

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 16, 2024, 12:00 a.m., and May 01, 2024, 11:59 p.m. are included in this, the May 15, 2024, 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 Rules being repealed are completely struck out.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, 2024. 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, 2024, 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 FILING: New		
Rule or Section Number:	R64-6	Filing ID: 56444

Agency Information

1. Department:	Agriculture and Food	
Agency:	Conservation Commission	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
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Jim Bowcutt	435-232-4017	jdbowcutt@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R64-6. Agriculture Voluntary Incentives Program
3. Purpose of the new rule or reason for the change:
This is a new rule to set the guidelines and parameters of the Agriculture Voluntary Incentives Program (AgVIP). Subsection 4-18-108(1) allows the Utah Conservation Commission to award grants for environmental improvement projects but requires that eligibility requirements be established in Department of Agriculture and Food (Department) rule.
4. Summary of the new rule or change:
This rule provides specifics about the operation of the AgVIP, including application requirements, the makeup of the advisory board that will be put together by the Utah Conservation Commission to rank applications, ranking criteria, and contracting and reporting requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated cost or savings to the state budget. This program has been in operation for several years without a rule in place under the Department's general grant of authority and the administration of the program will not change because the program will now be officially administered by the Utah Conservation Commission.
B) Local governments:
Local governments are not eligible to apply for grants and will not be impacted by the AgVIP or this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses will not be impacted by this new rule because the administration of AgVIP is not changing. There is no cost to apply for an AGVIP grant.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses will not be impacted by this new rule because the administration of AgVIP is not changing. There is no cost to apply for an AgVIP grant.
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 <i>agency</i>):
Other persons will not be impacted by this new rule because the administration of AgVIP is not changing. There is no cost to apply for an AgVIP grant.
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. This new rule codifies the current program without 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	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 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 4-18-108		

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:	06/14/2024

9. This rule change MAY become effective on:	06/21/2024
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:	04/26/2024
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**R64. Agriculture and Food, Conservation Commission.
R64-6. Agriculture Voluntary Incentives Program.**

R64-6-1. Authority.

This rule is enacted pursuant to Subsection 4-18-108(1) which allows the Utah Conservation Commission (UCC) to award grants to eligible entities that are designated in department rule. Through the Agriculture Voluntary Incentives Program (AgVIP), the UCC may award grants for the costs of plans or projects to address environmental issues on a farm or ranch operation, pursuant to Subsection 4-18-108(1)(b) and improve water quality pursuant to Subsection 4-18-108(1)(c).

R64-6-2. Definitions.

(1) "Advisory board" means a board appointed by the UCC to oversee the AgVIP and rank applications.

(2) "Commission" or "UCC" means the Utah Conservation Commission created by Section 4-18-104, chaired by the Commissioner of the Utah Department of Agriculture and Food.

(3) "CNMP" means a comprehensive nutrient management plan.

(4) "Department" or "UDAF" means the Utah Department of Agriculture and Food.

(5) "Grantee" means a person who has received funding through the AgVIP.

(6) "Nutrients" means dry or liquid commercial fertilizer, manure, compost, soil amendments, or liquid waste.

(7) "Program Manager" means a department employee assigned to oversee the day-to-day activities of the AgVIP, or their staff.

R64-6-3. Purpose- Agriculture Voluntary Incentives Program.

The purpose of the AgVIP is to help agricultural producers implement practices that can increase crop yields, improve soil health, and add value to operations while improving water quality using the following methods:

(1) implementing CNMPs;
(2) taking soil tests on an annual basis to determine nutrient loading in soils;

(3) keeping annual nutrient application records; and
(4) taking manure or compost tests to determine nutrient availability.

R64-6-4. Application Requirements.

(1) The UCC will oversee the AgVIP.
(2) Each program funding cycle may have specified information for that cycle including:
(a) an application period;
(b) required information needed for each application; and
(c) ranking criteria.

NOTICES OF PROPOSED RULES

(3) Ranking criteria will be used to evaluate funding potential for each application submitted.

(4)(a) The UCC may apply total contract payment limitations based on available funding for the program each year.

(b) Small acreage payments may be utilized at amounts determined reasonable by the UCC.

(5) Applications and personal information will be protected under Title 63G, Chapter 2, Government Records Access and Management Act (GRAMA)

R64-6-5. AgVIP Advisory Board.

(1) Pursuant to Subsection 4-18-108(4), the UCC shall assign an advisory board to oversee the program and rank applications.

(2) The advisory board may include one representative from each of the following groups:

(a) Utah Association of Conservation Districts;

(b) Natural Resources Conservation Service;

(c) Utah State University Extension;

(d) The department;

(e) Utah Division of Water Quality (DWQ); and

(f) Utah Farm Bureau.

(3) The advisory board shall include at least three representatives who are agricultural producers within the state.

(4) Day-to-day activities of the program will be directed by a program manager.

(5) Advisory board representatives will have four-year terms.

R64-6-6. Criteria for Awarding Grants.

(1) Applications submitted during each funding cycle shall be evaluated and ranked by the advisory board.

(2) Previously determined ranking criteria will be followed for each funding cycle.

(3) Applications that are recommended for funding by the advisory board shall receive final approval from the before contracting.

(4) Pursuant to Subsection 4-18-108(2)(a), in considering applications, the UCC shall consider the following criteria in addition to any published ranking criteria:

(a) the ability of the grantee to pay for the costs of proposed plans or projects;

(b) the availability of matching funds provided by the grantee or another source or the availability of material, labor, or other items in value provided in lieu of money by the grantee or another source; and

(c) the benefits that accrue to the general public by the awarding of a grant.

(5) The AgVIP may designate priority areas or application types based on specific water quality concerns.

R64-6-7. Contracting and Project Requirements.

(1) Contracts will last for three years.

(2) Funded applications are required to have a comprehensive nutrient management plan in place within the first 12 months of the contract.

(a) Once the CNMP is in place, the producer will be responsible for implementing the plan, as written, for the rest of the contract period.

(b) CNMPs may be revised and updated by the department as needed throughout the contract period to reflect operational or management changes that may occur.

(3) At the end of each calendar year, a UDAF conservation planner will meet with the producer to review the CNMP and collect nutrient application records.

(4) At the discretion of the program manager, monetary and regulatory incentives may be awarded to the producer on an annual basis so long as the producer can successfully:

(a) implement the nutrient management plan;

(b) provide appropriate nutrient application records;

(c) provide the required soil tests; and

(d) provide the required manure or compost tests.

R64-6-8. Reporting Requirements.

(1) Program information may be shared as needed with DWQ in accordance with guidelines agreed upon in the most current UDAF-DWQ Memorandum of Understanding.

(2) AgVIP participants shall submit annual manure, compost, and commercial fertilizer application records.

(3)(a) Any fields enrolled in AgVIP shall have at least one soil test completed during the 3-year contract.

(b) One manure or compost test shall be completed for each type of organic nutrient applied during the 3-year contract.

(4) Annual record keeping following the 3-year AgVIP contract period is encouraged, but not required.

(5) The AgVIP shall gather the following information related to program participants:

(a) annual nutrient application records;

(b) soil tests;

(c) manure or compost tests as applicable;

(d) number of acres under current CNMPs; and

(e) other relevant information as needed.

(6) Information gathered shall be presented as aggregated data to protect individual private information.

KEY: AgVIP, nutrient management plan, water quality

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 4-18-108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R68-9	Filing ID: 56449

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:
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Robert Hougaard	801-982-2305	rhougaard@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R68-9. Utah Noxious Weed Act
3. Purpose of the new rule or reason for the change:
The state weed committee recommends the Department of Agriculture and Food (Department) update the tables in Section R68-9-3, specifically Table 1 and Table 4. This rule updates Table 1 to include two aquatic species that are considered a serious threat as noxious and invasive weeds in Utah. This amendment updates Table 4 to allow Triploid Hybrid Bermudagrass for commercial and private uses if a consumer purchases it from a certified producer.
4. Summary of the new rule or change:
The changes in the tables in the rule include the two additional noxious and invasive weeds and show the Triploid Hybrid Bermuda grass as allowed within the state. The tables were alphabetized to ease finding the various weeds and additional technical changes were made throughout this rule to clarify responsibilities and use of present tense throughout this rule.

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 because the rule change is only adding two new weeds to the list and clarifying the use of a specific Bermudagrass. These changes will not impact the state's budget because the state does not administer the program and does not remove or monitor these weeds.

The state weed list provides guidance to County Weed Control Boards to determine what weeds will be monitored, removed, or managed within each county. See Subsection R68-9-3(7) for additional information.

B) Local governments:
The proposed changes to this rule do not impact local governments because local governments are not responsible for removing noxious weeds or administering this program.

C) Small businesses ("small business" means a business employing 1-49 persons):
The Department does not anticipate an impact on small businesses because they do not administer the program and do not remove noxious and invasive weeds throughout the state.

A small business, certified with the Utah Crop Improvement Association and the Nursery Inspection Program, may sell Triploid Hybrid Bermudagrass and may see an increase in profits and minimal increase in expenses due to the low cost of growing this type of Bermudagrass.

At this time the Department is not able to estimate what the costs or revenue changes will be for a small business because the Department does not determine the costs or prices of noxious weeds within the state and the Department is unsure of how many producers will provide Triploid Hybrid Bermudagrass to consumers.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Department does not anticipate an impact on non-small businesses due to updating the noxious weed list. Non-small businesses do not administer this program and are not responsible for removing noxious weeds.

A non-small business, certified with the Utah Crop Improvement Association and the Nursery Inspection Program, may sell Triploid Hybrid Bermudagrass and may see an increase in profits and minimal increase in expenses due to the low cost of growing this type of Bermudagrass.

At this time the Department is not able to estimate what the costs or revenue changes will be for a non-small business because the Department does not determine the costs or prices of noxious weeds within the state and the Department is unsure of how many producers will provide Triploid Hybrid Bermudagrass to consumers.

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 estimates that the costs to another person to remove the new specific aquatic noxious weeds from their property would be minimal.

The Department cannot estimate the costs because the Department does not have access to information regarding how many of the specific aquatic weeds are located on personal property in the state and how difficult it may be to remove them.

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

The Department cannot estimate how compliance costs for affected persons would be impacted due to the addition of two new aquatic noxious weeds because the Department does not have access to information regarding how many aquatic invasive weeds are located throughout the state and the difficulty of removing them from bodies of water on private lands.

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	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 Benefits	Fiscal \$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of Agriculture and Food, Craig W. Butters, 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 4-17-103	Subsection 4-2-103(1)(i)	Subsection 4-17-115(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:	06/14/2024
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9. This rule change MAY become effective on:	06/24/2024
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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. Butters, Commissioner	Date:	04/30/2024
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R68. Agriculture and Food, Plant Industry.

R68-9. Utah Noxious Weed Act.

R68-9-1. Purpose and Authority.

(1) Promulgated under authority of Subsections 4-2-103(1)(i), 4-17-115(3), and Section 4-17-103.

(2) This rule establishes the designations for noxious weeds, the designations for noxious weed disseminators, and the prescribed treatment for articles.

R68-9-2. Definitions.

(1) "Commission" means the legislative body in each county of the state.

(2) "Commissioner" means the 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) "EDRR" means early detection and rapid response.

R68-9-3. Designation and Publication of State Noxious Weeds.

(1) ~~The department designates and publishes [N] noxious weeds [are designated and published]~~ into five classes.

- (2) Noxious and invasive weeds listed in Table 1 are Class 1A: EDRR Watch List. They are declared to be:
- (a) not native to Utah;
 - (b) not known to exist in the state;
 - (c) a serious threat to the state; and
 - (d) a very high priority if identified in the state.

<u>TABLE 1</u> <u>Class 1A (EDRR Watch List)</u>	
<u>Weed Name</u>	<u>Binomial Name</u>
<u>Common crupina</u>	<u>Crupina vulgaris</u>
<u>Mediterranean sage</u>	<u>Salvia aethiopis</u>
<u>Plumeless thistle</u>	<u>Carduus acanthoides</u>
<u>Small bugloss</u>	<u>Anchusa arvensis</u>
<u>Spring millet</u>	<u>Milium vernale</u>
<u>Syrian bean caper</u>	<u>Zygophyllum fabago</u>

- (3) Noxious and invasive weeds listed in Table 2 are Class 1B: EDRR. They are declared to be:
- (a) not native to Utah;
 - (b) known to exist in the state in very limited populations;
 - (c) a serious threat to the state; and a very high priority.

<u>TABLE 2</u> <u>Class 1B (EDRR)</u>	
<u>Weed Name</u>	<u>Binomial Name</u>
<u>African mustard</u>	<u>Brassica tournefortii</u>
<u>African rue</u>	<u>Peganum harmala</u>
<u>Blueweed (Vipers bugloss)</u>	<u>Echium vulgare</u>
<u>Camelthorn</u>	<u>Alhagi maurorum</u>
<u>Common St. Johnswort</u>	<u>Hypericum perforatum</u>
<u>Cutleaf vipergrass</u>	<u>Scorzonera laciniata</u>
<u>Elongated mustard</u>	<u>Brassicas elongate</u>
<u>Eurasian watermilfoil</u>	<u>Myriophyllum spicatum L.</u>
<u>Garlic mustard</u>	<u>Alliaria petiolate</u>
<u>Giant reed</u>	<u>Arundo donax</u>
<u>Goat's rue</u>	<u>Galega officinalis</u>

<u>Japanese knotweed</u>	<u>Polygonum cuspidatum</u>
<u>Malta starthistle</u>	<u>Centaurea melitensis</u>
<u>Oxeye daisy</u>	<u>Leucanthemum vulgare</u>
<u>Parrot feather</u>	<u>Myriophyllum aquaticum</u>
<u>Purple starthistle</u>	<u>Centaurea calcitrapa</u>
<u>Ventenata (North African grass)</u>	<u>Ventenata dubia</u>

- (4) Noxious and invasive weeds listed in Table 3 are Class 2: Control. They are declared to be:
- (a) not native to Utah;
 - (b) a threat to the state; and
 - (c) a high priority for control.
- (i) Weeds listed in the control list are known to exist in varying populations throughout the state.
- (ii) The concentration of these weeds is at a level where control or eradication may be possible.

