rule except as set forth in Section R920-50-12 "Applicable Provisions."

KEY: transportation safety, tramways, ropeways, tramway permits
Date of Last Change: 2023[~~October 10, 2022~~]
Notice of Continuation: June 22, 2022
Authorizing, and Implemented or Interpreted Law: 72-11-201 through 72-11-216

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R986-700**	**Filing ID: 55373**

Agency Information

1. Department:	Workforce Services
Agency:	Employment Development
Building:	Olene Walker Building
Street address:	140 E 300 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 45244
City, state and zip:	Salt Lake City, UT 84145-0244

Contact persons:

Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R986-700. Child Care Assistance

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this filing is to adopt changes to comply with the requirements of Subsection 35A-3-209(3) and 45 C.F.R. 98.21 and make technical, conforming, and stylistic changes in accordance with the Utah Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment adopts changes which make this rule consistent with Subsection 35A-3-209(3) and 45 C.F.R. 98.21. The eligibility period for child care subsidies is no less than 12 months. A child must attend childcare for at least 8 hours in each month to be eligible for assistance. A provider must report changes within 10 days and report attendance to the Department of Workforce Services (Department) electronically.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have any fiscal impact on state revenues or expenditures. There are no additional state employees or resources needed to oversee this rule change.

These rule changes will not increase the Department's workload and can be carried out with its existing budget. These rule changes do not increase or decrease the amount of childcare subsidies available.

B) Local governments:

These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures because the program does not rely on local governments for funding, administration, or enforcement.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

Since most childcare providers are small businesses, this amendment impacts them by making minor adjustments to the requirements to participate in childcare subsidies.

The requirements include payment based on attendance rather than enrollment, and reporting attendance to the Department using an electronic system.

The Department does not anticipate that the changes will reduce or increase the number of families eligible for a subsidy.

The Department anticipates no fiscal cost to small businesses because the Department has made an electronic attendance system available to providers at no cost.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

This rule change is not expected to have an impact to non-small businesses other than those which are child care providers.

This amendment may impact child care providers by making minor adjustments to the requirements to participate in child care subsidies. The requirements include payment based on attendance rather than enrollment, and reporting attendance to the Department using an electronic system.

The Department does not anticipate that the changes will reduce or increase the number of families eligible for a subsidy.

The Department anticipates no fiscal cost to small businesses because the Department has made an electronic attendance system available to providers at no cost.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The rule change is not expected to have a fiscal impact on other persons. The change requires that children actually attend childcare to be eligible for a subsidy and requires an eligibility period of no less than 12 months. Previously, eligibility was based on enrollment in childcare instead of actual attendance. The Department does not anticipate that the changes will reduce or increase the number of families eligible for a subsidy.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
There are no compliance costs for affected persons. The amount of available childcare subsidies is not changed by this rule change and the Department has made an electronic attendance system available to providers at no cost.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 35A-3-203	Section 35A-3-209	Section 35A-3-310
Section 35A-3-312	45 C.F.R. 98.21	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/15/2023

9. This rule change MAY become effective on:	07/01/223
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	**Date:**	04/27/2023

R986. Workforce Services, Employment Development.
R986-700. Child Care Assistance.
R986-700-702. General Provisions.

(1)(a) Child Care assistance is provided to support employment for a qualified household with at least one minor dependent child who is a United States citizen or who meets qualified alien status.

(b) Child Care assistance for approved education and training activities, job search, or for an approved temporary change as defined in Section R986-700-703 may be authorized in accordance with this rule.

(2) Child Care assistance is available, as funding permits, to a client who is employed or is participating in activities that lead to employment, and is:

(a) a parent, including a foster care parent who receives foster care reimbursement from the Utah Department of Health and

Human Services, Division of [~~Family and Child Care~~]Child and Family Services, or its successor;

(b) a specified relative;[~~ or~~]

(c) a client who has been awarded custody or appointed guardian of the child by court order and both parents are absent from the home; or[~~. If there is no court order, an exception can be made on a case by case basis in unusual circumstances by the Department program specialist.~~]

(d) as determined by the Department on a case by case basis, a client acting as a child's guardian although no court order exists and both parents are absent from the home.

(3)(a) Child Care assistance is provided only for a child who lives in the home of the client and only during hours when no parent or other guardian is available to provide care for the child.

(b) [~~To be eligible, the~~]The child must have a need for at least eight hours of child care per month [~~as determined by the Department~~]to be eligible for CC.

(4) If a client is eligible to receive CC, each of the following children, living in the household unit, are eligible:

(a) a child under the age of 13 years; and

(b) a child up to the age of 18 years if the child[~~:~~] is under court supervision or meets the requirements of Section R986-700-717.[

~~(i) meets the requirements of Section R986-700-717; or~~

~~(ii) is under court supervision.~~]

(5)(a) [~~A~~]The child care needs of a client who qualifies for CC will be paid if and as funding is available.

(b) When the child care needs of an eligible applicant exceeds available funding, the applicant will be placed on a waiting list.

(i) Eligible applicants on the waiting list will be served as funding becomes available.

(ii) Special needs children, homeless children, and FEP or FEPTP eligible children will be prioritized at the top of the waiting list and will be served first.

(iii) "Special needs child" is defined in Section R986-700-717.

(6)(a) Child Care assistance is issued monthly based on a client's eligibility for services in that month.

(b) The amount of CC might not cover the entire cost of care.

(7)(a) A client is only eligible for CC if the client has no other options available for child care.

(b) [~~The client is~~]Clients are encouraged to obtain child care at no cost from a parent, sibling, relative, or other suitable provider.

(c) If suitable child care is available to [~~the~~]a client at no cost from another source, CC cannot be provided.

(8)(a) Child Care assistance may only be provided by an eligible provider approved by the Department and will not be provided for illegal or unsafe child care.

(b) Illegal child care is care provided by a person or facility required to be licensed or certified but where the provider has not fulfilled the requirements necessary to obtain the license or certification.

(9)(a) Child Care assistance will not be paid for the care of a client's own child during the time the client is working as a caregiver in the same residential setting where care is being provided.

(b) Child Care assistance will not be approved where the client is working for an approved child care center and regularly watches the client's own children at the center or has an ownership interest in the child care center.

(c) Child Care assistance will not be paid for the care of a client's own child if the client is also the licensee or is a stockholder, officer, director, partner, manager, or member of a corporation, partnership, limited liability partnership or company, or similar legal entity providing the child care.

(d)(i) A person who is self-employed as a child care provider cannot receive CC for child care provided for that person's children during the time the person is working as a child care provider, regardless of where the person's child receives child care.

(ii) A person who is self-employed as a child care provider may receive CC when needed for approved activities while the person is not engaged in child care.

(10) Neither the Department nor the state is liable for an injury that may occur when a child is placed in child care even if the parent receives CC from the Department.

(11)(a) Except for FEP CC and transitional CC, household eligibility is determined for a minimum period of 12 months.

(b) The eligibility period and eligibility review may be extended to more than 12 months, but may not be shortened to less than 12 months.

(c) [~~Once eligibility for CC has been established, eligibility must be reviewed once every 12 months.~~

~~(a)~~]Each requested verification must be provided at the time of the review.

[~~(b)~~](d) The review is not complete until the client has completed, signed, and returned each necessary review form to the local office.

[~~(c)~~](e) If the Department determines the household's gross monthly income exceeds the percentage of the state median income as determined by the Department in Subsection R986-700-710(3), the Department may terminate CC even if the certification period has not expired.

R986-700-703. Client Rights and Responsibilities.

In addition to the client rights and responsibilities found in Rule R986-100, the rights and responsibilities listed in this section apply.

(1) A client has the right to select the type of child care that best meets the family's needs.

(2) If a client requests help in selecting a provider, the Department will refer the client to the local Care About Child Care agency.

(3)(a) A client must verify identity.

(b)(i) A client is not required to provide a Social Security Number.

(A) The Department will verify a Social Security Number supplied by a client.

(B) The Department will request further verification to confirm an individual's identity if a Social Security Number cannot be verified.

(ii) Benefits will not be denied or withheld if a client chooses not to provide a Social Security Number if the client is otherwise eligible.

(4) A client is responsible for monitoring the child care provider.

(5)(a) A client is responsible to pay all costs of care charged by the provider.

(b) If the CC payment provided by the Department is less than the amount charged by the provider, the client is responsible for paying the provider the difference.

(6) Within ten days of occurrence, a client shall report[~~:~~] any of the changes listed in this subsection.

(a) [~~that~~]If the household's gross monthly income exceeds the percentage of the state median income as determined by the Department in Subsection R986-700-710(3)[~~;~~].

(b) [~~that~~]If the client no longer needs child care[~~;~~].

(c) [~~a~~]A change of address[~~;~~].

(d) [~~if~~]If a child receiving child care:

(i) moves out of the home; or

(ii) has stopped attending child care[~~; or~~].[

~~(iii) is no longer enrolled in child care; or~~]

(e) [~~a~~]A change in the child care provider, including when care is provided at no cost.

(7) Allowable temporary changes.

(a) The following are allowable temporary changes:

(i) time-limited absences from work due to medical or other emergency, including maternity leave, bed rest, or temporary medical issues of the client or an immediate family member living in the client's home if the client is responsible for the immediate family member's care;

(ii) temporary fluctuations in earnings or hours, including summer break for teachers or seasonal hours changes for IRS employees, that would otherwise have the effect of causing the client to fail to meet the minimum work requirements for eligibility;

(iii) scheduled holidays or breaks in a client's educational training schedule;

(iv) an eligible child turning 13 years old during an eligibility review period, unless the child no longer has a need for child care; and

(v) a client who has been approved for ongoing ES CC at application or recertification and has a permanent loss of employment may remain eligible through the [~~remainder~~]rest of [~~that~~]the certification period[~~; and~~

~~(vi) a child has a continued need for child care and remains enrolled in child care with the current provider~~].

(b) A client who experiences an allowable temporary change after having been approved for ongoing ES CC may continue to receive CC at the same level for the [~~remainder~~]rest of the certification period if the child attends child care at least eight hours each month.

(8)(a) Once an eligibility determination is made and a full month's payment and copayment is assessed, benefits will be paid at the same level during the [~~remainder~~]rest of the certification period so long as the client remains eligible[~~, except that:~~].

[~~(a)~~](b) The Department may act on reported changes that result in a participation increase or copayment decrease[~~; and~~].