<u>TABLE 3</u> <u>Class 2 (Control)</u>	
<u>Weed Name</u>	<u>Binomial Name</u>
<u>Black henbane</u>	<u>Hyoscyamus niger</u>
<u>Dalmatian toadflax</u>	<u>Linaria dalmatica</u>
<u>Diffuse knapweed</u>	<u>Centaurea diffusa</u>
<u>Dyer's woad</u>	<u>Isatis tinctoria</u>
<u>Leafy spurge</u>	<u>Euphorbia esula</u>
<u>Medusahead</u>	<u>Taeniatherum caput-medusae</u>
<u>Purple loosestrife</u>	<u>Lythrum salicaria</u>
<u>Rush skeleton weed</u>	<u>Chondrilla juncea</u>
<u>Spotted knapweed</u>	<u>Centaurea stoebe</u>
<u>Squarrose knapweed</u>	<u>Centaurea virgata</u>
<u>Yellow starthistle</u>	<u>Centaurea solstitialis</u>
<u>Yellow toadflax</u>	<u>Linaria vulgaris</u>

- (5) Noxious and invasive weeds listed in Table 4 are Class 3: Containment. They are declared to be:
- (a) not native to Utah; and

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(b) widely spread.

(i) Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state.

(ii) Weed control efforts may be directed at reducing or eliminating new or expanding weed populations.

(iii) A County Weed Control Board may determine known and established weed populations and manage them according to any approved weed control methodology.

(iv) Class 3 weeds threaten the agricultural industry and agricultural products.

(v) The department does not consider Bermudagrass as a noxious and invasive weed in Washington County and it is not subject to Title 4, Chapter 17 Utah Noxious Weed Act within Washington County.

(vi) Triploid hybrid Bermudagrass purchased from a producer certified with the Utah Crop Improvement Association and the Nursery Inspection program is allowed for commercial and private uses throughout Utah.

TABLE 4 Class 3 (Containment)	
Weed Name	Binomial Name
Bermudagrass*	<u>Cynodon dactylon</u>
Canada thistle	<u>Cirsium arvense</u>
Field bindweed (Wild Morning-glory)	<u>Convolvulus spp.</u>
Hoary cress (globe-podded)	<u>Lepidium draba (Cardaria draba)</u>
Hoary cress (heart-podded)	<u>Lepidium chalepense (Cardaria chalepensis)</u>
Hoary cress (lens-podded)	<u>Lepidium appelianum (Cardaria pubescens)</u>
Houndstongue	<u>Cynoglossum officinale</u>
Jointed goatgrass	<u>Aegilops cylindrica</u>
Musk thistle	<u>Carduus nutans</u>
Perennial pepperweed (Tall whitetop)	<u>Lepidium latifolium</u>
Perennial Sorghum spp. Including: Johnson grass Columbus grass	<u>Sorghum halepense</u> <u>Sorghum alnum</u>
Phragmites (Common reed)	<u>Phragmites australis ssp.</u>
Poison hemlock	<u>Conium maculatum</u>
Puncturevine (Goathead)	<u>Tribulus terrestris</u>
Quackgrass	<u>Elymus repens</u>
Russian knapweed	<u>Acroptilon repens</u>

<u>Scotch thistle (Cotton thistle)</u>	<u>Onopordum acanthium</u>
<u>Tamarisk (Saltcedar)</u>	<u>Tamarix ramosissima</u>
* <u>Bermudagrass (Cynodon dactylon) may not be considered a noxious weed in Washington County.</u> <u>Triploid Hybrid Bermudagrass is not considered a noxious weed in Utah.</u>	

(6) Noxious and invasive weeds listed in Table [4]5 are Class 4: Prohibited for sale or propagation. They are declared to be:

(a) not native to Utah; and

(b) a threat to the state through retail sales or propagation in the nursery and greenhouse industry.

(i) The department designates annual, biennial, or perennial plants that have the potential or are known to be detrimental to human or animal health[-], the environment, public roads, crops, or other property as prohibited noxious weeds.

(ii) Section R68-8-2 Prohibited Noxious Weed Seeds and [F]Restricted [noxious w]Weed [s]Seeds are listed [in Section R68-8-2].

TABLE 5 Class 4 (Prohibited)	
Weed Name	Binomial Name
<u>Cogongrass (Japanese blood grass)</u>	<u>Imperata cylindrica</u>
<u>Dames Rocket</u>	<u>Hesperis matronalis</u>
<u>Myrtle spurge</u>	<u>Euphorbia myrsinites</u>
<u>Russian olive</u>	<u>Elaeagnus angustifolia</u>
<u>Scotch broom</u>	<u>Cytisus scoparius</u>

(7) Tables 1, 2, 3, 4, and 5 list the weeds officially designated and published as noxious weeds for Utah. Each county may have different priorities regarding specific state designated noxious weeds and ~~[are able to]~~may reprioritize these weeds for ~~[their own needs]~~the county weed list.

[TABLE 1 Class 1A (EDRR Watch List)]	
Weed Name	Binomial Name
<u>Common crupina</u>	<u>Crupina vulgaris</u>
<u>Small bugloss</u>	<u>Anchusa arvensis</u>
<u>Mediterranean sage</u>	<u>Salvia aethiopsis</u>
<u>Spring millet</u>	<u>Milium vernale</u>
<u>Syrian bean eaper</u>	<u>Zygophyllum fabago</u>
<u>Plumeless thistle</u>	<u>Carduus acanthoides</u>

TABLE 2 Class 1B (EDRR)	
Weed Name	Binomial Name
African rue	Peganum harmala
Camelthorn	Alhagi maurorum
Garlic mustard	Alliaria petiolate
Purple starthistle	Centaurea calcitrapa
Goat's rue	Galega officinalis
African mustard	Brassica tournefortii
Giant reed	Arundo donax
Japanese knotweed	Polygonum cuspidatum
Blueweed (Vipers bugloss)	Echium vulgare
Elongated mustard	Brassica elongate
Common St. Johnswort	Hypericum perforatum
Oxeye daisy	Leucanthemum vulgare
Cutleaf vipergrass	Scorzonera laciniata
Ventenata (North African grass)	Ventenata dubia
Malta starthistle	Centaurea melitensis

TABLE 3 Class 2 (Control)	
Weed Name	Binomial Name
Leafy spurge	Euphorbia esula
Medusahead	Taeniatherum caput-medusae
Rush skeletonweed	Chondrilla juncea
Spotted knapweed	Centaurea stoebe
Purple loosestrife	Lythrum salicaria
Squarrose knapweed	Centaurea virgata
Dyers woad	Isatis tinctoria
Yellow starthistle	Centaurea solstitialis
Yellow toadflax	Linaria vulgaris
Diffuse knapweed	Centaurea diffusa
Black henbane	Hyoscyamus niger
Dalmation toadflax	Linaria dalmatica

TABLE 4 Class 3 (Containment)	
Weed Name	Binomial Name
Russian knapweed	Aeroptilon repens
Houndstounge	Cynoglossum officinale
Perennial pepperweed (Tall whitetop)	Lepidium latifolium
Phragmites (Common reed)	Phragmites australis ssp.
Tamarisk (Saltcedar)	Tamarix ramosissima
Hoary cress (globe-podded)	Lepidium draba (Cardaria draba)
Hoary cress (heart-podded)	Lepidium chalapense (Cardaria chalapensis)
Hoary cress (lens-podded)	Lepidium appelianum (Cardaria pubescens)
Canada thistle	Cirsium arvense

Poison hemlock	Conium maculatum
Musk thistle	Carduus nutans
Quackgrass	Elymus repens
Jointed goatgrass	Aegilops cylindrica
Bermudagrass*	Cynodon dactylon
Perennial Sorghum spp. Including:	
Johnson grass	Sorghum halepense
Columbus grass	Sorghum almum
Scotch thistle (Cotton thistle)	Onopordum acanthium
Field bindweed (Wild Morning glory)	Convolvulus spp.
Puncturevine (Goathead)	Tribulus terrestris
* Bermudagrass (Cynodon dactylon) shall not be a noxious weed in Washington County and shall not be subject to Title 4, Chapter 17, the Utah Noxious Weed Act within the boundaries of that county. It shall be a noxious weed throughout any other areas of the state and shall be subject to state laws.	

TABLE 5 Class 4 (Prohibited)	
Weed Name	Binomial Name
Cogongrass (Japanese blood grass)	Imperata cylindrica
Myrtle spurge	Euphorbia myrsinites
Dames Rocket	Hesperis matronalis
Scotch broom	Cytisus scoparius
Russian olive	Elaeagnus angustifolia]

R68-9-4. Designations, Publications, and Prescribed Treatment for Articles Capable of Disseminating Noxious Weeds.

(1) [The following articles are designated and published as capable of disseminating noxious weeds.] Any person using [these] articles in a manner that puts the articles at risk of contamination with noxious and invasive weeds shall treat them with the minimum treatment required to prevent the dissemination of noxious weed seeds or parts of noxious weed plants that could cause new growth.

(2) The department designates and publishes the following articles as capable of disseminating noxious and invasive weeds.

(a) Machinery and Equipment.

(i) A person, company, or corporation may not:

(A) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners, or other farm vehicles or machinery into the state without cleaning the equipment to ensure it is free from any noxious weed seed or plant parts; or

(B) move any harvesting or threshing machinery, portable feed grinders, or portable seed cleaners from any farm infested with any noxious weed without cleaning the equipment to ensure it is free from any noxious weed seed and plant parts.

(ii) Threshing machinery that is contaminated with noxious weeds shall be cleaned immediately following the threshing of grain or seed by:

(A) removing any loose material from the top and side of the machine by sweeping with a blower;

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(B) opening the lower end of the elevator, return and measuring device, and removing infested material from shakers, sieves, and other places of lodgement;

(C) running the machine empty for at least five minutes, alternately increasing and retarding the speed; and

(D) following the manufacturer's detailed suggestions for cleaning the machine.

(b) Farm Trucks and Common Carriers.

(i) A person, company, or corporation may not transport seed, screenings, or feed of any kind containing noxious weed seed over or along a highway in this state or on any railroad unless the seed, screenings, or feed containing noxious weed seed is carried or transported in vehicles or containers that will prevent the leaking or scattering of the seed, screenings, or feed containing noxious weed seed.

(ii) A common carrier shall thoroughly clean cars, trucks, vehicles, or other receptacles [-]after they deliver each load [~~has been delivered~~] to a consignee and destroy any noxious weed seeds or plant parts before placing the car, truck, vehicle, or receptacle into service.

(c) Seed.

(i) A person, firm, or corporation may not sell, offer or expose for sale, or distribute any agricultural, vegetable, flower, or tree and shrub seeds for seeding purposes that contains any seeds of those weeds declared noxious by the department.

(ii) A department agricultural inspector shall remove any lots of seeds offered for sale that [~~are found~~]they find to contain noxious weed seeds.

(A) The seed may be recleaned under the supervision of the inspector, and if found to be free from noxious weed seeds, released for sale or distribution; otherwise, the seed shall be:

(I) returned to the point of origin;

(II) shipped to another state where the weed shall be returned to the point of origin;

(III) shipped to another state where the weed seed is not noxious; or

(IV) destroyed or processed in a manner as to destroy the viability of the weed seeds.

(d) Screenings Sold for Livestock Feed.

(i) A person that uses screenings in commercial feed or sells them to an ultimate consumer shall ensure that, any screenings or by-products of cleaning grains or other seeds containing noxious weed seeds are ground fine enough or otherwise treated to destroy the weed seeds so that the finished product contains at most six whole noxious weed seeds per pound.

(ii) The operator of a mill and plant that cleans or processes any grains or other seeds shall grind or otherwise treat any screenings containing noxious weed seeds to destroy the weed seeds to the extent that the tolerance in this rule is not exceeded before allowing the grains or other seeds to be removed from the mill or plant.

(A) Screenings may be moved to another plant for grinding and treatment, provided that each container or shipment is labeled with the words "screenings for processing - not for seeding or feeding" and with the name and address of the consignor and the consignee.

(e) Livestock Feed Material.

(i) A person, company, or corporation [~~shall~~]may not sell or offer for sale, barter, or give away to the ultimate consumer any livestock feed material, including whole grains, that contain more than six whole noxious weed seeds per pound.

(A) Whole feed grain that exceeds this tolerance of noxious weed seeds may be sold to commercial processors or

commercial feed mixers if the manner of processing will reduce the number of whole noxious weed seeds to no more than six per pound.

(f) Hay, Straw, or Other Material of Similar Nature.

(i) A person, company, or corporation may not:

(A) sell or offer for sale, barter, or give away any hay, straw, or other material of similar nature that is contaminated with mature noxious weed seeds or parts of noxious weed plants that could cause new growth; or

(B) alter, change, or falsify the information contained on a phytosanitary certificate.

(ii) Manure produced from grain, hay, or other forage infested with noxious weeds may only be dumped on the premises of the owner of the manure.

(g) Soil, Sod, and Nursery Stock.

(i) A person, company, or corporation may not remove soil, sod, or nursery stock that contains or is contaminated with noxious weed seeds or parts of the plant that could cause new growth from the premises where it is located until it is cleaned of weed seed or plant parts.

(ii) Contaminated soil may be used for restrictive non-planting purposes with permission and under the direction of the County Weed Supervisor or a department representative.

(h) Livestock.

(i) A person, company, or corporation may not allow livestock that has been fed with grain, hay, or other forage containing noxious weed seeds to range or graze upon fields other than those upon which they have been so fed for 72 hours following the feeding. During this period, the livestock shall be fed materials not contaminated with noxious weed seeds.

(2) Any person, company, or corporation [~~shall~~]may not sell, barter, or give away any noxious weed plants or seeds for any purpose.

R68-9-5. Reports from Counties.

(1) The commission of each county, with the aid of their County Weed Control Board and their County Weed Supervisor, shall submit an "Annual Progress Report of County Noxious Weed Control Program" to the commissioner by January 15 of each year, covering the activities of the previous calendar year.

(2) The department shall provide a form for this report.

R68-9-6. Notices.

(1) On or before May 1 of each year, each County Weed Control Board shall publish a general notice of the noxious weeds in the county [-]on the Utah Public Notice Website. The general [~~N~~]notice shall meet the applicable requirements listed in Section 63G-30-102. [~~Notice may also be published at any other times determined by t~~]

(2) The County Weed Control Board[-]. may determine and publish the general notice at any time and shall include:

(a) [~~The general notice shall require~~]a requirement that property owners control and prevent the spread of noxious weeds on land in their possession, or under their control[~~-and~~];

(b) [~~shall~~]a warning that if they fail to comply with Subsection R68-9-6(2)(a), then county authorities may impose weed control measures[-may be imposed at the direction of county authorities.];

(b)c [~~The general notice shall also include a~~]the state list of noxious and invasive weeds [declared noxious for Utah]as listed in tables 1-5 in this rule.

(2)3(a) Following publication of a general notice, if a County Weed Control Board determines that definite weed control

measures are required to control noxious weeds on a particular property, they may serve notice on an owner or the person in possession of the property.

(b) The notice will give specific instructions concerning when and how the owner or the person in possession of the property shall control noxious weeds ~~[are to be controlled]~~ within a named period.

~~(3)~~4) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

~~(4)~~5) ~~[#]After five working days have passed from when a commission declares a property a public nuisance[and provides reasonable notifications]~~, the commission may take action to control or prevent the spread of noxious weeds on a particular property~~[-A]~~ and the owner of record or person in possession of the property shall pay any expenses incurred by the county~~[-shall be paid by the owner of record or the person in possession of the property]~~.

(6) Following the action taken, a final notice shall:

(a) ~~[A notice shall]~~ be provided to the person in possession of the property~~[-]~~;

(b) show~~[ing]~~ an itemized cost statement of the labor and materials used in the control measures consistent with Section 4-17-110~~[-]~~;

(c) ~~[-including]~~ include a demand for payment within 90 days~~[-]~~; and

~~(b)~~d) ~~[This notice shall]~~ a statement that the incurred expense constitutes a lien against the property and may be added to the general property taxes collectible by the county treasurer if payment is not made on time.

KEY: noxious weeds, weed classifications, weed control
Date of Last Change: ~~[October 30, 2023]~~2024
Notice of Continuation: April 25, 2023
Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-17-115(3); 4-17-103; 63G-30-102

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R152-22	Filing ID: 56470

Agency Information

1. Department:	Commerce	
Agency:	Consumer Protection	
Building:	Heber M. Wells	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146704	
City, state and zip:	Salt Lake City, UT 84114-6704	
Contact persons:		
Name:	Phone:	Email:
Daniel Larsen	801-530-6601	dcprules@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R152-22. Charitable Solicitations Act Rule
3. Purpose of the new rule or reason for the change:
This rule is being repealed and reenacted as a result of H.B. 43, passed in the 2024 General Session, which substantially modified Title 13, Chapter 22, Charitable Solicitations Act.
4. Summary of the new rule or change:
This reenacted version of this rule varies from the repealed version in several respects that reflect changes made to Title 13, Chapter 22, Charitable Solicitations Act, during the 2024 General Session.
The reenacted version of this rule: removes requirements related to charitable organizations registering with the Division of Consumer Protection (Division) because those organizations are no longer required to register with the Division; modifies requirements for professional fund raisers and professional fund raising consultants who register with the Division; establishes requirements for a professional fund raiser to register a fund raising campaign with the Division; and conforms this rule to the Rulewriting Manual for Utah and to Executive Order No. 2021-12.
The reenacted version of this rule also reserves a section to establish filing requirements for a charitable organization's financial reports. These requirements are not effective until 01/01/2025, and will be published in a bulletin nearer to the time they are intended to take effect.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule is not expected to have any fiscal impact on state government revenues or expenditures.
Any fiscal impact on state government was addressed in the Fiscal Note to HB 43 (2024).
B) Local governments:
This rule is not expected to have any fiscal impact on local governments' revenues or expenditures because it does not create any new requirement local governments must follow, nor does it otherwise constrain local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):

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This rule is not expected to have any fiscal impact on small businesses.

Any fiscal impact on small businesses was addressed by the Fiscal Note to HB 43 (2024).

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

This rule is not expected to have any fiscal impact on non-small businesses.

Any fiscal impact on non-small businesses was addressed by the Fiscal Note to HB 43 (2024).

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**):

This rule is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it does not impose requirements upon them beyond what will be required by Title 13, Chapter 22, as amended by HB 43 (2024).

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

This rule does not impose compliance costs upon affected persons beyond what is required by Title 13, Chapter 22, as amended by HB 43 (2024).

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	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 Commerce, Margaret Busse, 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 13-2-5(1)	Subsection 13-22-9(1)(b)(xiv)	Subsection 13-22-15(2)(b)
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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:	06/14/2024
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9. This rule change MAY become effective on: 06/21/2024

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:	Daniel Larsen, Managing Analyst	Date:	05/01/2024
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R152. Commerce, Consumer Protection.

~~**R152-22. Charitable Solicitations Act Rule.**~~

~~**R152-22-1. Authority.**~~

~~These rules are promulgated under Section 13-2-5(1) to facilitate the orderly administration of the Charitable Solicitations Act (hereafter, "the Act"), Title 13, Chapter 22.~~

~~**R152-22-2. Definitions. Clarifications.**~~

~~(1) The definitions set forth in Section 13-22-2 are incorporated herein.~~

~~(2) In addition the following definition as regards the administration of R152-22 and Chapter 22 of Title 13 is deemed necessary by the division.~~

~~(a) "Parent foundation" or "Parent organization" means a charitable organization which charters or affiliates local units under terms specified in the parent charitable organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or bylaws. For purposes of registration under Section 13-22-5 a parent foundation or organization is deemed to be soliciting, requesting, promoting, advertising, or sponsoring solicitation in the state within the meaning of said section and thus requiring registration if any part of the funds raised within the state or from residents and inhabitants of the state by the local chapter, branch, area, office or similar affiliate of any other person located within and maintaining a presence in the state inure to the benefit of the parent foundation or organization whether in the form of a percentage division or "split" or affiliation fee or fees paid by the local chapter, branch, area, office or similar affiliate of any other person located within and maintaining a presence in the state.~~

~~(1) In addition the following clarification of definition as regards the administration of R152-22 and Chapter 22 of Title 13 is deemed necessary by the division.~~

~~(a) "Vending device" as defined by Section 13-22-2(12) and "Vending device decal" as defined by Section 13-22-2(13) as they relate to the necessity of registering as a charitable organization, professional fund raiser, professional fund raising counsel or consultant creates a rebuttable presumption that the party utilizing such a vending device and or vending device decal is acting as such.~~

R152-22-3. Application for Charitable Organization Permit.

~~(1) Any application for registration as a charitable organization shall be executed on the form authorized by the Division.~~

~~(2) A statement of collections and expenditures shall be executed on the form authorized by the division.~~

~~(3) Applicants or registrants shall submit to the division, on request:~~

~~(a) an updated copy of a financial statement prepared by an independent certified public accountant;~~

~~(b) a copy of any written contracts, agreements or other documents showing to whom the applicant or registrant disbursed the funds or a portion of the funds contributed to it;~~

~~(c) a copy of the applicant's or registrant's articles of incorporation or other organizational documentation showing current legal status;~~

~~(d) a copy of the applicant's or registrant's current by laws or other policies and procedures governing day to day operations;~~

~~(e) a setting forth of the applicant's or registrant's registered agent within the State of Utah for purposes of service of process, including his, her or its name, street address, telephone and facsimile numbers;~~

~~(f) a copy of the applicant's or registrant's IRS Section 501(c)(3) tax exemption letter, if applicable;~~

~~(g) either the social security number or driver's license number of each of the applicant's or registrant's board of directors and officers, if a corporation, or partners or the individual applicant or registrant, for the purposes of background checks;~~

~~(h) as to the most recent tax year;~~

~~(A) if the applicant filed an IRS Form 990, a copy of the most recent IRS filing;~~

~~(B) if the applicant filed an IRS Form 990-EZ, 990-N, or 990-PF;~~

~~(I) a copy of the most recent IRS filing; and~~

~~(II) a completed Utah Statement of Functional Expenses;~~

~~(C) if the applicant is not required to file any type of IRS Form 990, a completed Utah Statement of Functional Expenses; or~~

~~(D) if the applicant has no previous financial information, the financial portion of the application, completed on a pro forma basis; and~~

~~(i) a statement as to whether the charitable organization has conducted activities regulated by the Charitable Solicitations Act, Utah Code Title 13, Chapter 22, without being duly registered with the Division.~~

~~(4) All initial applications and renewals of registration in accordance with Section 13-22-6 shall be processed within twenty (20) business days after their receipt by the division.~~

R152-22-4. Financial Reports and IRS Form 990s.

~~(1) Based on the intent of Section 13-22-15(4) an "annual financial report or IRS Form 990" means the most recent or previous fiscal year only will be accepted by the division.~~

~~(2) Based on the intent of Section 13-22-15(2) "within 30 days after the end of the year reported" means the end of the registration year just completed.~~

R152-22-5. Notice of Claim of Exemption.

~~(1) A charitable organization or individual claiming an exemption from registration under Section 13-22-8 shall file a notice of claim of exemption with the division, prior to conducting any solicitation.~~

~~(2) A notice of claim of exemption shall contain:~~

~~(a) a detailed description of the claimant and its charitable purposes;~~

~~(b) a citation to the exemption within Section 13-22-8 being claimed and a detailed explanation of why the exemption applies;~~

~~(c) any documents supporting the notice of claim of exemption;~~

~~(d) a notarized statement from the organization's chief executive officer or the individual certifying that the statements made in the notice of claim of exemption are true to the best of his knowledge; and~~

~~(e) such other additional information the division deems necessary to support such claim of exemption.~~

~~(3) This rule does not relieve any exempt organization or individual of other applicable reporting requirements under the Act.~~

~~(4) The division shall charge a reasonable fee to cover the expense of processing the notices of claim of exemption received pursuant to this rule.~~

R152-22-6. Application for Professional Fund Raiser, Fund Raising Counsel or Consultant Permit.

~~(1) Any application for a professional fund raiser, fund raising counsel or consultant permit shall be executed on the form provided by the Division.~~

~~(2) The application shall include a copy of all contracts, agreements, or other documents showing:~~

~~(a) the relationship and terms of employment or engagement between the applicant and the organization on whose behalf the applicant proposes to act as a professional fund raiser, fund raising counsel or consultant;~~

NOTICES OF PROPOSED RULES

~~_____ (b) the terms of any direct or indirect compensation, in whatever form, paid or promised to the applicant, including the method of payment and the basis for calculating the amounts of payment;~~

~~_____ (c) a copy of the applicant's or registrant's articles of incorporation or other organizational documentation showing current legal status;~~

~~_____ (d) a copy of the applicant's or registrant's current by-laws or other policies and procedures governing day-to-day operations;~~

~~_____ (e) a setting forth of the applicant's or registrant's registered agent within the State of Utah for purposes of service of process, including his, her or its name, street address, telephone and facsimile numbers;~~

~~_____ (f) either the social security number or driver's license number of each of the applicant's or registrant's board of directors and officers, if a corporation, or partners or the individual applicant or registrant, for the purposes of background checks; and~~

~~_____ (g) a statement as to whether the professional fund-raiser, fund-raising counsel or consultant has conducted activities regulated by the Charitable Solicitations Act, Utah Code Title 13, Chapter 22, without being duly registered with the Division.~~

~~_____ (3) All initial applications and renewals of registration in accordance with Section 13-22-9 shall be processed within twenty (20) business days after their receipt by the division.~~

~~_____ (4) Professional fund-raisers that provide services only through online or web-based software may submit a copy of the terms and conditions that all users must agree to along with evidence demonstrating that a user accepted the terms and conditions.~~

R152-22-7. Incomplete Applications.

~~_____ (1) Based on Sections 13-22-6(3) and 13-22-9(3) the division may grant a charitable organization, professional fund-raiser, professional fund-raising counsel or consultant a 10-calendar day "grace" period for an incomplete application prior to assessing a penalty fee.~~

~~_____ (2) Based on Section 13-22-6(1)(xiv)(B) and Section 13-22-6(3) if a charitable organization's initial application or renewal application is deemed incomplete due to the organization's professional fund-raiser, professional fund-raising counsel or consultant not being registered the division may assess a penalty fee accordingly.~~

~~_____ (3) Based on Sections 13-22-6(3) and 13-22-9(3) the division may as regards any charitable organization, professional fund-raiser, professional fund-raising counsel or consultant whose status is that of "incomplete" or "suspended" for more than 12 months permit such to elect to submit the accumulated penalty fee or cease solicitations in the state for a 1-year period prior to making reapplication.~~

~~_____ (4) Based on Sections 13-22-6(3) and 13-22-9(3) the division shall impose a penalty fee of \$25 for each calendar month or part of a calendar month after the date on which a permit application or renewal was due to be filed or such permit application or renewal remains incomplete.~~

R152-22-8. Commencement of Solicitation.

~~_____ (1) After registration and receipt of a current permit prior to commencement of each solicitation campaign thereafter each professional fund-raiser, fund-raising counsel or consultant or charitable organization shall notify the Division in writing at least ten (10) days in advance of its intent to commence a campaign.~~

~~_____ (2) Professional fund-raisers, fund-raising counsels or consultants shall not commence or conduct or continue solicitations~~

~~on behalf of a charitable organization that is not currently registered. "Not currently registered" means not being in possession of a current permit during all times during the solicitation campaign. A professional fund-raiser, fund-raising counsel or consultant act at their own peril if prior to commencement of any individual solicitation campaign it fails or neglects to confirm with the division that the charitable organization is in fact currently registered and will be during the full extent of any proposed solicitation campaign.~~

~~R152-22-9. Grounds for Denial, Suspension or Revocation Procedure.~~

~~_____ (1) The director may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, issue an order to deny an initial or renewal application for registration as per Section 13-22-12(5), and suspend or revoke a registration, permit, or information eard at anytime, on the grounds set forth in Section 13-22-12(3); and if the necessity of such denial, suspension or revocation in the director's opinion is based on facts known by the division or presented to the division showing that an immediate and significant danger to the public health, safety or welfare exists, and such threat requires immediate action by the director that such denial, suspension or revocation may issue forthwith as an emergency order, subject to the division's compliance with Section 63G-4-502.~~

~~_____ (2) Any hearing convened in accordance with R152-22-11(1), shall be convened within 5 business days of the request for or order of the Division requiring the same. Administrative hearing determinations regarding such Division actions shall receive priority and decisions shall be expedited so as to be issued within no more than 5 business days of such hearings.]~~

R152-22. Charitable Solicitations Act Rule.