[~~(b)~~](c) Benefits may be reduced if a child care provider reports a lower monthly charge or the client changes to a different child care provider.

(9)(a) If an overpayment is established and it is determined that the client was at fault in the creation of the overpayment, the client must repay the overpayment to the Department.

(b) The Department may find that the client and provider are jointly liable for the overpayment.

(c) In the case of joint liability, both parties can be held liable for the entire overpayment.

(10) The Department may release the following information to the designated provider:

(a) limited information regarding the status of a CC payment including that no payment was issued or services were denied;

(b) the date the CC payment was issued;

(c) the CC payment amount for that provider;

(d) the copayment amount;

(e) information available in the Department Provider Portal;

(f) the month the client is scheduled for review;

(g) the date the client's application was received; and

(h) general information about what additional information or verification is needed to approve CC including the client's work schedule and income.

(11)[~~ If a child is enrolled with a child care provider in a calendar month, and that provider has been paid for that month, the Department will not pay another provider for child care for the rest of that month, even if the client changed providers, ~~](a) If a client changes providers, the change will be made based upon reporting requirements for the following month's subsidy payment.

(b) No additional payment will be made to another provider for any days remaining in the current benefit month, unless the maximum subsidy payment amount for the month will not be exceeded by paying the second provider or if one of the [~~following~~]exceptions listed in this subsection applies.

[~~(a)~~](i) The Department was notified of the change in the month before the change.[~~ The child is no longer enrolled with the initial provider, the~~]

(ii) The initial provider is no longer an approved provider[~~,~~] or has been disqualified by the Department.

(iii) The initial provider is not holding the child's space for the rest of the month.

[~~(b)~~](iv) The client relocates to a different residence and it is no longer reasonably feasible to continue using the initial provider due to travel time or distance.

[~~(c)~~](v) There is a substantial change in the days or times of day when child care is needed, including a change in the timing of the shifts the client is working, that cannot be accommodated by the initial provider.

[~~(d)(i)~~](vi)(A) The Department determines a change in child care providers is necessary due to a report of endangerment for the child.

[~~(ii)~~](B) The Department may, in its discretion, approve payment to a second provider due to a report of endangerment even if the maximum subsidy payment amount would be exceeded.

[~~(e)~~](vii) The Department determines a change in child care providers is necessary due to circumstances related to a pandemic, natural disaster, or other state of emergency.[

~~(f) The parent reported a change in providers before the monthly issuance for the next month but the change was not processed until after monthly issuance.~~]

R986-700-727. Approved Provider Responsibilities.

(1)(a) The provider shall assume the responsibility to collect any copayment and any other fee for child care services.

(b) Neither the Department nor the state assumes responsibility for private payment to a provider.

(2) Records.[~~ The provider shall keep an accurate record of CC client time and attendance.~~]

(a) [~~A~~]An accurate record of[~~complete~~] time and attendance [~~record~~]for each CC client must be kept for at least three years.

(b) If a provider is not able to produce an accurate time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.

(c) "Accurate record" means a record that:

(i) was made at or near the time of the event;

(ii) was made by, or from information transmitted by, someone with knowledge; and

(iii) neither the source of information nor the method or circumstances of preparation of the record indicate a lack of trustworthiness.

(d)(i) To receive a CC payment for an eligible household, the provider must contact the Department to report the children in care and their start date in care.

(ii) A licensed family provider or licensed center must report attendance using an electronic system which meets Department criteria.

(3) Provider Portal.

(a) The provider has an ongoing responsibility to access the Provider Portal located at the Department website to:

(i) submit ongoing, monthly certification;

(ii) submit and manage bank account information, including reading and agreeing to the Financial Terms and Conditions contained in the Provider Portal;

(iii) view CC payment information; and

(iv) manage Provider Portal user access to ensure only a user with authority to make changes can do so.

(b) The provider is liable for any change made and information provided through the Provider Portal.

(4) Change reporting. [~~Upon knowledge of the following changes, the provider shall report within ten calendar days, or by the 25th of each month, whichever is sooner:~~]Except as otherwise provided, a provider shall report any of the changes listed in this subsection to the Department within ten calendar days after the changes are known to the provider.

(a) [~~a~~]A reduced or part-time rate for an individual child in care[~~, as applicable;~~].

(b) [~~any~~]Any rate change or other update that occurs for each child once a rate has been submitted in the Provider Portal[~~;~~].

(c) [~~a child is no longer enrolled in child care;~~]Each of the following child care attendance circumstances.

(i) Each child who attended less than eight hours of child care in the first month that a subsidy was paid and who is not expected to attend in the next month.

(ii) Each child who attended less than eight hours of child care in the first month that a subsidy was paid, and who attends or is expected to attend at least eight hours in the next month.

(iii) Each child who did not attend at least eight hours of child care in the current month and the provider determines that the child will not be returning.

(iv) If a child did not attend at least eight hours in a month and the provider cannot communicate with the parent to determine if the child will be returning to care, the provider shall report by the 25th of the month.

(v) Each child who is not expected to attend at least eight hours in the next month.

(vi) When the provider ceases to provide child care for a child.

(d) [~~a child is not expected to be enrolled in child care the following month;~~

~~(e) that~~]If the provider received a greater CC payment amount than what was charged to the client for the month of service[~~;~~].

[~~(f) that a child has never attended or attended less than eight hours in the first benefit month a CC payment was issued;~~

~~(g) the child is enrolled but has not attended within the last 90 days; or~~

~~(h)~~](e) [~~a change in~~]If the provider changes its financial institution account information for direct deposit.

(5) Certification.

(a) A licensed provider shall certify between the 25th of each month and the last day of the month, in a manner specified by the Department, the following:

(i) the provider has reviewed each child's [~~enrollment and~~]attendance; and

(ii) the provider has reported any reportable change in each child's [~~enrollment or~~]attendance, including any future change known or expected by the provider.

(b) The provider shall certify that the provider agrees to the terms and conditions specified in the most current Provider Guide.

(c)(i) If a provider fails to certify by the last day of the month, CC payment may be withheld until certification is completed pursuant to Section R986-700-729.

(ii) The Department may also increase monitoring or take other remedial action pursuant to OCC policy to ensure future compliance.

(6) A provider who is assessed an overpayment or IPV pursuant to Section R986-700-731 or R986-700-732 may be subject to increased monitoring or other remedial action pursuant to OCC policy to ensure future compliance with program rules.

R986-700-728. Appropriate use of CC.

(1) Child Care assistance is to support an eligible client's monthly employment and any allowed training activity and allows for temporary absences and unforeseen circumstances.

(2) A provider must provide at least eight hours of care during the initial benefit month for which a CC payment was issued to be eligible for CC payment.

(a) A provider has the burden of proof to demonstrate the provider provided care to each CC client for which it receives CC payment.

(b) Pursuant to Subsection R986-700-727(2), if a provider is not able to produce a time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.

(3) Inappropriate use of a CC payment[~~ includes:~~].

(a) [~~applying~~]Applying the CC payment to a:

(i) copayment;

(ii) registration fee;

(iii) late fee;

(iv) field trip; or

(v) client's out of pocket expenses[~~; or~~].

(b) [~~carrying~~]Carrying forward the CC payment for future months of service.

(4)(a) An excess CC payment cannot be used to cover an outstanding balance, a copayment, a registration fee, a late fee, a field trip, or future services.

(b) If excess funds are issued for a month of service, the excess funds must be returned to the Department.

(c) The CC payment for the following month may be reduced to offset the over-issuance.

(5) A provider who receives a CC payment when the child [~~was not enrolled is~~]has not attended at least eight hours in a month may be responsible for repayment of [~~the~~]any resulting overpayment under Title 35A, Chapter 3, Part 6, Administrative Determination of Overpayment Act, and Sections R986-700-731 and R986-700-731.1, and there may be a disqualification period pursuant to Sections R986-

700-733 and R986-700-734, and potential criminal prosecution under Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(6) A provider who provides services for any part of a month and then terminates services with the client or for a child during the month may be required to reimburse the Department for the days when care was not provided.

(a) If it was necessary to remove the child from care because the child or others were endangered, and the incident was reported to CCL or local authorities, the Department may waive repayment.

(7) The Department will issue a IRS Form 1099 annually where applicable to each eligible provider who received a CC payment during the year.

(8) A provider who applies CC funds inappropriately may be subject to an overpayment and possible disqualification pursuant to Sections R986-700-731, R986-700-733, and R986-700-734.

R986-700-731. Overpayments.

(1) An overpayment [~~occurs~~]may occur when:

(a) a client or provider receives CC for which the client was not eligible;

(b) a provider receives a CC payment but does not provide care for at least eight hours during the initial benefit month of CC;

(c) a provider receives a CC payment when a child [~~is no longer enrolled~~]attends less than eight hours in a month;

(d) [~~a provider fails to report or does not report timely that an enrolled child has not attended in 90 days, which may result in subsequent month CC payments being issued that may be subject to an overpayment if there is no longer a need for CC;~~

~~(e)~~]a provider receives a greater CC payment amount than the client is charged for the month of service; or

[~~(f)~~](e) a provider applies CC to nonallowable costs pursuant to Section R986-700-728.

(2)(a) Pursuant to Section 35A-3-603 of the Administrative Determination of Overpayments Act, any provider, client, or other person who receives an overpayment shall return the overpaid funds to the Department, regardless of fault.

(b) The client and provider shall be jointly and severally responsible for repayment of any overpayment except when:

[~~(a)~~](i) an overpayment is caused by an IPV solely by the client or solely by the provider; or

[~~(b)~~](ii) a provider receives a CC payment, provides at least eight hours of child care during the month, and provides an attendance record to verify the provision of care, unless the provider terminated services during the month as described in Subsection R986-700-728(6).

(3) A provider who is assessed an overpayment pursuant to this section may be subject to increased monitoring or other remedial action pursuant to Subsection R986-700-727(6).

KEY: child care, grant programs
Date of Last Change: [~~February 8~~], 2023
Notice of Continuation: August 28, 2020
Authorizing, and Implemented or Interpreted Law: 35A-3-203; 35A-3-209; 35A-3-310; 35A-3-312; 45 C.F.R. 98.21

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

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

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

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends June 14, 2023.