R152-22-1. Purpose.

~~_____ The purpose of this rule is to:~~

~~_____ (1) define terms;~~

~~_____ (2) establish the form of the registration application for a professional fund-raiser and professional fund-raising consultant;~~

~~_____ (3) establish the process by which a person may register as a professional fund-raiser or professional fund-raising consultant;~~

~~_____ (4) establish the process by which a professional fund-raiser may register a fund-raising campaign;~~

~~_____ (5) establish the manner and process by which a charitable organization shall file forms in accordance with Subsection 13-22-15(1); and~~

~~_____ (6) aid the division's administration and enforcement of Title 13, Chapter 22, Charitable Solicitations Act.~~

R152-22-2. Authority.

~~_____ This rule is promulgated in accordance with Subsections 13-2-5(1), 13-22-9(1)(b)(xiv), and 13-22-15(2)(b).~~

R152-22-3. Definitions.

~~_____ As used in this rule and Section 13-22-24:~~

~~_____ (1) "Bank account" means any account in which a professional fund-raiser holds charitable contributions collected in connection with a fund-raising campaign.~~

~~_____ (2) "Bank account information" means:~~

~~_____ (a) the bank account number;~~

~~_____ (b) the name of the bank account holder;~~

~~_____ (c) the name and address of the bank, credit union, or other financial institution that provides the bank account to the professional fund-raiser.~~

R152-22-4. Professional Fund Raiser and Professional Fund Raising Consultant Registration.

(1) A professional fund raiser or professional fund raising consultant that applies for registration shall:

(a) apply using a form approved by the division, including information required by Section 13-22-9;

(b) submit its application electronically, or by using another method approved by the division; and

(c) pay the required application fee.

(2) A professional fund raiser or professional fund raising consultant that discloses an injunction, judgment, administrative order, or conviction in accordance with Subsection 13-22-9(1)(b)(ix) or (xi) shall include with its application:

(a) a case number or similar identifier, if available;

(b) information that identifies the jurisdiction in which the injunction, judgment, administrative order, or conviction occurred;

(c) a brief description of the underlying action; and

(d) a copy of the injunction, judgment, administrative order, or conviction.

R152-22-5. Fund Raising Campaign Registration.

(1) A professional fund raiser shall submit information required by Section 13-22-24 using the form and method approved by the division.

(2) A fund raising campaign registration shall include the start and end date for the fund raising campaign.

R152-22-6. Registered Agent in Utah.

A registered agent identified by a professional fund raiser in accordance with Subsection 13-22-9(1)(b)(vi) shall have a mailing address in Utah.

R152-22-7. Charitable Organization Financial Reports.

Reserved.

KEY: charities, consumer protection, solicitations, registration

Date of Last Change: 2024[September 21, 2015]

Notice of Continuation: November 24, 2021

Authorizing, and Implemented or Interpreted Law: 13-2-5; 13-22-6; 13-22-8; 13-22-9; 13-22-10

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R152-34	Filing ID: 56477
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Agency Information

1. Department:	Commerce
Agency:	Consumer Protection
Building:	Heber M. Wells
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 146704
City, state and zip:	Salt Lake City, UT 84114-6704

Contact persons:

Name:	Phone:	Email:
Daniel Larsen	801-530-6601	dcprules@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R152-34. Utah Postsecondary School and State Authorization Act Rule

3. Purpose of the new rule or reason for the change:

The purpose of this change is to establish what an accredited postsecondary school that is exempt in accordance with Section 13-34-111 must file with the Division of Consumer Protection (Division) to obtain a state authorization certificate in accordance with Section 13-34-302.

4. Summary of the new rule or change:

This change addresses a subset of accredited postsecondary schools that are exempt from Sections 13-34-201 through 13-34-205, but require a state authorization certificate to comply with 34 CFR 600, et seq.

The change reflects the Legislature's intent to reduce the regulatory burden imposed on a postsecondary school that is exempt in accordance with Section 13-34-111, while also allowing the accredited postsecondary school to satisfy requirements set by the United States Department of Education.

Fiscal Information

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

A) State budget:

This rule is not expected to have any fiscal impact on state government revenues or expenditure beyond a potential negligible reduction in registration processing time applicable to one registration application every two years.

B) Local governments:

This rule is not expected to have any fiscal impact on local governments because it does not create any new requirement local governments must follow, nor does it otherwise constrain local government.

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

This rule is not expected to have any fiscal impact on small businesses.

NOTICES OF PROPOSED RULES

Of the limited number of entities to which this rule is expected to apply, none are small businesses.

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

This rule is not expected to have any fiscal impact on non-small businesses.

Of the limited number of entities to which this rule is expected to apply, none are 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**):

This rule is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities.

While the change is expected to apply to a limited number of private organizations, it merely reflects the requirements imposed by Sections 13-34-111 and 13-34-201 through 13-34-205 and does not increase or reduce costs beyond those already imposed by those sections.

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

This rule does not impose compliance costs for affected persons beyond what is required by Title 13, Chapter 34, Utah Postsecondary School and State Authorization Act.

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	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 Commerce, Margaret Busse, 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 13-2-5(1)	Section 13-34-103	Section 13-34-203
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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: 06/14/2024

9. This rule change MAY become effective on: 06/21/2024

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:	Daniel Larsen, Managing Analyst	Date:	05/01/2024
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R152. Commerce, Consumer Protection.

R152-34. Utah Postsecondary School and State Authorization Act Rule.

R152-34-1. Purpose.

The purpose of this rule is to:

- (1) establish the form and content of the registration statement;
- (2) specify information a postsecondary school must provide with a registration statement;

(3) establish how a postsecondary school may prove its financial viability in accordance with Subsections 13-34-202(1)(d) and R152-34-3(6);

(4) establish when a surety bond, certificate of deposit, or irrevocable letter of credit may be required;

(5) establish the form, content, and amount of a surety bond, certificate of deposit, or irrevocable letter of credit required in accordance with Section 13-34-202;

(6) provide for the execution and cancellation of a surety bond, certificate of deposit, or irrevocable letter of credit a postsecondary school obtains in accordance with Section 13-34-202;

(7) establish the amount of money a school may charge a student in a 12-month period to qualify for an exemption in accordance with Subsection 13-34-111(3);

(8) specify acts and practices that are prohibited in accordance with Section 13-34-108;

(9) specify the electronic format in which a postsecondary school is required to maintain an educational credential, enrollment agreement, and financing agreement in accordance with Section 13-34-203;

(10) specify the student outcomes a postsecondary school must disclose in accordance with Section 13-34-109;

(11) establish the type and number of credits required to obtain a degree or diploma from an unaccredited postsecondary school;

(12) establish:

(a) standards for granting to a postsecondary school a state authorization certificate in accordance with a reciprocity agreement;

(b) any filing or document required for a postsecondary school to obtain a state authorization certificate in accordance with a reciprocity agreement; and

(c) penalties for a postsecondary school that fails to comply with Section R152-34-11; and

(13) aid the division's administration and enforcement of Title 13, Chapter 34, Utah Postsecondary School and State Authorization Act.

R152-34-2. Authority.

This rule is promulgated in accordance with Subsection 13-2-5(1), Section 13-34-103, and Section 13-34-203.

R152-34-3. Definitions.

As used in this rule:

(1) "Change of ownership" means a change to any owner of a postsecondary school, including:

(a) sale or merger of a postsecondary school; or

(b) any other occurrence that changes whether a person is an owner in accordance with Subsection R152-34-3(7).

(2) "Composite score" means the score calculated by the United States Department of Education using a postsecondary school's financial information in accordance with 34 CFR 668.171 et seq.

(3) "Field trip" means a congregation in Utah of students and instructors from a postsecondary school that is not located in Utah:

(a) for instruction in the subject of enrollment;

(b) that lasts no more than ten calendar days; and

(c) occurs no more than three times per year in the same program.

(4) "Gross tuition revenue" means the total amount of tuition and fees collected, reduced by the amount of refunds paid, by

a postsecondary school during the most recently completed 12-month fiscal year.

(5) "Material information" means information that could reasonably influence whether the division may deny, suspend, or revoke a registration statement, registration certificate, or state authorization certificate, including a change of ownership.

(6) "Other proof of financial viability" means financial information that demonstrates the postsecondary school:

(a) based on its audited financial statements, has a composite score of 1.5 or greater for the current year;

(b)(i) based on its audited financial statements, has a composite score of 1.0 through 1.4 for the current year;

(ii) in one of the immediately preceding two years, had a composite score of 1.5 or greater; and

(iii) provides information sufficient to allow the division, at its discretion, to determine the risk to student funds posed by a postsecondary school's financial condition, including:

(A) a detailed explanation of the events that caused the reduced composite score;

(B) the postsecondary school's plan to improve the composite score; and

(C) a teach out plan;

(c) based on its reviewed financial statements for the preceding two fiscal years:

(i) had two consecutive years of a current ratio at or above 1.0; and

(ii) had two consecutive years of a debt to equity ratio no greater than 3.0;

(d) based on its unaudited financial statements for the preceding two fiscal years:

(i) had two consecutive years of a current ratio at or above 1.0;

(ii) had two consecutive years of a debt to equity ratio no greater than 3.0; and

(iii) has an average credit score exceeding 580 for the postsecondary school's owners; or

(e) provides sufficient other information to the division such that the division director may, at the director's discretion, determine that the postsecondary school has demonstrated financial viability.

(7) "Owner" means a person who directly or indirectly:

(a) exercises substantial control over a postsecondary school; or

(b) owns or controls at least 20 % of the ownership interests in a postsecondary school.

(8) "Physical presence," as defined by Subsection 13-34-101(12), does not include a field trip or supervised field experience.

(9) "Supervised field experience" means a student learning experience that:

(a) occurs at a location in Utah that is not owned, operated, leased, maintained, or controlled by the postsecondary school in which the student is enrolled;

(b) primarily involves practical application of previous education;

(c) is supervised by a supervisor, mentor, faculty member, or other qualified professional who reports to the postsecondary school in which the student is enrolled; and

(d) is part of a program offered by a postsecondary school located outside of Utah in which the student is enrolled.

(10) "Unaccredited postsecondary school" means a postsecondary school that is not accredited by an accrediting agency.

R152-34-4. Registration Statement -- Required Documents and Information.

(1) A postsecondary school shall submit a complete registration statement on a form approved by the division, including all information required by the form and Subsection R152-34-4(2):

- (a) each year, if the postsecondary school is an unaccredited postsecondary school;
- (b) every two years, if the postsecondary school is an accredited postsecondary school; and
- (c) within 30 days of any change to material information required by the registration statement.

(2) A postsecondary school shall include with its registration statement:

- (a) if the postsecondary school is an accredited postsecondary school, a copy of its most recent and active accreditation statement;
- (b) if the postsecondary school is a longstanding nonprofit accredited postsecondary school, a copy of its determination letter from the Internal Revenue Service demonstrating its nonprofit status, and documentation sufficient to demonstrate that it has continuously operated as a nonprofit for 20 years;
- (c) financial documentation demonstrating it is fiscally responsible, including:
 - (i) for a postsecondary school that collected \$500,000 or more in gross tuition revenue, the two most recent fiscal year end audited financial statements completed by a certified public accountant in accordance with GAAP;
 - (ii) for a postsecondary school that collected \$250,000 - \$499,999.99 in gross tuition revenue, the two most recent fiscal year end:
 - (A) audited financial statements completed by an external certified public accountant in accordance with GAAP; or
 - (B) reviewed financial statements completed by an external certified public accountant;
 - (iii) for a postsecondary school that collected \$0 - \$249,999 in gross tuition revenue:
 - (A)(I) the two most recent fiscal year end audited financial statements completed by an external certified public accountant in accordance with GAAP;
 - (II) the two most recent fiscal year end reviewed financial statements completed by an external certified public accountant; or
 - (III) unaudited financial statements for each of the two most recent fiscal years, a commercial credit report, and a personal credit report for each of the postsecondary school's owners;

- (iv) for a postsecondary school that has not previously operated:
 - (A) pro forma financial projections, in a form satisfactory to the division, for the postsecondary school's first 12 months of operation; and
 - (B) a personal credit report for each of the postsecondary school's owners;

- (d) a current certificate of existence or good standing;
- (e) a disclosure indicating whether the postsecondary school, its owner, officer, director, or administrator:
 - (i) has violated, in the preceding 10 years, any state or federal law or rule, not including traffic violations, as determined in a criminal, civil, or administrative proceeding;
 - (ii) is presently being investigated for alleged violations of state or federal law or rule, not including traffic violations;
 - (iii) has been subject to a negative action by an accrediting agency in the preceding 24 months; or

- (iv) is presently being investigated or is subject to any other proceeding by the postsecondary school's accrediting agency;
- (f) a list of programs offered by the postsecondary school, including the total program cost for each program; and
- (g) the number of students enrolled in the postsecondary school.

- (3) A credit report provided to the division shall:
 - (a) be no more than 60 days old;
 - (b) include reports from Equifax, Experian, and Transunion, if available.

(4) Notwithstanding Subsection R152-34-4(1)(b), an accredited postsecondary school shall annually provide to the division financial documentation in accordance with Subsection R152-34-4(2)(c).

(5) A postsecondary school shall submit a renewal registration statement 30 days before its registration certificate or state authorization certificate expires.

(6)(a) A registration statement submitted to the division in accordance with Subsection R152-34-4(1)(c) shall, at the division's discretion, be submitted using:

- (i) electronic mail; or
 - (ii) other electronic means approved by the division.
- (b) If non-material information included in a registration statement becomes incorrect or incomplete, a postsecondary school shall correct the information within 30 days using electronic mail sent to the division.

R152-34-5. Surety Bond, Certificate of Deposit, or Irrevocable Letter of Credit -- Form -- Amount -- Execution and Cancellation -- Other Proof of Financial Viability.

(1) A postsecondary school that provides to the division other proof of financial viability in accordance with Subsection R152-34-3(6) is not required to maintain a surety bond, certificate of deposit, or irrevocable letter of credit.

(2)(a) A postsecondary school shall provide with its registration statement a surety bond, certificate of deposit, or irrevocable letter of credit in a form and amount approved by the division.