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

From the end of the 30-day waiting period through September 12, 2023, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

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

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	**R590-102**	**Filing ID: 55180**
Date of Previous Publication:	**01/15/2023**	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R590-102. Insurance Department Fee Payment Rule

3. Reason for this change (Why is the agency submitting this filing?)**:**

This rule is being updated to add two fees that were approved by the legislature under S.B. 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, passed during the 2023 General Session, and a reference to the same bill in the session laws.

It is important to note that while this rule will result in a decrease in state revenue, it also provides another path for a dormant captive or dormant captive cell to stay in Utah. Without this rule, a dormant captive or dormant captive cell would have to choose either to pay the full renewal fee or to cease operations in Utah. The fees are a win-win, in that it allows the state to still collect some revenue while allowing dormant captives to stay in Utah for a lower cost.

4. Summary of this change (What does this filing do?)**:**

The change adds a dormancy certificate renewal fee to Sections R590-102-8 and R590-102-9.

It also adds a line in Section R590-102-1 to reference Chapter 487, Laws of Utah 2023, which is where the fees are codified in statute.
(EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the January 15, 2023, issue of the Utah State Bulletin, on page 44. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule will result in a decrease in state revenue; however, the amount of the aggregate cost is difficult to say because the number of captives and captive cells in the state may vary from year to year.

In 2023, there are 11 dormant captives in Utah. Multiplying those 11 dormant captives against the $2,500 captive dormancy certificate renewal fee will result in $27,500 in aggregate fees. However, those captives would have paid the full $7,250 captive renewal fee ($79,750 in aggregate) without this separate dormancy renewal fee. The result is a $52,250 decrease in state revenue in 2023.

In 2023, there are 0 dormant captive cells in Utah. Multiplying those 0 dormant captive cells against the $500 captive cell dormancy certificate renewal fee will result in $0 in aggregate fees. However, a hypothetical dormant captive cell would have paid the full $1,000 captive cell renewal fee without this separate dormancy renewal fee.

Adding the aggregate revenue decreases of $52,250 and $0 results in a total state revenue decrease of $52,250 in 2023.

For the Regulatory Impact Summary Table in 5G below, the Department of Insurance (Department) has liberally estimated an increase of 1 dormant captive and 1 dormant captive cell annually.

B) Local government:

There is no anticipated cost or savings to local government. These fees apply to captives and captive cells, and do not apply to local government in any way.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

In Utah, all dormant captives or captive cells are small businesses, and a captive or captive cell will see a cost savings as a result of this rule. However, the aggregate savings is difficult to say because the number of captives and captive cells in the state may vary from year to year.

In 2023, there are 11 dormant captives in Utah. Multiplying those 11 dormant captives against the $2,500 captive dormancy certificate renewal fee will result in $27,500 in aggregate fees. However, those captives would have paid the full $7,250 captive renewal fee ($79,750 in aggregate) without this separate dormancy renewal fee. The result is a $52,250 savings for captives in 2023.

In 2023, there are 0 dormant captive cells in Utah. Multiplying those 0 dormant captive cells against the $500 captive cell dormancy certificate renewal fee will result in $0 in aggregate fees. However, a hypothetical dormant captive cell would have paid the full $1,000 captive cell renewal fee without this separate dormancy renewal fee.

Adding the aggregate savings of $52,250 and $0 results in a total savings of $52,250 for captives in 2023.

For the Regulatory Impact Summary Table in 5G below, the Department has liberally estimated an increase of 1 dormant captive and 1 dormant captive cell annually.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There is no anticipated cost or savings to non-small businesses. All dormant captives and captive cells in Utah are small businesses.

E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There is no anticipated cost or savings to any other persons. These fees apply to captives and captive cells, and do not apply to any other persons in any way.

F) Compliance costs for affected persons:

Affected persons will pay a different amount depending on the license type they are renewing. A dormant captive will pay $2,500 annually and a captive cell will pay $500 annually as a result of this rule.

However, it is important to note that the purpose of these dormancy certificate renewal fees is a cost-saving measure for captives and captive cells that are dormant in Utah.

Complying with this rule will result in $4,750 annual savings for a dormant captive and $500 annual savings for a dormant captive cell.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$52,250	$57,500	$62,750
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$52,250**	**$57,500**	**$62,750**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$52,250	$57,500	$62,750
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$52,250**	**$57,500**	**$62,750**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-3-103	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/14/2023

9. This rule change MAY become effective on:	06/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	05/01/2023

R590. Insurance, Administration.
R590-102. Insurance Department Fee Payment Rule.
R590-102-1. Authority.

(1) This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-3-103.

(2) The fees in this rule are set according to Section 63J-1-504, including information on fees approved in Chapter 487, Laws of Utah 2023.

R590-102-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) publish the schedule of fees approved by the legislature;

(b) establish fee deadlines; and

(c) disclose this information to licensees and the public.

(2) This rule applies to:

(a) any person engaged in the business of insurance in Utah;

(b) any person holding an insurance license in Utah;

(c) any applicant for a license, registration, certificate, or other similar filing; and

(d) any person requesting any service provided by the department for which a fee is required.

R590-102-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 63G-4-106. Additional terms are defined as follows:

(1) "Captive insurance company" means the same as under Section 31A-37-102.

(2) "Deadline" means the final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which:

(i) a payment must be received by the department without incurring a penalty for late payment or non-payment; or

(ii) required information must be received by the department without incurring a penalty for late receipt or non-receipt.

(3) "Fee" means an amount set by the commissioner, by statute, or by rule, and approved by the legislature for a license, registration, certificate, or other filing or service provided by the department.

(4) "Electronic payment" means a credit card or automated clearinghouse payment.

(5) "Other organization" includes a home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider, and health discount program.

(6) "Medicare prescription drug plan insurer" means an insurer that offers exclusively Medicare Part D coverage.

(7) "Received" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the postmark date, if delivered by mail;

(c) the delivery service's postmark date or pickup date, if delivered by a delivery service; or

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

R590-102-4. General Instructions.

(1) Due Date. A fee payable to the department not included in Sections R590-102-5 through R590-102-24 is due when service is requested or by the due date on the invoice.

(2) Payment.

(a) A processing fee will be added to a non-electronic payment if the department provides an electronic payment process.

(b) Check.

(i) A check shall be made payable to the Utah Insurance Department.

(ii) A person will be charged all fees associated with a dishonored check.

(iii) A dishonored check will not constitute payment of the fee for which the check was issued and any action taken based on the payment will be voided.

(iv) A late fee or penalty resulting from a voided check will apply until proper payment is received.

(c) Cash. The department is not responsible for a cash payment that is lost or misdelivered before a receipt is issued.

(d) Electronic Payment.

(i) An electronic payment may be used to pay any fee due to the department.

(ii) A person will be charged all fees associated with a dishonored electronic payment.

(iii) A dishonored electronic payment will not constitute payment of the fee for which the electronic payment was issued and any action taken based on the payment will be voided.

(iv) A late fee or penalty resulting from a voided electronic payment will apply until proper payment is received.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation under Section 31A-3-401 if other states or countries impose higher fees.

(4) Refund.

(a) A fee enumerated in this rule is non-refundable.

(b) An overpayment of a fee is refundable.

(c) A request for a refund of an overpayment shall be submitted in writing.

(5) A payment made in error to another agency or that is not deposited into the department's account will not constitute payment and any action taken based on the payment will be voided.

(6) An annual or biennial license fee, service fee, or assessment described in this rule is for services the department will provide during the year and is paid in advance of providing the services.

(7) An electronic commerce dedicated fee described in Section R590-102-23 may be added to the fees required by Sections R590-102-5 through R590-102-20.

R590-102-5. Admitted Insurer Fees.

(1) Annual license fees for a certificate of authority:

(a) initial license application, due with license application -- $1,000;

(b) renewal, due by the due date on the invoice -- $300;

(c) late renewal, due for any renewal paid after the date on the invoice -- $350; and

(d) reinstatement, due with application for reinstatement -- $1,000.

(2) Other license fees for a certificate of authority:

(a) amendment, due with request for amendment -- $250;

(b)(i) Form A application for merger, acquisition, or change of control, due with filing -- $2,000; and

(ii) expenses incurred for consultant services necessary to evaluate a Form A will be charged to the applicant and due by the due date on the invoice;

(c) redomestication filing, due with filing -- $2,000; and

(d) application for organizational permit for a mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes, due with application -- $1,000.

(3) The annual license fee includes the following:

(a) filing annual statement and report of Utah business, due annually on March 1;

(b) filing holding company registration statement, Form B;

(c) filing application for material transactions between affiliated companies, Form D; and

(d) applications for:

(i) stock solicitation permit;

(ii) public offering filing;

(iii) SEC filing;

(iv) private placement offering; and

(v) individual license to solicit with the stock solicitation permit.

(4) Annual service fee.

(a) The annual service fee is due by the due date on the invoice.

(b) A Medicare prescription drug plan insurer is exempted from payment of a service fee.

(c) The annual service fee is based on the Utah premium as shown in the insurer's prior year annual statement on file with the NAIC and the department.

(d) Fee schedule based on premium volume:

(i) $0 premium volume - no service fee;

(ii) more than $0 but less than $1 million -- $700;

(iii) $1 million but less than $3 million -- $1,100;

(iv) $3 million but less than $6 million -- $1,550;

(v) $6 million but less than $11 million -- $2,100;

(vi) $11 million but less than $15 million -- $2,750;

(vii) $15 million but less than $20 million -- $3,500; and

(viii) $20 million or more -- $4,350.

(e) The annual service fee includes the following services:

(i) filing of amendments to articles of incorporation, charter, or bylaws;

(ii) filing a power of attorney;

(iii) filing of registered agent;

(iv) affixing the commissioner's seal and certifying any paper;

(v) filing of authorization to appoint and remove agents;

(vi) initial filing of a producer's or agency's appointment with an insurer;

(vii) terminating a producer's or agency's appointment with an insurer;

(viii) report filing;

(ix) rate filing; and

(x) form filing.

(5) Actual costs plus overhead expenses incurred during an examination of an insurer shall be paid by the examined insurer by the due date on the invoice.

R590-102-6. Foreign Surplus Lines Insurer and Reinsurer Fees.

(1) Annual license fees:

(a) initial, due with application -- $1,000;

(b) renewal, due by the due date on the invoice -- $500;

(c) late renewal, due for any renewal payment paid after the due date on the invoice -- $550; and

(d) reinstatement, due with application -- $1,000.

(2) The annual license fee includes the following services:

(a) filing a power of attorney; and

(b) filing of registered agent.