(b) A postsecondary school may provide a continuation certificate to demonstrate it maintains a surety bond in accordance with Section 13-34-202 and Section R152-34-5.

(c) A certificate of deposit or irrevocable letter of credit obtained in accordance with Section 13-34-202 and Section R152-34-5 shall be issued or held by a financial institution that has a location in Utah.

(3)(a) A postsecondary school's surety bond, certificate of deposit, or irrevocable letter of credit shall be for an amount based on the postsecondary school's gross tuition revenue, according to the following table:

TABLE Amount of Surety Bond, Certificate of Deposit, or Irrevocable Letter of Credit	
Gross Tuition Revenue	Maximum Amount
\$0.00 - \$50,000	\$12,500
\$50,000.01 - \$100,000	\$25,000
\$100,000.01 - \$200,000	\$50,000
\$200,000.01 - \$300,000	\$75,000
\$300,000.01 - \$400,000	\$100,000
\$400,000.01 - \$500,000	\$125,000
\$500,000.01 - \$1,000,000	\$250,000

\$1,000,000.01 - \$2,000,000	\$500,000
\$2,000,000.01 - \$5,000,000	\$1,250,000
\$5,000,000.01 - \$10,000,000 or greater	\$2,500,000

(b) A postsecondary school that operates in Utah, but does not maintain physical presence in Utah, shall obtain a surety bond, certificate of deposit, or irrevocable letter of credit in an amount based on its gross tuition revenue attributable to Utah residents enrolled in the postsecondary school.

(c) A postsecondary school may obtain more than one surety bond, certificate of deposit, or irrevocable letter of credit to reach the amount required by Subsection R152-34-5(3)(a).

(d) The division may, at its discretion, determine whether a surety bond, certificate of deposit, or irrevocable letter of credit maintained by the postsecondary school, but that is not payable to the division, satisfies, in whole or in part, the requirements of Sections 13-34-202 and R152-34-5.

(4) A postsecondary school that submits pro forma financial projections in accordance with Subsection R152-34-4(2)(c)(iv) shall provide a surety bond, certificate of deposit, or irrevocable letter of credit for an amount:

(a) based on the postsecondary school's projected gross tuition revenue for its first 12 months of operation; and

(b) consistent with Subsection R152-34-5(3)(a).

R152-34-6. Cost Exemption.

A postsecondary school that does not charge any student more than \$3,000 in any 12-month period is exempt in accordance with Subsection 13-34-111(3)(d)(i)(C).

R152-34-7. Prohibited Acts.

Reserved.

R152-34-8. Electronic Format of Educational Credential, Enrollment Agreement, and Financing Agreement.

A postsecondary school shall:

(1) maintain a student's educational credential, enrollment agreement, and financing agreement in a text-searchable Portable Document Format (PDF) file;

(2) maintain a separate PDF file described in Subsection R152-34-8(1) for each student; and

(3) maintain a consistent file naming convention that allows a file described in Subsection R152-34-8(2) to be identified.

R152-34-9. Required Outcome Disclosures.

(1) A postsecondary school shall disclose in writing to its students, and prominently on its website, if one exists:

(a) the graduation or completion rate for its students;

(b) if the postsecondary school's program lasts more than one year, the percentage of students who return after the first year;

(c) if the postsecondary school provides education intended to prepare a student to take an exam required for professional licensure, the rate at which the postsecondary school's students pass the licensure exam; and

(d) the basis for any representation made by the postsecondary school regarding the impact of its program on a student's future earnings.

(2) An accredited postsecondary school may satisfy Subsection R152-34-9(1) by providing to a student:

(a) a document that contains the information present on the accredited postsecondary school's College Scorecard maintained by the United States Department of Education; or

(b) the web address that leads to the accredited postsecondary school's College Scorecard maintained by the United States Department of Education.

R152-34-10. Type and Number of Credits Required for Degree or Diploma Offered by an Unaccredited Postsecondary School.

To award a degree or diploma, a postsecondary school shall require a student to complete:

(1) 60 to 90 credit hours for an associate degree;

(2) 120 to 180 credit hours for a bachelor's degree;

(3) 150 to 225 credit hours for a master's degree; and

(4) 200 to 300 credit hours for a doctorate degree.

R152-34-11. State Authorization Certificate -- Reciprocity Agreement.

(1) An accredited postsecondary school may obtain a state authorization certificate by filing a registration statement in accordance with Section R152-34-4.

(2) A postsecondary school that is exempt from Sections 13-34-201 through 13-34-205 in accordance with Subsection 13-34-111(3) may obtain a state authorization certificate by filing a registration statement on a form approved by the division that includes:

(a) the postsecondary school's:

(i) name, including any alternate name it uses to do business;

(ii) mailing and physical address;

(b) the name, telephone number, and electronic mail address of a person the division can contact regarding the registration statement;

(c) if the postsecondary school is a longstanding nonprofit accredited postsecondary school, a copy of its determination letter from the Internal Revenue Service demonstrating its nonprofit status, and documentation sufficient to demonstrate that it has continuously operated as a nonprofit for 20 years;

(d) a copy of the postsecondary school's current accreditation statement; and

(e) a statement and relevant documents demonstrating which exemption described by Subsection 13-34-111(3) applies to the postsecondary school.

KEY: postsecondary schools, state authorization, registration, consumer protection

Date of Last Change: [January 1,] 2024

Notice of Continuation: May 6, 2022

Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-34-103; 13-34-203

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R305-10	Filing ID: 56443

Agency Information

1. Department:	Environmental Quality
Agency:	Administration
Building:	MASOB
Street address:	195 N 1950 W

City, state and zip:	Salt Lake City, UT	
Mailing address:	PO BOX 144820	
City, state and zip:	Salt Lake City, UT 84114-4820	
Contact persons:		
Name:	Phone:	Email:
Ty Howard	801-536-4403	tyhoward@utah.gov
Erica Pryor	385-499-3416	epryor1@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R305-10. Local Health Department Minimum Performance Standards
3. Purpose of the new rule or reason for the change:
The purpose of this filing is to amend Rule R305-10 which finalizes a formula for distribution that the state of Utah and the health department offices historically have used, but the formula was never formalized in rule until this filing. These amendments align this rule with the current state business practices.
4. Summary of the new rule or change:
The filing serves to align this rule with how the state operates regarding utilizing a formula for distribution among the state and health department offices.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no required costs or savings to state government from this rule. This rule simply outlines the methodology to allocate funds to the local health departments should funds be appropriated by the legislature for such purpose. The methodology used to distribute funds is the same the Department of Environmental Quality (Department) has used previously. However, H.B. 71 from the 2023 General Session now requires this methodology to be included in rule. As there will be no change in procedure, there will be no fiscal impacts to the amendments.

B) Local governments:																
There are no required costs or savings to local governments from this rule. This rule simply outlines the methodology to allocate funds to the local health departments should funds be appropriated by the legislature for such a purpose. The methodology used to distribute funds is the same the Department has used previously. However, H.B. 71 (2023) now requires this methodology to be included in rule. As there will be no change in procedure, there will be no fiscal impacts to the amendments.																
C) Small businesses ("small business" means a business employing 1-49 persons):																
This rule change will not have a fiscal impact on small businesses because this rule does not apply to small business entities.																
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																
The proposed rule changes do not have a fiscal impact on non-small businesses nor will a service be required of them to implement the amendments.																
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 changes do not have a fiscal impact on persons nor will a service be required of them to implement the amendments.																
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 because this rule does not have compliance requirements.																
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																
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2024</th> <th>FY2025</th> <th>FY2026</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2024	FY2025	FY2026	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0
Fiscal Cost	FY2024	FY2025	FY2026													
State Government	\$0	\$0	\$0													
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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 Environmental Quality, Kim D. Shelley, 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 26A-1-116

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: 06/14/2024

9. This rule change MAY become effective on: 06/21/2024
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: Kim D. Shelley, Executive Director	Date: 04/24/2024
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R305. Environmental Quality, Administration.
R305-10. Local Health Department Minimum Performance Standards.

R305-10-1. Authority and Purpose.

(1) This rule is promulgated as required by Subsection 26A-1-106(4). The minimum performance standards apply to local health department services, regardless of funding sources.

(2) The purpose of the Utah Environmental Minimum Performance Standards effort is to bring together Utah Local Health Departments and the Utah Department of Environmental Quality to develop, implement, and monitor core quality measures, [as]ensuring effective and efficient delivery of environmental health programs across Utah.

R305-10-2. Definitions.

(1) "Department" means the Utah Department of Environmental Quality.

(2) "District" means the area and population served by a local health department.

(3) "Environmental Health Programs" means programs that the Utah Department of Environmental Quality has the statutory authority to administer for Utah.

(4) "Funds" means funding allocated by the Legislature to the Utah Department of Environmental Quality for distribution to any participating local health departments by contract.

(5) "Governance Committee" refers to the same committee established pursuant to Subsection 19-1-201(3)

(6) "Local Health Department" means a local health department established under Subsection 26A-1-102(5).

([4]7) "Minimum performance standards" means the minimum duties performed by local health departments for the promotion of environmental quality, including public health administration and environmental health administration including standards for inspection and enforcement, for basic programs of environmental health, not inconsistent with law, as necessary or desirable for the protection of public health, in addition to the powers and duties listed in Section 26A-1-114 and is equivalent to the phrase "minimum performance standards" in Subsection 26A-1-106(4).

(8) "Multi-county Factor" means funds allocated to local health departments to encourage them to form and maintain multi-county health departments.

(9) "Multi-county Health Department" means a local health department that is composed of two or more contiguous counties as defined in Subsection 26A-1-102(7).

(10) "Participating local health department" means a local health department that accepts funds by contract from the Department.

([5]11) "Service delivery plan" means a plan agreed to between the local health department and the Department to coordinate implementation of environmental programs to maximize efficient use of resources and that:

([i]a) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

([i]b) delineates the responsibilities of the [d]Department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

([i]c) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(~~[7]~~[d]) is reviewed and updated annually.

(12) "Total State Population" means the population figures by county as provided by the Governor's Office of Planning and Budget.

R305-10-3. Compliance.

(~~4~~)—The local health department and the [d]Department shall monitor compliance with minimum performance standards.

R305-10-4. Corrective Action.

(1) Except as provided in Subsection R305-10-4(3), if the [d]Department has cause to believe that a local health department is out of compliance with minimum performance standards, the [d]Department shall provide a preliminary assessment to the local health officer that identifies the suspected areas of noncompliance. The local health officer shall respond to each of the areas identified in the preliminary assessment within 30 days of receipt.

(2) After review of the local health officer's response, if the [d]Department determines that the local health department is out of compliance with the minimum performance standards and has not provided a satisfactory response, the [d]Department shall notify the local board of health and the local health officer in writing of its findings and establish a specific time frame for the correction of each area of noncompliance.

(3) The [d]Department shall notify the local board of health and the local health officer if the [d]Department has cause to believe that noncompliance with minimum performance standards represents an imminent danger to the safety or health of the people of the state or the district.

(4) The local board of health shall submit a written corrective action plan that is satisfactory to the [d]Department. The corrective action plan ~~must~~shall include the following:

- (a) date of report;
- (b) areas of noncompliance;
- (c) corrective actions;
- (d) responsible individual; and
- (e) dates of plan implementation and completion.

R305-10-5. Local Health Officers.

(1) The local health department shall ensure that a local health officer is employed that meets the requirements of Section R380-40-5.

(2) The local health officer shall ensure that an ongoing planning process is initiated and maintained that includes: ~~mission statement; community needs assessments; problem statements; goals, outcomes, and process objectives or implementation activities; evaluation; public involvement; and use of available data sources.~~

- (a) a mission statement;
- (b) needs assessments;
- (c) problem statements;
- (d) goals;
- (e) outcomes;
- (f) process objectives or implementation activities;
- (g) evaluation;
- (h) public involvement; and
- (i) use of available data sources.

(3) The local health officer shall promote and protect environmental health within the district to include the following activities:

- (a) coordinate public health services in the district;

(b) direct programs assigned by statute to the local health department, including administering and enforcing state and local health laws, regulations, and standards;

(c) ensure that available data on health status and health problems of the district are reviewed regularly including:

- (i) a report to the board of health at least annually[7]; and
- (ii) an assessment that includes community input at least every five years; and

(d) ensure that information about environmental health and environmental health hazards is disseminated, as appropriate, to protect the health of people in the district.

R305-10-6. Local Health Department Administration.

(1) Local health departments shall exercise the powers and duties as outlined in Section 26A-1-114.

(2) The local health officer shall ensure that fiscal management procedures are developed, implemented, and maintained in accordance with federal, state, and local government requirements.

(3) Each local health department shall have an annual financial audit. The local board of health shall appoint an independent auditor, or the audit may be conducted as part of the county audit and, in any event, the local board of health shall accept the audit or accept responsibility for findings in the audit that apply to the local health department.

(4) Each local health department shall employ an environmental health scientist registered in Utah with education and experience consistent with the position requirements to direct, supervise, evaluate, and be accountable for environmental health activities to protect and promote public health and safety and protect the environment.

R305-10-7. Local Health Department Environmental Health Programs.

(1) Each local health department shall develop, implement, and maintain environmental health programs to meet the special or unique needs of its community as determined by local or state needs assessment and the local board of health.

(2) Environmental health programs provided by local health departments shall be delivered and controlled in accordance with approved budget[7] and evaluated for effectiveness and impact.

(3) Each local health department shall provide environmental health services in compliance with federal, state, and local laws, regulations, rules, policies and procedures[7], and accepted standards of public health.

(4) The [d]Department shall establish a service delivery plan with each local health department to clarify roles and responsibilities of shared environmental health programs.

(5) The [d]Department shall provide specialized training where necessary for the local health department to be successful in accomplishing its responsibilities related to the service delivery plan.

(6) Each local health department shall ensure that there is a program including the maintenance of an inventory of regulated entities or complaints for investigation of complaints about environmental health hazards, to include inspections including corrective actions and an information system that documents the process of receiving, investigating and the final disposition of complaints.

(7) The [d]Department and local health departments shall coordinate inspections, complaint investigations, and enforcement activities on regulated entities where there is joint responsibility and as specified in the Environmental Service Delivery Plan.

R305-10-8. Local Health Department Environmental Emergency Response.

(1) Each local health department shall participate in environmental emergency preparedness efforts, including:

(a)1 identifying local health department roles and responsibilities in emergency response;

(b)2 establishing partnerships with volunteers, emergency response agencies, and other community organizations involved in emergency response;

(c)3 cooperating with the Department ~~of Environmental Quality~~ in fulfilling responsibilities associated with Emergency Support Functions;

(d)4 maintaining an all-hazards response plan;

(e)5 maintaining a continuity of operations plan that shall include employee notification, lines of authority and succession, and prioritized local health department functions; and

(f)6 testing public health preparedness through participation in Department coordinated response drills and exercises.

R305-10-9. General Performance Standards for Local Health Department Laboratory Services.

(1) Each local health department shall ensure that laboratories used to analyze environmental samples have the necessary certification to conduct the applicable tests.

R305-10-10. LHD Formula Language.

(1) Section R305-10-10 specifies the formula for allocating state-appropriated funds to local health departments by contract.

(2) The amount of funds to be allocated between the Department and local health departments shall be determined by the Governance Committee as described in Subsection 19-1-201(4).

(3) The Department finds that due to the programmatic nature of environmental quality needs across the entire state and the fact that environmental quality matters can have varying degrees of severity on health and the environment, that population is not the sole relevant factor in determining need.

(4) The Department adopts the following formula pursuant to Section 26A-1-116 for reallocating to local health departments any increases or decreases in funds.

(a) The Department, in collaboration with the Governance Committee, finds that an equal portion of funding shall be provided, as funds become available and are appropriated by the Legislature for such purpose, to each local health department up to one full time equivalent position (FTE) in accordance with Subsection R305-10-6(4). The amount of funding to cover one FTE shall be determined by the current average salary and benefits cost for an environmental scientist III position within the Department. If sufficient funds are not available to provide each local health department with an FTE, then the Department shall provide an equal portion of funding to each local health department, as is available each year, until such a time the cost for one FTE is met. If additional funds are appropriated beyond the cost to cover one FTE, then the following formula factors shall be applied to allocate the additional funds.

(b) 80% of additional funds are divided among the local health departments based on the percentage of the total state population living within the geographical boundaries of the local health department according to the most current estimate from the Governor's Office of Planning and Budget. At a minimum this factor shall be evaluated by the Governance Committee after the official

Census of the Population is released and four years after the official census is released.

(c) For a multi-county factor, 20% of additional funds are divided among multi-county health departments as follows:

(i) the multi-county factor is made up of two equal parts including the:

(A) number of counties, which is half of the multi-county dollar amount, divided by the total number of counties that make up each multi-county health department and that number is multiplied by the number of counties in each multi-county health department; and

(B) population where each multi-county health department's population, based upon population figures provided by the Governor's Office of Management and Budget, divided by the total population of each of the counties that make up each multi-county health department and that number, a percentage, is multiplied by half of the multi-county dollar amount.

(ii) The Department may, after consulting with the Governance Committee, alter the formula to address documented needs established by valid and accepted data in one or more local health department jurisdictions.

(iii) At no time can a local health department receive more than ten times the per capita amount calculated under this formula than any other local health department.

(5) Subsections R305-10-10(5)(a) through (c) are exceptions applicable only to Section R305-10-10.

(a) If one or more counties of a multi-county health department withdraw from the multi-county health department pursuant to Subsection 26A-1-122(2), the funds allocated to the original multi-county health department under the formula specified in Section 26A-1-116, shall be reallocated at the next funding cycle among the counties that made up that original multi-county health department. Funds allocated to other local health departments may not be considered for reallocation unless the entire formula is reconsidered through the appropriate process as currently established by the Governance Committee.

(b) The Department shall assist in this effort to ensure an appropriate reallocation of funds.

(c) The funding formula may be reconsidered by the Utah Department of Environmental Quality Governance Committee at an appropriate time that ensures the integrity of the statewide environmental health system with no additional interruption to statewide environmental health efforts.

KEY: administrative procedures, local health departments

Date of Last Change: 2024~~February 23, 2021~~

Authorizing, and Implemented or Interpreted Law: 19-1-201; 26A-1-106(4)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R307-315	Filing ID: 56483
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Agency Information

1. Department:	Environmental Quality
Agency:	Air Quality
Building:	MASOB

NOTICES OF PROPOSED RULES

Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT	
Mailing address:	PO Box 144820	
City, state and zip:	Salt Lake City, UT 84114-4820	
Contact persons:		
Name:	Phone:	Email:
Ryan Bares	801-536-4216	rbares@utah.gov
Erica Pryor	385-499-3416	epryor1@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R307-315. NO _x Emission Controls for Natural Gas-Fired Boilers 2.0-5.0 MMBtu
3. Purpose of the new rule or reason for the change:
Based on feedback received from the Air Quality Board during original adoption of Rule R307-315, from engagement with manufacturers, and from sources complying with the original rule, the Division of Air Quality (Division) is proposing changes to provide clarifying language for the applicability and compliance of Rule R307-315.
4. Summary of the new rule or change:
The proposed amendments modify and add additional definitions and language intended to clarify compliance and applicability of Rule R307-315. These amendments: 1) add a carbon monoxide limit which provides clarity for compliance with the rule, 2) add in the definition of "combustion analysis" to provide additional guidance for compliance, 3) modify the definitions of "modification" and "construction" to clarify the intent of this rule, the applicability of this rule, and makes these definitions more consistent with federal definitions, and 4) move applicability language from Section R307-315-4 to the applicability Section in R307-315-2 to provide additional clarity for when the rule is applicable. Public Hearing for Rules R307-315 and R307-316 Wednesday, 06/12/2024, from 2:00 to 3:00 PM (Time zone: America/Denver)

In Person: At the Multi-Agency State Office Building (MASOB) at 195 N 1950 W, Salt Lake City, UT in Air Quality Board Room 1015, 1st Floor
Or attend virtually: Google Meet joining info: Video call link: https://meet.google.com/ovb-vgei-uun Or dial: (US) +1 224-408-1158 PIN: 317 060 602# More phone numbers: https://tel.meet/ovb-vgei-uun?pin=6012657426852
In accordance with Section 63G-3-302, please note that if no requests for a public hearing for Rule R307-315 and/or Rule R307-316 are received by 2:00 PM on 06/11/2024, then the hearing will be canceled. To determine if the hearing has been cancelled and/or view the cancellation notice, you can visit: https://deq.utah.gov/air-quality/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget: There are no anticipated costs or savings to the state budget as the amendments will have no impact on how the Division functions. The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-315, nor do the changes to this rule result in any functional changes to how the Division implements this rule.
B) Local governments: There are no anticipated costs or savings to local governments associated with the amendments. The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-315.
C) Small businesses ("small business" means a business employing 1-49 persons): There are no anticipated costs or savings for small businesses associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-315.

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

There are no anticipated costs or savings to non-small businesses associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-315.

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 are no anticipated costs or savings to persons other small businesses, non-small businesses, state, or local government entities associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with the rule; however, do not expand the applicability beyond the original intent of the rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-315.

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 anticipated compliance costs or savings for affected persons associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-315.

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	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 Environmental Quality, Kim D. Shelley, 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 19-2-104	U.S.C. Title 42, Chapter 85, Subchapter I, Part A, Section 7410(a)(1)2(A)	
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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:	06/14/2024
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B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
06/12/2024	2:00-3:00 PM	See information in Box 4 above.

9. This rule change MAY become effective on:	06/21/2024
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:	Bryce C. Bird, Division Director	Date:	04/16/2024
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R307. Environmental Quality, Air Quality.
R307-315. NO_x and CO Emission Controls for Natural Gas-Fired Boilers 2.0-5.0 MMBtu.

R307-315-1. Purpose.
 Rule R307-315 establishes maximum emission thresholds for the emissions of oxides of nitrogen (NO_x) and carbon monoxide (CO) for new or modified natural gas-fired boilers with a total rated heat input of at least 2.0 million British Thermal Units per hour (MMBtu/hr) and not more than 5.0 MMBtu/hr.

R307-315-2. Applicability.

(1) Rule R307-315 applies to each boiler that ~~begins construction or modification after the compliance date defined in Section R307-315-6 that~~:

- (a) is fueled exclusively by natural gas;
- (b) has a total rated heat input greater than 2.0 MMBtu/hr and not more than 5.0 MMBtu/hr;
- (c) is an industrial boiler, institutional boiler, or commercial boiler;
- (d) is located in Salt Lake, Utah, Davis, Weber, or Tooele County; and
- (e) ~~[is not a temporary boiler.]~~ undergoes one of the following after the compliance date defined in Subsection R307-315-6(3):

- (i) begins construction, or modification of a boiler;
 - (ii) replaces a burner in a boiler having only a single burner; or
 - (iii) replaces 50% or more of the burners in a multi-burner boiler.
- (2) Exemptions to this rule include:
- (a) residential boilers as defined in this rule;
 - (b) CO boilers as defined in this rule;
 - (c) waste heat boilers as defined by this rule; ~~and~~
 - (d) process heaters as defined by this rule; ~~and~~
 - (e) temporary boilers as defined by this rule.

R307-315-3. Definitions.

As used in this rule:
 "Boiler" means an enclosed device using controlled flame combustion of natural gas, as defined by this rule, in which water is heated to recover thermal energy in the form of steam or hot water.

Controlled flame combustion refers to a steady-state, or near steady-state, process wherein fuel or oxidizer feed rates are controlled.

"Burner" means the functional component of a boiler that provides the heat input by combustion of a fossil fuel, with air or oxygen. Burners are available either as part of the boiler package from the manufacturer, as stand-alone products for custom installations, or as replacement products.

"CO boiler" means a boiler that is fired with gaseous fuel with an integral waste heat recovery system used to oxidize CO-rich waste gases generated by a Fluid Catalytic Cracking Unit.

"Combustion analysis" means an analysis performed on flue gases using a portable instrument which measures a range of variables relevant to the byproducts of combustion including temperatures, draft pressure, concentrations of oxygen, and concentrations of pollutants.

"Commercial boiler" means a boiler used in commercial establishments such as hotels, restaurants, and laundries to provide electricity, steam, or hot water.

"Construction" means any physical change or change in method of operation including fabrication, erection, installation, demolition, or modification of an emission unit ~~[boiler which]~~ that would result in a [n] potential increase in [actual NO_x] emissions.

"Industrial boiler" means a boiler used in manufacturing, processing, mining, and refining or any other industry to provide steam, hot water, or electricity.

"Institutional boiler" means a boiler used in institutional establishments such as medical centers, nursing homes, research centers, institutions of higher education, elementary and secondary schools, libraries, religious establishments, and governmental buildings to provide electricity, steam, or hot water.

"Modification" means any planned change in a [boiler] source which results in a [n increase of actual NO_x] change in emissions.

"Natural gas" means:
 (1) a mixture of gaseous hydrocarbons, with at least 80% methane by volume, and of pipeline quality, such as the gas sold or distributed by any utility company regulated by the Utah Division of Public Utilities;

(2) liquefied petroleum gas, as defined by the American Society for Testing and Materials in ASTM D1835, or propane, propane-derived synthetic natural gas, or mixtures thereof; or

(3) propane or propane-derived synthetic natural gas.

"Process Heater" means an enclosed device using controlled flame, and the unit's primary purpose is to transfer heat indirectly to a process material such as liquid, gas, or solid, or to a heat transfer material such as glycol or a mixture of glycol and water, for use in a process unit, instead of generating steam. Process heaters are devices in which the combustion gases do not come into direct contact with process materials. Process heaters include units that heat water and water mixtures for pool heating, sidewalk heating, cooling tower water heating, power washing, or oil heating.

"Propane" means a colorless gas derived from petroleum and natural gas, with the molecular structure C₃H₈.

"Residential boiler" means a boiler used to provide heat or hot water or as part of a residential combined heat and power system. This definition includes boilers located at an institutional facility such as a university campus, military base, church grounds, or a commercial, or industrial, such as a farm, used primarily to provide heat or hot water for:

- (1) a dwelling containing four or fewer families; or
- (2) a single unit residence dwelling that has since been converted or sub-divided into condominiums or apartments.

"Temporary boiler" means any gaseous or liquid fuel-fired steam generating unit that is designed to, and is capable of, being carried or moved from one location to another by wheels, skids, carrying handles, dollies, trailers, or platforms. A steam generating unit is not a temporary boiler if any one of the following conditions exists:

- (1) the equipment is attached to a foundation;
- (2) the steam generating unit or a replacement remains at a location for more than 180 consecutive days and any temporary boiler that replaces a temporary boiler at a location and performs the same or similar function shall be included in calculating the consecutive time period;
- (3) the equipment is located at a seasonal facility and operates during the full annual operating period of the seasonal facility, remains at the facility for at least two years, and operates at that facility for at least three months each year; or
- (4) the equipment is moved from one location to another in an attempt to circumvent the residence time requirements of this definition.

"Waste heat boiler" means a device that recovers normally unused energy such as hot exhaust gas and converts it to usable heat. Waste heat boilers are also referred to as heat recovery steam generators. Waste heat boilers are heat exchangers generating steam from incoming hot exhaust gas from an industrial or power equipment such as thermal oxidizers, kilns, furnaces, combustion turbines, and engines. Duct burners are sometimes used to increase the temperature of the incoming hot exhaust gas.

R307-315-4. Requirements.

(1) An ~~person~~ owner or operator of a boiler subject to this rule shall ~~that~~:

- ~~(a) begins construction, or modification of a boiler;~~
- ~~(b) replaces a burner in a boiler having only a single burner; or~~
- ~~(c) replaces 50% or more of the burners in a multi burner boiler for a boiler meeting the requirements of Section R307-315-2 shall install a burner that meets a NO_x emission rate of nine parts per million by volume (ppmv) or less at 3% volume stack gas oxygen on a dry basis.~~

(a) install a burner that meets a NO_x emission rate of nine parts per million by volume (ppmv) or less at 3% volume stack gas oxygen on a dry basis; and

(b) meet a CO emission rate of 200 ppmv or less at 3% volume stack gas oxygen on a dry basis.

(2) An owner or operator of a boiler subject to Subsection R307-315-4(1) shall:

- (a) operate and maintain the boiler and boiler subsystems, including burners, according to the manufacturer's instructions;
- (b) determine continued compliance based on Section R307-315-6; and
- (c) meet the applicable recordkeeping requirements for any control device.