R590-102-7. Other Organization Fees.

(1)(a) Annual license fees:

(i) initial, due with application -- $250;

(ii) renewal, due by the due date on the invoice -- $200;

(iii) late renewal, due for any renewal paid after the due date on the invoice -- $250; and

(iv) reinstatement, due with application for reinstatement -- $250.

(b) The annual other organization initial or renewal fee includes the risk retention group annual statement filing, due annually on March 1.

(2) Annual service fee, due by the due date on the invoice -- $200.

(a) The annual service fee includes the following services:

(i) filing a power of attorney;

(ii) filing of registered agent;

(iii) rate filing;

(iv) form filing;
(v) report filing; and
(vi) service contract filing.

R590-102-8. Captive Insurance Company Fees.

(1) Initial license application, due with license application -- $200.

(2) Actual costs incurred by the department during the initial license application review shall be paid by the captive insurance company by the due date on the invoice.

(3) Annual license fees:

(a) initial, due by the due date on the invoice -- $7,250;

(b) renewal, due by the due date on the invoice -- $7,250;

(c) late renewal, due for any renewal paid after the due date on the invoice -- $7,300;[~~ and~~]

(d) reinstatement, due with application for reinstatement -- $7,300; and

(e) dormancy certificate renewal -- $2,500.

(4) Actual costs plus overhead expenses incurred during an examination of a captive insurance company shall be paid by the examined captive insurance company by the due date on the invoice.

R590-102-9. Captive Cell Fees.

(1) Initial license application, due with license application -- $200.

(2) Actual costs incurred by the department during the initial license application review shall be paid by the captive insurance company by the due date on the invoice.

(3) Annual license fees:

(a) initial, without proration, due by the due date on the invoice -- $1,000;

(b) renewal, due by the due date on the invoice -- $1,000;[~~ and~~]

(c) late renewal, due for any renewal paid after the due date on the invoice -- $1,050; and

(d) dormancy certificate renewal -- $500.

R590-102-10. Life Settlement Provider Fees.

(1) Annual license fees:

(a) initial, due with application -- $1,000;

(b) renewal, due by the due date on the invoice -- $300;

(c) late renewal, due for any renewal paid after the due date on the invoice -- $350; and

(d) reinstatement, due with reinstatement application -- $1,000.

(2) Annual service fee, due by the due date on the invoice -- $600.

(a) The annual service fee includes:

(i) rate filing;
(ii) form filing;
(iii) report filing; and
(iv) service contract filing.

(3) Actual costs plus overhead expenses incurred during an examination of a life settlement provider shall be paid by the examined life settlement provider by the due date on the invoice.

R590-102-11. Professional Employer Organization (PEO) Fees.

(1) Annual license fees:

(a) PEO not certified by an assurance organization:

(i) initial, due with application -- $2,000;
(ii) renewal, due by the due date on the invoice -- $2,000;
(iii) late renewal, due for any renewal paid after the due date on the invoice -- $2,050; and
(iv) reinstatement, due with reinstatement application -- $2,050.

(b) PEO certified by an assurance organization:

(i) initial, due with application -- $2,000;
(ii) renewal, due by the due date on the invoice -- $1,000;
(iii) late renewal, due for any renewal paid after the due date on the invoice -- $1,050; and
(iv) reinstatement, due with reinstatement application -- $1,050.

(c) PEO small operator:

(i) initial, due with application -- $2,000;
(ii) renewal, due by the due date on the invoice -- $1,000;
(iii) late renewal, due for any renewal paid after the due date on the invoice -- $1,050; and
(iv) reinstatement, due with reinstatement application -- $1,050.

R590-102-12. Individual Resident and Non-Resident License Fees, Other Than Individual Navigators.

(1) Biennial license fees:

(a) initial, due with application -- $70;

(b) renewal, due with renewal application -- $70; and

(c) reinstatement, due with application for reinstatement -- $120.

(2) Biennial limited line license fees:

(a) initial, due with application -- $45;

(b) renewal, due with renewal application -- $45; and

(c) reinstatement, due with application for reinstatement -- $95.

(3) Other fees:

(a) addition of producer classification or line of authority to individual producer license, due with request for additional classification or line of authority -- $25; and

(b) title insurance product or service approval for dual licensed title licensee form filing, due with filing -- $25.

(4) The biennial license fee includes the following services:

(a) issuing a letter of certification;
(b) issuing a letter of clearance;
(c) issuing a duplicate license; and
(d) individual continuing education services.

R590-102-13. Individual Navigator Fees.

(1) Annual license fees:

(a) initial, due with application -- $35;

(b) renewal, due with renewal application -- $35; and

(c) reinstatement, due with application for reinstatement -- $60.

(2) The annual license fee includes the following services:

(a) issuing a letter of certification;
(b) issuing a letter of clearance;
(c) issuing a duplicate license; and
(d) individual continuing education services.

R590-102-14. Agency License Fees, Other Than Navigator or Bail Bond Agency.

(1) Biennial resident and non-resident agency and limited line agency license fees:

(a) initial, due with application -- $75;

(b) renewal, due with renewal application -- $75; and

(c) reinstatement, due with application for reinstatement -- $125.

(2) Biennial resident title agency license fees:

(a) initial, due with application -- $100;

(b) renewal, due with renewal application -- $100; and

(c) reinstatement, due with application for reinstatement -- $150.

(3) Addition of producer classification or line of authority to agency license, due with request for additional classification or line of authority -- $25.

(4) The biennial license fee includes the following services:

(a) issuing a letter of certification;

(b) issuing a letter of clearance;

(c) issuing a duplicate license;

(d) initial filing of a producer's designation to an agency license;

(e) terminating a producer' designation to an agency license;

(f) filing an amendment to an agency license; and

(g) filing a power of attorney.

R590-102-15. Navigator Agency Fees.

(1) Annual license fees:

(a) initial, due with application -- $40;

(b) renewal, due with renewal application -- $40; and

(c) reinstatement, due with application for reinstatement -- $65.

(2) The annual license fee includes the following services:

(a) issuing a letter of certification;

(b) issuing a letter of clearance;

(c) issuing a duplicate license;

(d) initial filing of a producer's designation to an agency license;

(e) terminating a producer's designation to an agency license;

(f) filing an amendment to an agency license; and

(g) filing a power of attorney.

R590-102-16. Bail Bond Agency Fees.

(1) Annual license fees:

(a) initial, due with application -- $250;

(b) renewal, due with renewal application -- $250; and

(c) reinstatement, due with application for reinstatement -- $300.

(2) The annual license fee includes the following services:

(a) issuing a letter of certification;

(b) issuing a letter of clearance;

(c) issuing a duplicate license;

(d) initial filing of a producer's designation to an agency license;

(e) terminating a producer's designation to an agency license;

(f) filing an amendment to an agency license; and

(g) filing a power of attorney.

R590-102-17. Continuing Care Provider Fees.

(1) Annual registration fee:

(a) initial, due with application -- $6,900;

(b) renewal, due by the due date on the invoice -- $6,900; and

(c) reinstatement, due with application for reinstatement -- $6,950.

(2) Annual disclosure statement fee:

(a) initial, due with application -- $600; and

(b) renewal, due with annual renewal disclosure statement -- $600.

R590-102-18. Pharmacy Benefit Manager Licensing Fees.

(1) Annual license fee:

(a) initial, due with application -- $1,000;

(b) renewal, due by the due date on the invoice -- $1,000;

(c) late renewal, due for any renewal paid after the due date on the invoice -- $1,050; and

(d) reinstatement, due with application for reinstatement -- $1,000.

R590-102-19. Guaranteed Asset Protection Provider Fees.

(1) Annual provider registration fee:

(a) initial, due with application -- $1,000;

(b) renewal, due by the due date on the invoice -- $1,000; and

(c) late renewal, due for any renewal paid after the due date on the invoice -- $1,050.

(2) Annual retail seller assessment:

(a) annual assessment, due by the due date on the invoice -- $50; and

(b) late assessment, due for a retail seller assessment paid after the due date on the invoice -- $100.

R590-102-20. Continuing Education Fees.

(1) Annual license fee:

(a) initial, due with application -- $250;

(b) renewal, due with renewal application -- $250; and

(c) reinstatement, due with application for reinstatement -- $300.

(2) Continuing education course post-approval fee, due with request for approval -- $5 per credit hour, minimum fee $25.

R590-102-21. Non-Electronic Processing or Payment Fees.

(1) Non-electronic filing processing fee, due with each non-electronic filing or by the due date on the invoice -- $5.

(2) Non-electronic paper application processing fee, due with each non-electronic paper application or by the due date on the invoice -- $25.

(3) Non-electronic payment processing fee, due with each non-electronic payment or by the due date on the invoice -- $25.

R590-102-22. Dedicated Fees.

The fees listed in this section are dedicated to specific uses.

(1) Fraud assessment:

(a) annual assessment under Section 31A-31-108, due by the due date on the invoice -- per invoice; and

(b) late fee, due for a fraud assessment fee paid after the due date on the invoice -- $50.

(2) Annual title insurance regulation assessment: annual assessment under Section 31A-23a-415 and Rule R592-10, due by the due date on the invoice -- per invoice.

(3) Annual Title Recovery, Education, and Research Fund assessment under Section 31A-41-202:

(a) individual title insurance producer;

(i) initial, due with application -- $15; and

(ii) renewal, due with renewal application -- $15;

(b) agency title insurance producer, due with the initial application -- $1,000; and

(c) annual agency title insurance producer assessment based on annual written title insurance premium, due by the due date on the invoice:

(i) Band A, $0 to $1 million -- $125;

(ii) Band B, more than $1 million to $10 million -- $250;

(iii) Band C, more than $10 million to $20 million -- $375; and

(iv) Band D, more than $20 million -- $500.

(4) Health insurance actuarial review assessment under Section 31A-30-115 as appropriated by the legislature, due by the due date on the invoice -- per invoice.

(5) Code book fee:

(a) code book, due at time of purchase or by the due date on the invoice -- $57; and

(b) mailing fee, due at time of purchase or by the due date on the invoice -- $3.

(6) Fingerprint fees, due with application for individual license:

(a) Bureau of Criminal Investigation (BCI) -- $15; and

(b) Federal Bureau of Investigation (FBI) -- $13.25.

R590-102-23. Electronic Commerce Dedicated Fees.