R307-315-5. Recordkeeping.

(1) The owner or operator of any boiler subject to ~~[Rule]~~Section R307-315-4 shall:

- (a) retain documentation of the unit's emission rate specifications;

(b) retain a copy of the manufacturer's recommendations for proper operation and maintenance of units covered by Rule R307-315; and

(c) maintain records showing proper operation and maintenance of units covered by Rule R307-315 following manufacturer's recommendations.

(2) Operation and maintenance records shall be retained for five years and shall be made available to the director upon request.

R307-315-6. Compliance Schedule.

(1) Compliance with the NO_x emission requirement listed in ~~[Subsection]~~Section R307-315-4~~(1)(e)~~ shall be determined according to the following procedures:

- (a) U.S. EPA Reference Method 7E, Determination of Nitrogen Oxides Emissions from Stationary Sources;
- (b) other EPA-approved testing methods acceptable to the Director; or
- (c) combustion analysis as part of a regular maintenance schedule.

(2) Compliance Determination shall be conducted once every five years.

(3) The compliance schedule for this rule shall begin on May 1, 2024.

KEY: air pollution, boiler, NO_x, nitrogen oxides

Date of Last Change: 2024~~[July 10, 2023]~~

Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R307-316	Filing ID: 56484

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT	
Mailing address:	PO Box 144820	
City, state and zip:	Salt Lake City, UT 84114-4820	
Contact persons:		
Name:	Phone:	Email:
Ryan Bares	801-536-4216	rbares@utah.gov
Erica Pryor	385-499-3416	epryor1@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R307-316. NO_x Emission Controls for Natural Gas-Fired Boilers Greater Than 5.0 MMBtu

3. Purpose of the new rule or reason for the change:

Amendments provide clarifying language for the applicability and compliance of Rule R307-316. Based on feedback received from the Air Quality Board during original adoption of rule, from engagement with manufacturers, and from sources complying with the original rule, the Division of Air Quality (Division) is proposing changes to provide clarifying language for the applicability and compliance of Rule R307-316.

4. Summary of the new rule or change:

The proposed amendments modify and add additional definitions and language intended to clarify compliance and applicability of Rule R307-316.

These amendments:

- 1) add a carbon monoxide limit which provides clarity for compliance with this rule,
- 2) add in the definition of "combustion analysis" to provide additional guidance for compliance,
- 3) modify the definitions of "modification" and "construction" to clarify the intent of this rule, the applicability of this rule, and makes these definitions more consistent with federal definitions, and
- 4) move applicability language from Section R307-316-4 to the applicability Subsection in Section R307-316-2 to provide additional clarity for when this rule is applicable.

Public Hearing for Rules R307-315 and R307-316

Wednesday, 06/12/2024, from 2:00 to 3:00 PM (Time zone: America/Denver)

In Person:

At the Multi-Agency State Office Building (MASOB) at 195 N 1950 W, Salt Lake City, UT in Air Quality Board Room 1015, 1st Floor

Or attend virtually:

Google Meet joining info:

Video call link: <https://meet.google.com/ovb-vgei-uun>

Or dial: (US) +1 224-408-1158 PIN: 317 060 602#

More phone numbers:

<https://tel.meet/ovb-vgei-uun?pin=6012657426852>

In accordance with Section 63G-3-302, please note that if no requests for a public hearing for Rule R307-315 and/or Rule R307-316 are received by 2:00 PM on 06/11/2024, then the hearing will be canceled.

To determine if the hearing has been cancelled and/or view the cancellation notice, you can visit: <https://deq.utah.gov/air-quality/air-quality-rule-plan-changes-open-public-comment>

Fiscal Information

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

A) State budget:

There are no anticipated costs or savings to the state budget as the amendments will have no impact on how the Division functions.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-316, nor do the changes to this rule result in any functional changes to how the Division implements this rule.

B) Local governments:

There are no anticipated costs or savings to local governments associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-316.

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

There are no anticipated costs or savings for small businesses associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-316.

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

There are no anticipated costs or savings for non-small businesses associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-316.

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 are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-316.

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 anticipated compliance costs or savings for affected persons associated with the amendments.

The proposed amendments provide additional clarity around applicability and compliance with this rule; however, do not expand the applicability beyond the original intent of this rule. Therefore, the changes do not result in any costs or savings beyond those identified with the original adoption of Rule R307-316.

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	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 Environmental Quality, Kim D. Shelley, 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 19-2-104	U.S.C. Title 42, Chapter 85, Subchapter I, Part A, Section 7410(a)(1)2(A)
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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:	06/14/2024	
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
06/12/2024	2:00-3:00 PM	See information in Box 4 above.

9. This rule change MAY become effective on: 06/21/2024

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:	Bryce C. Bird, Division Director	Date:	04/16/2024
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R307. Environmental Quality, Air Quality. R307-316. NO_x and CO Emission Controls for Natural Gas-Fired Boilers Greater Than 5.0 MMBtu. R307-316-1. Purpose.

Rule R307-316 establishes maximum emission thresholds for the emissions of oxides of nitrogen (NO_x) and carbon monoxide (CO) for new or modified natural gas-fired boilers with a total rated

NOTICES OF PROPOSED RULES

heat input greater than 5.0 million British Thermal Units per hour (MMBtu/hr).

R307-316-2. Applicability.

(1) Rule R307-316 applies to each boiler that ~~begins construction or modification after the compliance date defined in Section R307-316-6 that~~:

(a) is fueled exclusively by natural gas;
(b) has a total rated heat input greater than 5.0 MMBtu/hr;
(c) is an industrial boiler, institutional boiler, or commercial boiler;

(d) is located in Salt Lake, Utah, Davis, Weber, or Tooele County; and

(e) ~~is not a temporary boiler.~~ undergoes one of the following after the compliance date defined in Subsection R307-316-6(4):

(i) begins construction, or modification of a boiler;
(ii) replaces a burner in a boiler having only a single burner; or

(iii) replaces 50% or more of the burners in a multi-burner boiler.

(2) ~~Exemptions to this rule include~~ Rule R307-316 does not apply to:

- (a) residential boilers as defined in this rule;
- (b) CO boilers as defined in this rule;
- (c) waste heat boilers as defined by this rule; ~~and~~
- (d) process heaters as defined by this rule; ~~and~~
- (e) temporary boilers as defined by this rule.

(3) References to 40 CFR in Rule R307-316 shall mean the version of the Code of Federal Regulations that is effective as of the date referenced in Section R307-101-3.

R307-316-3. Definitions.

As used in this rule:

"Boiler" means an enclosed device using controlled flame combustion of natural gas, as defined by this rule, in which water is heated to recover thermal energy in the form of steam or hot water. Controlled flame combustion refers to a steady-state, or near steady-state, process wherein fuel or oxidizer feed rates are controlled.

"Burner" means the functional component of a boiler that provides the heat input by combustion of a fossil fuel with air or oxygen. Burners are available either as part of the boiler package from the manufacturer, as stand-alone products for custom installations, or as replacement products.

"CO boiler" means a boiler that is fired with gaseous fuel with an integral waste heat recovery system used to oxidize CO-rich waste gases generated by a Fluid Catalytic Cracking Unit.

"Combustion analysis" means an analysis performed on flue gases using a portable instrument which measures a range of variables relevant to the byproducts of combustion including temperatures, draft pressure, concentrations of oxygen, and concentrations of pollutants.

"Commercial boiler" means a boiler used in commercial establishments such as hotels, restaurants, and laundries to provide electricity, steam, or hot water.

"Construction" means any physical change or change in method of operation including fabrication, erection, installation, demolition, or modification of an emission unit ~~[boiler which]~~ that would result in a potential increase in actual NO_x-emissions.

"Industrial boiler" means a boiler used in manufacturing, processing, mining, and refining or any other industry to provide steam, hot water, or electricity.

"Institutional boiler" means a boiler used in institutional establishments such as medical centers, nursing homes, research centers, institutions of higher education, elementary and secondary schools, libraries, religious establishments, and governmental buildings to provide electricity, steam, or hot water.

"Modification" means any planned change in a ~~boiler~~ source which results in a ~~an increase of actual NO_x~~ change in emissions.

"Natural gas" means:

(1) a mixture of gaseous hydrocarbons, with at least 80% methane by volume, and of pipeline quality, such as the gas sold or distributed by any utility company regulated by the Utah Division of Public Utilities;

(2) Liquefied petroleum gas, as defined by the American Society for Testing and Materials in ASTM D1835, or propane, propane-derived synthetic natural gas, or mixtures thereof; or

(3) propane or propane-derived synthetic natural gas.

"Process Heater" means an enclosed device using controlled flame, and the unit's primary purpose is to transfer heat indirectly to a process material such as liquid, gas, or solid, or to a heat transfer material such as glycol or a mixture of glycol and water, for use in a process unit, instead of generating steam. Process heaters are devices in which the combustion gases do not come into direct contact with process materials. Process heaters include units that heat water and water mixtures for pool heating, sidewalk heating, cooling tower water heating, power washing, or oil heating.

"Propane" means a colorless gas derived from petroleum and natural gas, with the molecular structure C₃H₈.

"Residential boiler" means a boiler used to provide heat or hot water as part of a residential combined heat and power system. This definition includes boilers located at an institutional facility such as a university campus, military base, church grounds or commercial or industrial facility such as a farm used primarily to provide heat or hot water for:

- (1) a dwelling containing four or fewer families; or
- (2) a single unit residence dwelling that has since been converted or sub-divided into condominiums or apartments.

"Temporary boiler" means any gaseous or liquid fuel-fired steam generating unit that is designed to, and is capable of, being carried or moved from one location to another by wheels, skids, carrying handles, dollies, trailers, or platforms. A steam generating unit is not a temporary boiler if any one of the following conditions exists:

- (1) the equipment is attached to a foundation;
- (2) the steam generating unit or a replacement remains at a location for more than 180 consecutive days. Any temporary boiler that replaces a temporary boiler at a location and performs the same or similar function shall be included in calculating the consecutive time period;

(3) the equipment is located at a seasonal facility and operates during the full annual operating period of the seasonal facility, remains at the facility for at least two years, and operates at that facility for at least three months each year; or

(4) the equipment is moved from one location to another in an attempt to circumvent the residence time requirements of this definition.

"Waste heat boiler" means a device that recovers normally unused energy such as hot exhaust gas and converts it to usable heat. Waste heat boilers are also referred to as heat recovery steam generators. Waste heat boilers are heat exchangers generating steam from incoming hot exhaust gas from an industrial or power equipment such as thermal oxidizers, kilns, furnaces, combustion

turbines, and engines. Duct burners are sometimes used to increase the temperature of the incoming hot exhaust gas.

R307-316-4. Requirements.

(1) Except as provided in Subsection R307-316-4(3), ~~an~~ owner or operator of a boiler subject to this rule shall ~~that~~:

- ~~(a) begins construction, or modification of a boiler;~~
- ~~(b) replaces a burner in a boiler having only a single burner; or~~

~~(c) replaces 50% or more of the burners in a multi-burner boiler for a boiler meeting the requirements of Section R307-316-2 shall install a burner that meets a NO_x emission rate of nine parts per million by volume (ppmv) or less at 3% volume stack gas oxygen on a dry basis;~~

(a) install a burner that meets a NO_x emission rate of nine parts per million by volume (ppmv) or less at 3% volume stack gas oxygen on a dry basis; and

(b) meet a CO emission rate of 200 ppmv or less at 3% volume stack gas oxygen on a dry basis.

(2) An owner or operator of a boiler subject to Subsection R307-316-4(1) shall:

(a) operate and maintain the boiler and boiler subsystems, including burners, according to the manufacturer's instructions;

(b) determine continued compliance based on Section R307-315-6; and

(c) ensure that manufacturer's operational specifications, records, and testing of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device; and

(d) meet the applicable recordkeeping requirements for any control device.

(3) Any person may apply to the director for approval of an alternate method of control. The application shall include a demonstration that the proposed alternate produces an equal air quality benefit as required by Subsection R307-316-4(1)~~(e)~~ or that meets Best Available Control Technology thresholds.

R307-316-5. Recordkeeping.

(1) The owner or operator of any boiler subject to ~~Rule~~ Section R307-316-4 shall:

(a) retain documentation of the unit's emission rate specifications;

(b) retain a copy of the manufacturer's recommendations for proper operation and maintenance of units covered by Rule R307-316;

(c) maintain records showing proper operation and maintenance of units covered by Rule R307-316 following manufacturer's recommendations; and

(d) retain a record of approval of any alternative method of control as outlined in Subsection R307-316-4(3).

(2) Operation and maintenance records shall be retained for five years and shall be made available to the director upon request.

R307-316-6. Compliance Determination and Schedule.

(1) Compliance with the NO_x emission requirement listed in Subsection R307-316-4(1)~~(e)~~ shall be determined according to the following procedures:

(a) U.S.EPA Reference Method 7E, Determination of Nitrogen Oxides Emissions from Stationary Sources;

(b) a continuous in-stack nitrogen oxide monitor or equivalent verification system in compliance with 40 CFR Part 60 Appendix B Specification 2;

(c) other EPA-approved testing methods acceptable to the director; or

(d) combustion analysis as part of a regular maintenance schedule.

(2) Compliance Determination shall be conducted according to the following frequency:

(a) once every three years for units with a rated heat input capacity greater than or equal to 10 MMBtu/hr, except for boilers subject to Subsection R307-316-6(1)(b); and

(b) once every five years for units with a rated heat input capacity less than 10 MMBtu/hr down to and including 5 MMBtu/hr.

(3) Provided an emissions test is conducted within the same calendar year as the test required in Subsection R307-316-6(2), an owner or operator may use the following emissions tests to comply with Subsection R307-316-6(2):

(a) periodic monitoring or testing of a unit as required in a Title V permit; or

(b) relative accuracy testing for continuous emissions monitoring verification pursuant to 40 CFR Part 60 Appendix B Specification 2.

(4) The compliance schedule for this rule shall begin on May 1, 2024.

KEY: air pollution, boiler, NO_x, nitrogen oxides

Date of Last Change: ~~2024~~ July 10, 2023

Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R357-22	Filing ID: 56482

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple, Suite 300	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R357-22. Rural Employment Expansion Program
3. Purpose of the new rule or reason for the change:

The purpose of this rule filing is to clarify language in the existing rule, amend the definition of "New full-time employee position," and better align with statute.