(1) Electronic commerce, e-commerce, and internet technology services fee:

(a) admitted insurer and surplus lines insurer, due with the initial, renewal, or reinstatement application -- $75;

(b) captive insurance company, due with the initial, renewal, or reinstatement application -- $250;

(c) other organization including professional employer organization, continuing care provider, pharmacy benefit manager, and life settlement provider, due with the initial, renewal, or reinstatement application -- $50;

(d) continuing education provider, due with the initial, renewal, or reinstatement application -- $20;

(e) agency, due with the initial, renewal, or reinstatement application -- $10; and

(f) individual, due with the initial, renewal, or reinstatement application -- $5.

(2) Database access fee for information accessed through an electronic portal set up for that purpose, due when the department's database is accessed to input or acquire data -- $3 per transaction.

R590-102-24. Other Fees.

(1) Photocopy fee -- $0.50 per page.

(2) Complete annual statement copy fee -- $40 per statement.

(3) Accepting service of legal process -- $10.

(4) Production of information list:

(a) printed list, if the information is already in list format and only needs to be printed or reprinted -- $1 per page; and

(b) electronic list compiled by accessing information stored in the department's database:

(i) a separate fee is assessed for each list compiled;

(ii) each list is assessed one or more of the following fees:

(A) a base fee, which entitles the requestor to up to 30 minutes of staff time to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor, due with request for information -- $50; and

(B) each additional 30 minutes or fraction thereof to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor, due by the due date on the invoice -- $50; and

(iii) additional CD, due by the due date on the invoice -- $1.

(5) Returned check fee -- $20.

(6) Workers compensation loss cost multiplier schedule -- $5.

(7) Address correction fee, assessed when department researches and enters a new address for a licensee, due by the due date on the invoice -- $35.

(8) Independent review organization initial application fee, due with application -- $250.

(9) Withdrawal from writing a line of insurance or reducing total annual premium volume by 75% or more, due with plan of orderly withdrawal submission -- $50,000.

(10) Removing an administrative disciplinary action from a state-controlled website available to the public, due with application -- $185.

R590-102-25. Severability.

If any provision of this rule, R590-102, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance fees
Date of Last Change: 2023
Notice of Continuation: December 8, 2021
Authorizing, and Implemented or Interpreted Law: 31A-3-103

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

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

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

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R68-9**	**Filing ID: 54541**
Effective Date:	**04/25/2023**	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB South Bldg., Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO BOX 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Kelly Pehrson	801-982-2200	kwpehrson@Utah.gov
Amber Brown	385-245-5222	ambermbrown@Utah.gov
Robert Hougaard	801-538-7180	rhougaard@Utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R68-9. Utah Noxious Weed Act

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 4-17-115 authorizes the rulemaking authority to administer cooperative agreements for areas threatened by invasive species. Under Section 4-17-103, the Department of Agriculture and Food (Department) compiles and publishes a statewide list of noxious weeds annually. Also, in Section 4-7-104, the State Weed Committee must review the noxious weed program and oversee county weed control boards while providing a state list of noxious weeds.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
Public comments received were concerns about specific species that organizations such as USU, DNR, counties, NAISMA, and private organizations expressed about the species being on the list. The Department is reviewing the requests for adding specific species to the list, requests for the review of specific species, and requests that some species be part of the re-classification process. DNR has submitted most of the requests. The Department is reviewing the public comments and has included the State Weed Committee, created under Section 4-17-104, in the continued review of the published statewide list in this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Sections 4-17-103 and 4-17-115 require this rule to continue so the Department can provide an annually published list of noxious weeds and the administration of

Section 4-17-115 and give grants from the Invasive Species Mitigation Account. Therefore, this rule should be continued.

The Department is currently reviewing the public comments referencing the specific species and collaborating with the interested parties and the Utah State Weed Committee.

The Department has not received any comments addressing the opposition to this rule. Instead, they have received comments about an invasive species and whether it should continue as part of this rule. The Department will continue to meet with the Utah State Weed Committee to review the list and the classifications of the species found in this rule.

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	04/25/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-219**	**Filing ID: 55100**
Effective Date:	**05/01/2023**	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-219. Credit Scoring

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-22-320 authorizes the insurance commissioner to write rules to regulate the use of credit information. This rule sets the minimum standards for property and casualty insurers doing private passenger automobile business in Utah that use credit history or an insurance score as part of their underwriting criteria or rating plans.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for regulating the way in which automobile insurance companies use an insured's credit score. One of the main reasons for the law and this rule is to disallow insurers from using a credit score as the sole reason to cancel an insured's policy. The law and this rule require the presence of risk-related factors before increasing an insured's premium or canceling their policy. Since the creation of the law and this rule, the Department has received fewer and fewer complaints related to misuse of credit scores. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	05/01/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-222**	**Filing ID: 52506**
Effective Date:	**05/01/2023**	

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129

Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-222. Life Settlements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-201(3) authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-36-119 authorizes the insurance commissioner to adopt rules regarding life settlements. This rule implements procedures for the licensure of life settlement providers and producers, producers' annual reports, disclosures, advertising, reporting of fraud, prohibited practices, standards for life settlement payments, and procedures to request the verification of coverage.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule provides the requirements and explanations regarding the business of life settlements, including licensing, annual reports, payments, disclosures, reasonable payments, verification of coverage, advertising, fraud reporting, prohibited practices, and form filing. All are necessary for proper regulation of this product in the marketplace and to protect the consumer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	05/01/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-223**	**Filing ID: 51407**
Effective Date:	**05/01/2023**	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-223. Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-201(3) authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Subsection 31A-17-402(1) authorizes the insurance commissioner to adopt rules specifying the liabilities to be reported by an insurer in an annual statement, as well as the methods of valuing those liabilities. Subsection 31A-22-408(11) authorizes the insurance commissioner to adopt rules interpreting, describing, and clarifying the application of the nonforfeiture law. Subsection 31A-22-408(6) allows the use of the tables adopted by the insurance commissioner by rule. This rule recognizes, permits, and prescribes the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with Sections 31A-17-504, 31A-22-408, and R590-198-5.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is part of statutory accounting requirements. It prescribes a mortality table to be used for the valuation and nonforfeiture of life insurance. It establishes reserving standards consistent with that recommended by the NAIC Accounting Practices and Procedures Manual. Repealing this rule would adversely impact insurance companies and consumers. If this rule were to be withdrawn, it will make life insurance less affordable. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	05/01/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-276**	**Filing ID: 55048**
Effective Date:	**04/20/2023**	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-276. Record Retention for Foreign Insurers, Alien Insurers, Commercially Domiciled Insurers, Foreign Title Insurers, and Foreign Fraternals
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Sections 31A-14-205.5 and 31A-23a-412 authorize the insurance commissioner to write rules to set the duration for a foreign insurer, alien insurer, commercially domiciled insurer, foreign title insurer, or foreign fraternal to maintain books and records after a transaction.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it sets rules regarding the length of time an insurer must keep books and records after a transaction. The retention of these records is critical to the department's regulatory functions, especially in case of an issue with an insurer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	04/20/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R642-100**	**Filing ID: 51555**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	Oil, Gas and Mining; Administration
Building:	Department of Natural Resources
Street address:	1594 W North Temple, Suite 1210
City, state and zip:	Salt Lake City, UT 84116

Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R642-100. Records of the Division and Board of Oil, Gas and Mining
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R642-100 is necessary as it explains the responsibility and authority of keeping records, what information is needed when any person is requested records, and other applicable information regarding records requests, including fees, classifications, and responses to such requests. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R642-200**	**Filing ID: 51562**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	Oil, Gas and Mining; Administration
Building:	Department of Natural Resources
Street address:	1594 W North Temple, Suite 1210
City, state and zip:	Salt Lake City, UT 84116

Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R642-200. Applicability
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R642-200 is necessary as it states that only records controlled by the division may be governed by Title R642. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-101**	**Filing ID: 51572**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	Oil, Gas and Mining; Coal
Building:	Department of Natural Resources
Street address:	1594 W North Temple, Suite 1210
City, state and zip:	Salt Lake City, UT 84116

Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R645-101. Restrictions on State Employees
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-101 is necessary as it explains the responsibilities of the director and division employees. It also prevents anyone who performs any function, duty, or financial interest in any coal mine from working as an inspector for the Division, and directs all employees to file financial reports. This rule also prohibits any gifts and gratuities from being accepted from a coal company. Finally, this rule explains the procedures for resolving any prohibited interests. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-102**	**Filing ID: 51569**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R645-102. Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-102 is necessary as it establishes the procedures for determining coal mining and reclamation operation exemptions and if a site is exempt, it explains the information that must be stored on site. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-104**	**Filing ID: 51574**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W. North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R645-104. Protection of Employees

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R645-104 is necessary as it establishes protections to Division employees, such as stating that someone cannot discriminate against or cause an employee to be fired because they did the requirements of their job. It also explains procedures for filing an application for review, if necessary, and the following investigation and conference. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-401**	**Filing ID: 51584**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R645-401. Inspection and Enforcement: Civil Penalties

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R645-401 is necessary as it explains information on civil penalties, when a civil penalty will be assessed, the point system for civil penalties, and procedures for an informal or formal conference to review the violation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-1**	**Filing ID: 54196**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-1. Minerals Regulatory Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R647-1 is necessary as an introduction to the Minerals Regulatory Program and sets up required forms and definitions used throughout Title R647. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-2**	**Filing ID: 55154**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-2. Exploration
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R647-2 is necessary as it explains the paperwork and requirements that need to be met before any mining exploration can occur. Rule R647-2 also explains best reclamation practices and what happens when reclamation does not take place. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-3**	**Filing ID: 53046**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-3. Small Mining Operations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary as it explains the paperwork and requirements that need to be met before any small mining operations can occur. This includes instruction on operation plans and practices, requirements for hole plugging and reclamation, and the process for failure to reclaim or suspension of operations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-4**	**Filing ID: 53047**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-4. Large Mining Operations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R647-4 is necessary as it explains the paperwork and requirements that need to be met before any large mining operations can occur. This includes instruction on operation plans and practices, impact assessments, requirements for hole plugging and reclamation, and the process for failure to reclaim or suspension of operations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-5**	**Filing ID: 52352**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-5. Administrative Procedures
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R647-5 is necessary as it explains the formal and informal administrative procedures and when adjudicative proceedings commence. It explains when an informal proceeding may convert to a formal proceeding and that all administrative remedies must be exhausted before seeking judicial review. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-6**	**Filing ID: 51588**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-6. Inspection and Enforcement: Division Authority and Procedures
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R647-6 is necessary as it explains the enforcement authority of the Minerals Regulatory Program and the provisions of state enforcement, including cessation orders, notices of violation, and how to remedy them. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-7**	**Filing ID: 51590**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-7. Inspection and Enforcement: Civil Penalties
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R647-7 is necessary as it explains information on civil penalties, when a civil penalty will be assessed, the point system for civil penalties, and procedures for an informal or formal conference to review the violation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R647-8**	**Filing ID: 51591**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Non-Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R647-8. Inspection and Enforcement: Individual Civil Penalties
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R647-8 is necessary as it explains when an individual civil penalty will be assessed against a corporate director, officer, or agent of an operator. This rule explains individual civil penalty amounts, the procedures for assessment, and payment of the penalty. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R649-6**	**Filing ID: 51599**
Effective Date:	**04/27/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Oil and Gas	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R649-6. Gas Processing and Waste Crude Oil Treatment
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R649-6 is necessary as it requires applications to be submitted before any waste crude oil treatment facility begins construction and the required monthly forms for any gas processing plants. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John Baza, Director	**Date:**	04/27/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-103**	**Filing ID: 55084**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-103. Electronic Meetings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 52-4-207(1) authorizes a public body to convene or conduct an electronic meeting provided written procedures are established for such meetings. This rule establishes procedures for conducting Board meetings by electronic means. Subsection 52-4-207(2)(a) provides a board may only hold electronic meetings if it adopts a rule regarding electronic meetings. Subsection 79-4-304(2)(a) provides the parks board with rule making authority to (I) govern the use of the state park system; (II) protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (III) provide for public safety and preserve the peace within state parks. (b) to accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (I) close or partially close state parks; or (II) establish use or access restrictions within state parks.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is passed pursuant to the identified code section. This rule is necessary to provide procedures as required by Section 52-4-207 for the parks board to hold electronic meetings. Board members are located throughout the state to provide proper representation of all districts. Electronic meetings allow for optimal board member participation during difficult travel conditions or schedules. Electronic meetings also allow for optimal public participation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-601**	**Filing ID: 55088**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-601. Definitions as Used in These Rules
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304(2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule provides for governing of the state park system.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because definitions are required in order to provide clear meaning of the terms used in the rules. The definitions provide clarity to rules governing the use of the park system, rules that protect park resources, and rules that provide for public safety within parks. Without them, it leaves all subsequent Division rules up to interpretation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-602**	**Filing ID: 51639**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R651-602. Aircraft and Powerless Flight

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides public safety within state parks.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for public safety and preserve the peace within state parks. This rule is needed to minimize dangerous situations on a body of water within state parks that experience high boat congestion.

State Parks identified bodies of water that are large enough to accommodate a water landing. Aircraft landing within parks approved by special use permit allow for maximized public safety. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	**R651-603**	**Filing ID: 54707**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	State Parks
Street address:	1594 W North Temple, Suite 116
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146001
City, state and zip:	Salt Lake City, UT 84114-6001

Contact persons:

Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R651-603. Animals

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304(2)(a) provides the parks board with rulemaking authority to (i) govern the use of the state park system; (ii) protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides protection of the state parks and natural resources from misuse or damage, as well as public safety.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide for resource protection and public safety within state parks. This rule is needed to provide visitors the required acceptable behavior within the state parks which help to keep the parks orderly, safe, and sanitary. The Division has found that damage to facilities, damage to natural resources including watersheds and wildlife, and injuries to the public occur when these rules are not followed. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-604**	**Filing ID: 54911**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-604. Operation or Use of Audio Devices
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule preserves the peace within state parks.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to preserve the peace within state parks. This rule is needed to prevent unreasonable noise disturbance of visitors from other visitors. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-606**	**Filing ID: 54734**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-606. Camping, Overnight Facilities, and Park Lodging
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b)To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule governs the use of the state park system, protects state parks and their natural and cultural resources, and provides for public safety and preserves the peace with the state parks.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide protection for resource and cultural resources, provide public safety and preserve the peace within state parks. This rule is needed to provide limits on facility use in order to prevent a residence situation and potential resource damage. This rule also provides limits to help facilitate operations of campgrounds and expectations of the visitors. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-607**	**Filing ID: 51647**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-607. Disorderly Conduct
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule provides for public safety and preserving the peace within state parks.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide for public safety and preserve the peace within state parks. This rule is necessary to help keep people safe by restricting certain activities within a park that create

a dangerous situation or otherwise needing to be restricted. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-610**	**Filing ID: 51655**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-610. Expulsion

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for public safety and preserves the peace within state parks. It will also assist in protecting natural and cultural resources if the person being expelled was causing damage to these resources.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide protection for natural and cultural resources, and provide for public safety and preserve the peace within state parks. This rule is necessary to remove individuals from state parks that have demonstrated egregious behavior while in the park to ensure the behavior discontinues for at least 48 hours. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-613**	**Filing ID: 51657**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-613. Fires

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for protection of state parks and the natural and cultural resources within from damage.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for public safety, as well as protection of natural and cultural resources within state parks. This rule is necessary in order to minimize unintentional wildfires that could damage facilities, property, lands, and injure or kill people. Fires can be very destructive, devastating, and expensive to fight. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-614**	**Filing ID: 52413**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	State Parks
Street address:	1594 W North Temple, Suite 116
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146001
City, state and zip:	Salt Lake City, UT 84114-6001

Contact persons:

Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R651-614. Fishing, Hunting and Trapping

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for protection of wildlife resources and also for providing public safety.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

Palisade State Park has received complaints about allowing waterfowl hunting in the park from bird watchers and hikers, but no official complaints about big game archery hunting in the park.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division of State Parks' statutory obligation to provide for public safety and protecting natural resources within state parks. This rule is necessary to provide for public safety while hunting within state parks.

Some parks have very narrow boundaries or public facilities spread throughout the park that would create a potential hazard to the public for certain methods of hunting. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-615**	**Filing ID: 51654**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-615. Motor Vehicle Use

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides protection the natural resources in state parks and also provides public safety.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for public safety and protection of natural resources within state parks. This rule is necessary to protect resource and facility damage that can be caused by vehicles driving where ever their operators want to. It also provides for public safety by keeping ingress and egress roads open for access and emergencies. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-616**	**Filing ID: 51653**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-616. Organized Sports

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state

park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for public safety and preserving the peace within state parks. It also provides for resource protection.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for public safety and preserve the peace, as well as protection of natural resources within state parks. This rule is necessary so that one group doesn't take over an entire picnic area or campground, which is not conducive for organized sports. This would create an environment where other guests could not picnic or camp in an area for that use. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-618**	**Filing ID: 51674**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	State Parks
Street address:	1594 W North Temple, Suite 116
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146001
City, state and zip:	Salt Lake City, UT 84114-6001

Contact persons:

Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R651-618. Picnicking

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for resource protection.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for resource protection within state parks. This rule is necessary to establish restrictions on picnicking in buildings or sensitive areas such as cultural sites. Food in buildings can lead to damage and infestations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-619**	**Filing ID: 55085**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-619. Possession of Alcoholic Beverages or Controlled Substances

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for public safety and preserving the peace.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for public safety and preserve the peace within state parks. This rule is necessary to govern alcohol and drugs within state park buildings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-620**	**Filing ID: 54918**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-620. Protection of Resources Park System Property

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for protection of natural and cultural resources within state parks.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for protection of natural and cultural resources within state parks. This rule is necessary to provide of natural and cultural resources within state parks. Without it, people may be able to cause severe damage to facilities or create unsafe situations for park guests. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-621**	**Filing ID: 51661**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-621. Reports of Injury or Damage

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule helps preserve the peace within state parks and also protection for natural and cultural resources.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for public safety and preserve the peace, as well as protection for natural and cultural resources within state parks. This rule is necessary to document occurrences within the state parks. Documenting assists with any legal matters and also assist in instigating positive change within the state parks. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-624**	**Filing ID: 51664**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-624. Sanitation

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for resource protection within state parks.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for resource protection within state parks. This rule is necessary to keep our parks clean, healthy, and safe for the public to visit and use. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-625**	**Filing ID: 51665**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-625. Shirts and Shoes

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for preserving the peace within state parks.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for preserving the peace within state parks. This rule is necessary to create a pleasant and learning environment for those visiting our state park facilities where interpretive displays or a professional working environment is present. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-626**	**Filing ID: 51666**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-626. Skating, Skateboards and Motorized Transportation Devices

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for resource protection and preserving the peace within state parks.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for resource protection and preserving the peace within state parks. This rule is necessary to provide governance of acceptable activities within state parks. Some parks have endangered or threatened species that can't have devices in their habitat. Other locations may create user conflicts or could be dangerous with vehicular traffic or other uses. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-627**	**Filing ID: 51669**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	State Parks
Street address:	1594 W North Temple, Suite 116
City, state and zip:	Salt Lake City, UT 84116

Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-627. Swimming
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule provides for public safety.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide for public safety within state parks. This rule is necessary to address situations where swimming is not safe to do so. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-628**	**Filing ID: 51667**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-628. Trails and Walks
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule provides for resource protection.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide for resource protection within state parks. This rule is necessary to address acceptable trail use to help minimize issues, conflicts, and resource damage. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-629**	**Filing ID: 55086**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-629. Unattended Property
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule provides for preserving the peace within state parks.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to preserve the peace within state parks. This rule is necessary so staff may remove items left by guests and a system for storing and claiming items. This way, the park can continue to operate, rather than allowing items to block a facility from other guests. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-630**	**Filing ID: 51668**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-630. Unsupervised Children
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule provides for public safety and protection of natural and cultural resources.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide for public safety and protection of natural and cultural resources within state parks. This rule is necessary for children to be supervised while in state parks. Unsupervised children can get into trouble or need assistance while visiting state parks. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-631**	**Filing ID: 51670**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources
Agency:	State Parks
Street address:	1594 W North Temple, Suite 116
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146001
City, state and zip:	Salt Lake City, UT 84114-6001

Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R651-631. Winter Sports
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. (b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks. This rule provides protection of natural and cultural resources, as well as public safety.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide for public safety and protection of natural and cultural resources within state parks. This rule is necessary to address acceptable use and to help minimize issues, conflicts, and resource damage. Winter activities in certain locations may be very dangerous and create a public safety risk to the people

doing the activity and/or other visitors. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-632**	**Filing ID: 55087**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-632. Enforcement

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 53-13-103(1)(b)(viii) provides that Division law enforcement officers are sworn and certified peace officers and Subsection 53-13-103(2) provides sworn law enforcement officers have statewide full-spectrum peace officer authority, including the authority to enforce Utah laws and Division rules.

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule allows for law enforcement to protect state parks and provide for public safety and preserve the peace.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R651-632 is necessary to enforce other rules and provide natural resource protection that the agency has been mandated to facilitate and protect. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-633**	**Filing ID: 54729**
Effective Date:	**04/17/2023**	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R651-633. Special Closures or Restrictions

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 79-4-304 (2)(a) provides the parks board with rule making authority to (i) governing the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks.

This rule provides for public safety and protection of natural and cultural resources within state parks.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of State Parks (Division) has not received any written comments on this rule since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule furthers the Division's statutory obligation to provide for public safety and protection of natural and cultural resources within state parks. This rule is necessary to address areas where there are special restrictions due to various natural and cultural resource concerns or for public safety. Others present a safety hazard if not followed.

One area mentioned in this rule has an endangered beetle that lives there. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jeff Rasmussen, Director	**Date:**	04/13/2023

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

NOTICES OF
LEGISLATIVE NONREAUTHORIZATION

Section 63G-3-502 provides that "every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature." To do this, the Legislature's Administrative Rules Review and General Oversight Committee prepares omnibus legislation each year. As part of this legislation, the Legislature may elect not to reauthorize a rule or a part of a rule down to the complete paragraph level. When this occurs, the Office of Administrative Rules files a **NOTICE OF LEGISLATIVE NONREAUTHORIZATION** to document the Legislature's action and removes the rule or part of a rule from the *Utah Administrative Code*. The filings below show what the Legislature has elected not to reauthorize.

Legislative nonreauthorization of administrative rules is governed by Section 63G-3-502.

NOTICE OF LEGISLATIVE NON-REAUTHORIZATION		
Rule or Section Number:	**R156-60**	**Filing No. 55377**

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	**Phone:**	**Email:**
Nancy Lancaster (Office of Administrative Rules)	801-957-7102	rulesonline@utah.gov

General Information

2. Rule or section catchline:	
R156-60. Mental Health Professional Practice Act Rule	
3. House or Senate Bill:	
H.B. 127, Reauthorization of Administrative Rules, was passed in the 2023 General Session. This included the non-reauthorization of Subsections R156-60-102(3) and R156-60-502(2).	
4. Action required by the bill:	
Subsections R156-60-102(3) and R156-60-502(2) are removed from this rule.	
5. Effective Date	05/01/2023

R156. Commerce, Professional Licensing.
R156-60. Mental Health Professional Practice Act Rule.
R156-60-102. Definitions.

In addition to the definitions regarding mental health professional practice in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, the following rule definitions supplement the statutory definitions:

(1) "Approved diagnostic and statistical manual for mental disorders" means the following:

(a) Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition: DSM-5 published by the American Psychiatric Association;

(b) 2015 ICD-10-CM for Physicians, Professional Edition published by the American Medical Association; or

(c) ICD-10-CM 2019: The Complete Official Draft Code Set published by the American Medical Association.

(2) "Client" or "patient" means an individual who if competent requests, or if not competent to request is lawfully provided professional services by a mental health therapist when the mental health therapist:

(a) agrees verbally or in writing to provide professional services to that individual; or

(b) without an overt agreement does in fact provide professional services to that individual.

[~~(3)(a) "Conversion therapy" means any practice or treatment that seeks to change the sexual orientation or gender identity of a patient or client, including mental health therapy that seeks to change, eliminate, or reduce behaviors, expressions, attractions, or feelings related to a patient or client's sexual orientation or gender identity.~~

~~(b) "Conversion therapy" does not mean a practice or treatment that does not seek to change a patient or client's sexual orientation or gender identity, including mental health therapy that:~~

~~(i) is neutral with respect to sexual orientation and gender identity;~~

~~(ii) provides assistance to a patient or client undergoing gender transition;~~

~~(iii) provides acceptance, support, and understanding of a patient or client;~~

~~(iv) facilitates a patient or client's ability to cope, social support, and identity exploration and development;~~

~~(v) addresses unlawful, unsafe, premarital, or extramarital sexual activities in a manner that is neutral with respect to sexual orientation; or~~

~~(vi) discusses with a patient or client the patient or client's moral or religious beliefs or practices.~~

]([~~4~~]3) "Direct supervision" of a supervisee in training, as used in Subsections 58-60-205(1)(f), 58-60-305(1)(f), 58-60-405(1)(f), and 58-60-502(3) means the supervisor meets with the supervisee:

(a) when both are physically present in the same room at the same time; or

(b) remotely via real-time electronic methods that allow for visual and audio interaction between the supervisor and supervisee, in accordance with the requirements of their supervision contract.

([~~5~~]4) "Employee" means a W-2 employee as defined by the Internal Revenue Service.

([~~6~~]5) "General supervision" means that the supervisor is available for consultation with the supervisee by personal face to face contact, or direct voice contact by telephone, radio, or some other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

([~~7~~]6) "On-the-job training program" means a program that:

(a) applies to individuals who have completed courses required for graduation in a degree or formal training program that would qualify for licensure under this chapter;

(b) starts immediately upon completion of courses required for graduation;

(c) ends 45 days from the date it begins, or upon licensure, whichever is earlier, and may not be extended or used a second time;

(d) is completed while the individual is an employee of a public or private agency engaged in mental health therapy or substance use disorder counseling; and

(e) is supervised by a qualified individual licensed under this chapter, and includes supervision meetings on at least a weekly basis with the supervisee and supervisor physically present in the same room at the same time.

([~~8~~]7) "Supervision contract" means a written, signed contract between a supervisor and a supervisee to complete supervised training requirements for licensure, which includes the provisions required by Subsection R156-60-302(1).

([~~9~~]8) "Supervision form" means the form provided by the Division to document ongoing supervision, which at minimum includes:

(a) the dates and duration of supervisory meetings;

(b) the format of supervisory meetings;

(c) the location of supervisory meetings;

(d) an evaluation of supervisee performance; and

(e) confirmation that the meetings took place.

([~~10~~]9) "Verification of supervision form" means the form provided by the Division to document who is providing supervision to the supervisee, which at minimum includes:

(a) the name and license number of the supervisee;

(b) the name and license number of the supervisor; and

(c) the supervisee's place of employment.

R156-60-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) if providing services remotely:

(a) failing to practice according to professional standards of care in the delivery of services remotely;

(b) failing to protect the security of electronic, confidential data and information; or

(c) failing to appropriately store and dispose of electronic, confidential data and information;

[~~(2)(a) providing conversion therapy to a patient or client who is younger than 18 years old; and~~

~~(b) Subsection (2)(a) does not apply to:~~

~~(i) a clergy member or religious counselor who is acting substantially in a pastoral or religious capacity and not in the capacity of a mental health therapist; or~~

~~(ii) a parent or grandparent who is a mental health therapist and who is acting substantially in the capacity of a parent or grandparent and not in the capacity of a mental health therapist;~~

]([~~3~~]2) failing to follow the Model Standards of Practice for Child Custody Evaluation of the Association of Family and Conciliation Courts (AFCC) May 2006, which is incorporated by reference; or

([~~4~~]3) violating a provision of Section R156-60-302 regarding supervised training.

KEY: licensing, mental health, therapists
Date of Last Change: [~~November 10, 2020~~]May 1, 2023
Notice of Continuation: February 26, 2019
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-60-101

NOTICE OF LEGISLATIVE NON-REAUTHORIZATION		
Rule or Section Number:	**R156-61**	**Filing No. 55378**

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	**Phone:**	**Email:**
Nancy Lancaster (Office of Administrative Rules)	801-957-7102	rulesonline@utah.gov

General Information

2. Rule or section catchline:
R156-61. Psychologist Licensing Act Rule
3. House or Senate Bill:
H.B. 127, Reauthorization of Administrative Rules, was passed in the 2023 General Session. This included the non-reauthorization of Subsections R156-61-102(3) and R156-60-502(23).

4. Action required by the bill:	
Subsections R156-61-102(3) and R156-61-502(23) are removed from this rule.	
5. Effective Date	05/01/2023

R156. Commerce, Professional Licensing.
R156-61. Psychologist Licensing Act Rule.
R156-61-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 61, as used in Title 58, Chapters 1 and 61 or this rule:

(1) "Approved diagnostic and statistical manual for mental disorders" means the following:

(a) Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition: DSM-5 published by the American Psychiatric Association;

(b) 2015 ICD-10-CM for Physicians, Professional Edition published by the American Medical Association; or

(c) ICD-10-CM 2019: The Complete Official Draft Code Set published by the American Medical Association.

(2) "CoA" means Committee on Accreditation of the American Psychological Association.

[~~(3)(a) "Conversion therapy" means any practice or treatment that seeks to change the sexual orientation or gender identity of a patient or client, including mental health therapy that seeks to change, eliminate, or reduce behaviors, expressions, attractions, or feelings related to a patient or client's sexual orientation or gender identity.~~

~~(b) "Conversion therapy" does not mean a practice or treatment that does not seek to change a patient or client's sexual orientation or gender identity, including mental health therapy that:~~

~~(i) is neutral with respect to sexual orientation and gender identity;~~

~~(ii) provides assistance to a patient or client undergoing gender transition;~~

~~(iii) provides acceptance, support, and understanding of a patient or client;~~

~~(iv) facilitates a patient or client's ability to cope, social support, and identity exploration and development;~~

~~(v) addresses unlawful, unsafe, premarital, or extramarital sexual activities in a manner that is neutral with respect to sexual orientation; or~~

~~(vi) discusses with a patient or client the patient or client's moral or religious beliefs or practices.~~

]([~~4~~]3) "Direct supervision" of a supervisee in training, as used in Subsection 58-61-304(1)(f), means:

(a) a supervisor meeting with the supervisee when both are physically present in the same room at the same time; or

(b) a supervisor meeting with the supervisee remotely via real-time electronic methods that allow for visual and audio interaction between the supervisor and supervisee under the following conditions:

(i) the supervisor and supervisee shall enter into a written supervisory agreement which, at a minimum, establishes the following:

(A) frequency, duration, reason for, and objectives of electronic meetings between the supervisor and supervisee;

(B) a plan to ensure accessibility of the supervisor to the supervisee despite the physical distance between their offices;

(C) a plan to address potential conflicts between clinical recommendations of the supervisor and the representatives of the agency employing the supervisee;

(D) a plan to inform a supervisee's client or patient and employer regarding the supervisee's use of remote supervision;

(E) a plan to comply with the supervisor's duties and responsibilities as established in rule; and

(F) a plan to physically visit the location where the supervisee practices on at least a quarterly basis during the period of supervision or at a lesser frequency as approved by the Division in collaboration with the Board;

(ii) the supervisee submits the supervisory agreement to the Division and obtains approval before counting direct supervision completed via live real-time methods toward the 40 hour direct supervision requirement; and

(iii) in evaluating a supervisory agreement, the Division shall consider whether it adequately protects the health, safety, and welfare of the public.

([~~5~~]4) "On-the-job training program approved by the Division", as used in Subsection 58-61-301(1)(b), means a program that meets the standards established in Section R156-61-601.

([~~6~~]5)(a) "Predoctoral internship" refers to a formal training program that meets the minimum requirements of the Association of Psychology Postdoctoral and Internship Centers (APPIC) offered to culminate a doctoral degree in clinical, counseling, or school psychology.

(b) A training program may be a full-time one year program or a half-time two year program.

([~~7~~]6)(a) "Program accredited by the CoA", as used in Subsections R156-61-302a(1), means a psychology department program that, as of the date on which a student completes a doctoral psychology degree program:

(i) has obtained an accreditation from the CoA; or

(ii)(A) has applied to the CoA for accreditation;

(B) has been approved by the CoA for a site visit, which is to occur within the ensuing six years; and

(C) has not previously been denied accreditation by the CoA.

([~~8~~]7)(a) "Program of respecialization", as used in Subsection R156-61-302a(3), is a formal program designed to prepare someone with a doctoral degree in psychology with the necessary skills to practice psychology.

(b) The respecialization activities shall include substantial requirements that are formally offered as an organized sequence of course work and supervised practicum leading to a certificate (or similar recognition) by an educational body that offers a doctoral degree qualifying for licensure in the same area of practice as that of the certificate.

([~~9~~]8)(a) "Psychology training", as used in Subsection 58-61-304(1)(e), means practical training experience providing direct services in the practice of mental health therapy and psychology under supervision. All activities in full-time internships and full-time post-doctoral positions devoted solely to mental health delivery meet this definition.

(b) Activities not directly related to the practice of psychology, even if commonly performed by psychologists, do not meet the definition of psychology training under Subsection 58-61-304(1)(e). Examples of ineligible activities include psychology coursework, analog clinical activities (e.g. role plays), activities required for business purposes (e.g. billing), supervision of others engaged in activities other than practice of psychology (e.g. supervising adolescents in wilderness settings), and activities

commonly performed by non-psychologists (e.g. teaching of psychology on topics not of a professional nature).

([~~10~~]9) "Qualified faculty", as used in Subsection 58-1-307(1)(b), means a university faculty member who provides pre-doctoral supervision of clinical or counseling experience in a university setting who:

(i) is licensed in Utah as a psychologist; and

(ii) is training students in the context of a doctoral program leading to licensure.

(1[~~1~~]0) "Residency program", as used in Subsection 58-61-301(1)(b), means a program of post-doctoral supervised clinical training necessary to meet licensing requirements as a psychologist.

R156-61-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violation of any provision of the "Ethical Principles of Psychologists and Code of Conduct" of the American Psychological Association (APA) as adopted by the APA, January 1, 2017 edition, which is adopted and incorporated by reference;

(2) violation of any provision of the "ASPPB Code of Conduct" of the Association of State and Provincial Psychology Boards (ASPPB) as adopted by the ASPPB, January 1, 2018 edition, which is adopted and incorporated by reference;

(3) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-61-302d and R156-61-302e;

(4) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;

(5) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(6) failing to establish and maintain appropriate professional boundaries with a client or former client;

(7) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(8) engaging in sexual activities or sexual contact with a client with or without client consent;

(9) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(10) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and the client;

(11) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and that individual;

(12) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(13) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(14) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(15) exploiting a client for personal gain;

(16) using a professional client relationship to exploit a client or other person for personal gain;

(17) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(18) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;

(19) failure to cooperate with the Division during an investigation

(20) participating in a residency program or other post degree experience without being certified as a psychology resident for post-doctoral training and experience;

(21) supervising a residency program of an individual who is not certified as a psychology resident;

(22) when providing services remotely:

(a) failing to practice according to professional standards of care in the delivery of services remotely;

(b) failing to protect the security of electronic, confidential data and information; or

(c) failing to appropriately store and dispose of electronic, confidential data and information; or

[~~(23)(a) providing conversion therapy to a patient or client who is younger than 18 years old; and~~

~~(b) Subsection (23)(a) does not apply to:~~

~~(i) a clergy member or religious counselor who is acting substantially in a pastoral or religious capacity and not in the capacity of a psychologist; or~~

~~(ii) a parent or grandparent who is a psychologist and who is acting substantially in the capacity of a parent or grandparent and not in the capacity of a psychologist.~~]

KEY: licensing, psychologists
Date of Last Change: [~~January 21, 2020~~]May 1, 2023
Notice of Continuation: September 18, 2018
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-61-101

End of the Notices of Legislative Nonreauthorization Section

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

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

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

Agriculture and Food
Animal Industry
No. 55241 (Amendment) R58-1: Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals
Published: 03/01/2023
Effective: 04/13/2023

No. 55254 (Amendment) R58-22: Equine Infectious Anemia (EIA)
Published: 03/15/2023
Effective: 04/21/2023

Plant Industry
No. 55257 (Amendment) R68-29: Quality Assurance Testing on Cannabis
Published: 03/15/2023
Effective: 04/21/2023

No. 55258 (Amendment) R68-37: Industrial Hemp Cannabinoid Product Testing
Published: 03/15/2023
Effective: 04/21/2023

No. 55259 (New Rule) R68-38: Cannabis Licensing Process
Published: 03/15/2023
Effective: 04/21/2023

Environmental Quality
Environmental Response and Remediation
No. 55229 (Amendment) R311-200: Petroleum Storage Tanks: Definitions
Published: 03/01/2023
Effective: 04/14/2023

No. 55230 (Amendment) R311-202: Federal Underground Storage Tank Regulations
Published: 03/01/2023
Effective: 04/14/2023

No. 55231 (Amendment) R311-206: Petroleum Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms
Published: 03/01/2023
Effective: 04/14/2023

Waste Management and Radiation Control, Radiation
No. 55240 (Amendment) R313-16-230: Registration of Radiation Machines
Published: 03/01/2023
Effective: 04/17/2023

Health and Human Services
Population Health, Environmental Health
No. 55242 (Repeal and Reenact) R392-100: Food Service Sanitation
Published: 03/01/2023
Effective: 04/25/2023

No. 55237 (Repeal and Reenact) R392-510: Utah Indoor Clean Air Act
Published: 03/01/2023
Effective: 04/25/2023

Health Care Financing, Coverage and Reimbursement Policy
No. 55021 (Amendment) R414-520: Admission Criteria for Medically Complex Children's Waiver
Published: 11/15/2022
Effective: 05/05/2023

No. 55021 (Change in Proposed Rule) R414-520: Admission Criteria for Medically Complex Children's Waiver
Published: 03/15/2023
Effective: 05/05/2023

Health Care Facility Licensing
No. 55197 (Amendment) R432-9: Specialty Hospital - Rehabilitation Construction Rule
Published: 03/01/2023
Effective: 05/05/2023

No. 55192 (Amendment) R432-14: Birthing Center Construction Rule
Published: 03/01/2023
Effective: 05/05/2023

No. 55269 (Amendment) R432-16: Hospice Inpatient Facility Construction
Published: 03/15/2023
Effective: 05/05/2023

No. 55268 (Repeal) R432-30: Adjudicative Procedure
Published: 03/15/2023
Effective: 05/05/2023

No. 55251 (Amendment) R432-40: Long-Term Care Facility Immunizations
Published: 03/01/2023
Effective: 05/05/2023

No. 55270 (Amendment) R432-105: Specialty Hospital - Orthopedics
Published: 04/01/2023
Effective: 05/09/2023

No. 55267 (Amendment) R432-106: Specialty Hospital - Critical Access
Published: 03/15/2023
Effective: 05/05/2023

No. 55271 (Amendment) R432-300: Small Health Care Facility - Type N
Published: 04/01/2023
Effective: 05/09/2023

No. 55265 (Amendment) R432-750: Hospice Rule
Published: 03/15/2023
Effective: 05/05/2023

Insurance
Administration
No. 55262 (Repeal and Reenact) R590-226: Submitting Life Insurance Filings
Published: 03/15/2023
Effective: 04/21/2023

No. 55263 (Repeal and Reenact) R590-227: Submitting Annuity Filings
Published: 03/15/2023
Effective: 04/21/2023

No. 55264 (Repeal and Reenact) R590-228: Submitting Credit Life and Credit Accident and Health Insurance Filings
Published: 03/15/2023
Effective: 04/21/2023

No. 55275 (Amendment) R590-261: Health Benefit Plan Adverse Benefit Determinations
Published: 04/01/2023
Effective: 05/09/2023

No. 55276 (Amendment) R590-268: Small Employer Stop-Loss Insurance
Published: 04/01/2023
Effective: 05/09/2023

No. 55277 (Amendment) R590-275: Qualified Health Plan Alternate Enrollment
Published: 04/01/2023
Effective: 05/09/2023

No. 55278 (Amendment) R590-284: Corporate Governance Annual Disclosure Rule
Published: 04/01/2023
Effective: 05/09/2023

Natural Resources
Outdoor Recreation
No. 55260 (New Rule) R650-407: Off-Highway Vehicle Advisory Council
Published: 03/15/2023
Effective: 04/28/2023

State Parks
No. 55253 (Repeal) R651-407: Off-Highway Vehicle Advisory Council
Published: 03/15/2023
Effective: 05/05/2023

No. 55261 (Amendment) R651-635: Commercial, Privileged, and Special Uses of Division Manage Park Areas
Published: 03/15/2023
Effective: 04/25/2023

End of the Notices of Rule Effective Dates Section