4. Summary of the new rule or change:

Rule R357-22 is amended to clarify language in the existing rule, update the definition of new full-time employee position to create more opportunity for rural businesses, and better align rule language with the language in statute.

Fiscal Information

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

A) State budget:

There is no new aggregate anticipated costs or savings to the state budget. The rule is merely clarifying language and terms.

B) Local governments:

There is no new aggregate anticipated cost of savings to local governments because local governments are not required to comply with or enforce this rule.

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

There is no new aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation.

Participation in the program is optional.

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

There is no new aggregate anticipated cost or savings to non-small businesses because this proposed amendment does not create new obligations for non-small businesses, nor does it increase the costs associated with any existing obligation.

Participation in the program is optional.

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 new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government

entities, nor does it increase the costs associated with any existing obligation.

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 new compliance costs for affected persons because participation in the program is optional.

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	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 Governor's Office of Economic Opportunity, Ryan Starks, 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 63N-4-403(3)(c)		
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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:	6/14/2024
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9. This rule change MAY become effective on:	6/21/2024
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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:	Ryan Starks, Executive Director	Date:	05/01/2024
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R357. Governor, Economic Opportunity.

R357-22. Rural Employment Expansion Program.

R357-22-101. Title.

This rule is known as the "Rural Employment Expansion Program Rule."

R357-22-102. Definitions.

In addition to the terms defined in Section 63N-4-402, the following terms are defined:

(1) "Contract termination date" means 90 days after the expiration of the eligible employment period.

(2) "Eligible employment period" means the eligible hiring period and the following 12 months of continual employment for new₂ full-time employee positions.

(3) "Eligible hiring period" means the six months ~~following~~ starting the date the REDI application was submitted.

(4) "Baseline period" means 12 months leading up to the date the REDI application was submitted.

(5) "Employee report" means a list of employees in a format approved by the office that includes:

(a) time-period of report; and

(b) employee:

(i) names or ID numbers;

(ii) position titles;

(iii) hire dates;

(iv) termination dates;

(v) hours paid;

(vi) wages paid[-]; and

(vii) benefits paid, if applicable.

(~~5~~)(a) "New₂ full-time employee position" means a position that:

(i) is newly created in addition to the number of baseline jobs as defined in Subsection 63N-1a-102(1);

(ii) the annual gross wage or annualized wage of the employment position, not including health care or other paid or unpaid benefits, is at least 1~~4~~00% of the average wage of the county in which the employment position exists;

(iii) is filled:

(A) by a full-time employee as defined in Subsection 63N-1a-102(6); and

(B) within the eligible hiring period; and

(iv) is primarily located within a:

(A) county of the third, fourth, fifth, or sixth class; or

(B) municipality that has a population of 10,000 or less ~~and the municipality is~~ located ~~with~~ in a county of the second class.

(b) "New₂ full-time employee position" does not include ~~an~~ independent contractor, commission based, or seasonal positions.

(~~6~~)(7) "REDI," Rural Employment Development Incentives, means the same as the Rural Employment Expansion Program.

(8) "Business entity" means the same as the term is defined under Subsection 63N-4-402(1).

R357-22-103. Authority.

This rule is adopted by the office under the authority of Subsection 63N-4-403(3)(c).

R357-22-104. Form and Content of Application for Rural Employment Expansion Program Participation.

(1) The content of the application for a rural employment expansion grant shall, at minimum, include the business entity's:

(a) name;

(b) physical operating address;

(c) telephone number;

(d) email address;

(e) Federal EIN number;

(f) primary NAICS code;

(g) vendor number, if the applicant is a registered vendor with the state;

(h) requested rural employment expansion grant amount;

and

(i) forecasted:

(i) number of new₂ full-time employee positions; and

(ii) wage of new₂ full-time employee positions.

(2) The following documents shall, at minimum, be included in each application for participation in the program:

(a) a copy of a current, signed W-9 form;

(b) evidence of the business entity's employees during the baseline period such as:

(i) ~~two~~the four most recent Form 33H - Utah Employer Quarterly Wage List and Contribution Reports;~~or~~

(ii) a copy of an executed professional employee agreement for each employee, as defined in Subsection 31A-40-102(15); ~~and~~or

(iii) an equivalent form of documentation; and

(c) an employee report covering the 12 months ~~before~~ leading up to application submission.

R357-22-105. Documentation Required to Demonstrate the Creation of New₂ Full-Time Employee Positions.

(1) The following information and document[s]ation shall, at minimum, be included when a business entity demonstrates the

NOTICES OF PROPOSED RULES

creation of new₂ full-time employee positions after the position has been filled for 12 months:

- (a) number of new₂ full-time employee positions created;
- (b) address of work location if different from the address provided in the business entity's application for REDI Participation;
- (c) an employee report for the 12 months ~~[before]~~leading up to the grant funds disbursement request submission; and
- (d)(i) the two most recent Form 33H - Utah Employer Quarterly Wage List and Contribution Reports;~~[-or]~~
- (ii) a copy of an executed professional employee agreement for each employee, as defined in Subsection 31A-40-102(15)~~[-]; or~~
- (iii) similar documentation to Form 33H showing the number of employees employed during the preceding 12 months.

(2) A business entity may apply for grant funds after the new₂ full-time employee positions ha[s]ve been filled for a minimum of six months and the annualized wage is at least 1~~[+]~~00% of the county's average wage by submitting:

- (a) number of new₂ full-time employee positions created;
- (b) address of work location if different from the address provided in the business entity's application for REDI Participation;
- (c) an employee report covering the 12 months ~~[before]~~leading up to the grant disbursement request submission;
- (d)(i) two most recent Form 33H - Utah Employer Quarterly Wage List and Contribution Reports;~~[-or]~~
- (ii) a copy of an executed professional employee agreement, as defined in Subsection 31A-40-102(15); ~~[and] or~~
- (iii) similar documentation to Form 33H showing the number of employees employed during the preceding 12 months; and

(e) pay stubs for each new₂ full-time employee position[s] ~~pay stubs~~ at the second, fourth, and sixth month~~[s]~~ of employment.

(3) The office may request additional information to verify the creation and wage of new₂ full-time employee positions.

R357-22-106. Documentation Required to Demonstrate the Creation of New Full-Time Positions -- Appeal Process.

(1) ~~[If, after a review of the documentation required to demonstrate the creation of new full-time employee positions is inadequate, the office shall:~~

- ~~(a) deny the request for a rural employment expansion grant; or~~
- ~~(b) inform the business entity that the documentation is inadequate and ask the business entity to submit additional documentation.~~

~~(2) If the office denies the request for a rural employment expansion grant, the business entity may appeal the denial to the office, in writing, within 20 business days of the denial notice date.~~

~~(3) The office shall review and make a final determination of any appeal of a rural employment expansion grant denial within [20]ten business days~~[-and make a final determination of the business entity's request for a rural employment expansion grant].~~~~

R357-22-107. Administration of the Rural Employment Expansion Grant.

(1) From the date of entering a written agreement, as described in Subsection 63N-4-404(3), the business entity shall have six months to hire an employee to fill any new₂ full-time employee positions.

(2) The business entity shall provide the documentation required to demonstrate the creation of new₂ full-time employee

positions within 90 days of the completion of all eligible employment periods for the new₂ full-time employee positions.

~~(3) The business entity shall verify that newly hired employees are legal US Citizens or meet eligible non-citizen requirements. A business entity must use the E-Verify system and maintain a record of citizenship documentation.~~

~~(4) The administrator may cause the written agreement to be amended if:~~

- ~~(a) the baseline number of jobs has materially changed; or~~
- ~~(b) the number of new₂ full-time employee positions is less than the number projected in the original written agreement.~~

~~(5) The written agreement, as described in Subsection 63N-4-404(3), will establish the average county wage terms and requirements.~~

~~(6) New₂ full-time employee positions that qualify for a Rural Employment Expansion Grant are not eligible to be considered as new₂ full-time employee positions for other grant or incentive programs administered by the office.~~

~~(7) Business entities that would like to apply for or receive another grant or incentive administered by the office must submit a separate application for each grant or incentive program.~~

KEY: rural employment expansion, economic development
Date of Last Change: 2024[July 18, 2023]
Notice of Continuation: October 6, 2023
Authorizing, and Implemented or Interpreted Law: 63N-4-403(3)(c)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R382-10	Filing ID: 56472

Agency Information

1. Department:	Health and Human Services	
Agency:	Children's Health Insurance Program	
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
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R382-10. Eligibility
3. Purpose of the new rule or reason for the change:
The purpose of this proposed filing is to end quarterly premiums for the Children's Health Insurance Program (CHIP). This decision, as well as the decision to make minor changes to style and formatting within this rule, was a result of internal agency review that occurred after federal rules changed the ability of the Department of Health and Human Services (Department) to collect CHIP premiums.
4. Summary of the new rule or change:
This amendment ends quarterly premiums for CHIP by repealing relevant sections and subsections of this rule. Additionally, it includes new definitions, updates citations, clarifies existing policy, reformats text, and makes other nonsubstantive changes in accordance with the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
With the termination of quarterly payments, the Department estimates an increase in cost to the state budget of approximately \$300,000, based on an agency review completed in collaboration with the Office of Financial Services. This estimation came about by reviewing available funding left over from previous legislative allocations in the General Fund, specific to CHIP. There are no estimated savings as a result of this proposed rule. However, the Department intends to make other program changes as an indirect result of this rule, including increasing copayments and deductibles for CHIP families, in an attempt to offset this \$300,000 increased cost, so no additional appropriation will be necessary.
B) Local governments:
There is no impact on local governments as they neither fund nor administer CHIP.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact on small businesses as this change neither creates business revenue, which would lead to savings, nor imposes new costs. This change does not include any aspects affecting customer service nor businesses transactions.

Although this rule applies to small businesses, this change will not fiscally impact these entities, as it will only affect CHIP families and the state through the removal of premiums and an increase in copays and deductibles.																				
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																				
There is no fiscal impact on non-small businesses as this change neither creates business revenue, which would lead to savings, nor imposes new costs. This change does not include any aspects affecting customer service nor businesses transactions. Although this rule applies to non-small businesses, this change will not fiscally impact these entities, as it will only affect CHIP families and the state through the removal of premiums and increase in copays and deductibles.																				
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):																				
Approximately 11,900 CHIP families will incur a fiscal impact as a result of this rule. With the removal of CHIP premiums, individual CHIP families will see a savings of \$30 to-\$75 per quarter. However, as noted previously, the Department intends to make other program changes to offset the \$300,000 cost to the state, including increasing copayments and deductibles. The fiscal impact will vary for each family depending on the family's use of services.																				
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):																				
Due to a lack of historical data in previous reports that would reflect this change, the Department is unable to determine a specific compliance cost for affected persons at this time.																				
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																				
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2024</th> <th>FY2025</th> <th>FY2026</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$300,000</td> <td>\$300,000</td> <td>\$300,000</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2024	FY2025	FY2026	State Government	\$300,000	\$300,000	\$300,000	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0
Fiscal Cost	FY2024	FY2025	FY2026																	
State Government	\$300,000	\$300,000	\$300,000																	
Local Governments	\$0	\$0	\$0																	
Small Businesses	\$0	\$0	\$0																	
Non-Small Businesses	\$0	\$0	\$0																	

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Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$300,000	\$300,000	\$300,000
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	\$300,000	\$300,000	\$300,000
Total Fiscal Benefits	\$300,000	\$300,000	\$300,000
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.			

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-3-902	

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:	06/14/2024
9. This rule change MAY become effective on:	06/21/2024
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:	05/01/2024
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R382. Health and Human Services, Children's Health Insurance Program.

R382-10. Eligibility.

R382-10-1. Authority.

(1) This rule is authorized by Title 26B, Chapter [40]3, Part 9, Utah Children's Health Insurance Program.

(2) ~~[The purpose of this]~~ This rule ~~[is to]~~ sets forth ~~[the]~~ eligibility requirements for coverage under the Children's Health Insurance Program (CHIP).

R382-10-2. Definitions.

(1) The ~~[Department adopts and incorporates by reference the]~~ definitions found in Subsections 2110(b) and (c) of the Compilation of Social Security Laws, and in Section R382-1-2 apply to this rule, ~~[in effect January 1, 2015].~~

(2) ~~[The Department adopts the definitions in Section R382-1-2.]~~ In addition, the ~~[D]~~ department adopts the following definitions:

(a) "American Indian or Alaska Native" means someone having origins in any of the original peoples of North and South America, ~~[(f)]~~including Central America~~],~~ and who maintains tribal affiliation or community attachment.

(b) "Best estimate" means the eligibility agency's determination of a household's income for the upcoming eligibility period, based on past and current circumstances and anticipated future changes.

~~[(e) "Children's Health Insurance Program" (CHIP) means the program for benefits under the Utah Children's Health Insurance Act, Title 26, Chapter 40.]~~

(c) "COBRA" means health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985.

(d) "Co[-]payment and co[-]insurance" means a portion of the cost for a medical service, ~~[for]~~in which the ~~[enrollee]~~member is responsible to pay for services received under CHIP.

(e) "Due process month" means the month that allows time for the ~~[enrollee]~~member to return ~~[all]~~verifications, and for the eligibility agency to determine eligibility and notify the ~~[enrollee]~~member.

(f) "Eligibility agency" means the Department of Workforce Services (DWS) that determines eligibility for CHIP under contract with the ~~[D]~~department.

(g) "Employer-sponsored health plan" means a health insurance plan offered by an employer ~~[either directly or through Utah's Health Marketplace (Avenue H)].~~

(h) "Ex parte review" means a review process the agency conducts without contacting the ~~[recipient]~~member for information as defined in 42 CFR 457.343.

(i) "Federally Facilitated Marketplace" (FFM) means the entity an individual[s] can access to enroll in health insurance and apply for assistance from insurance affordability programs such as Advanced Premium Tax Credits, Medicaid, and CHIP.

(j) "Member" means any person who is enrolled in the Medicaid program and is eligible to receive Medicaid services.

~~[(j)k]~~ "Modified Adjusted Gross Income" (MAGI) means the income determined using the methodology defined in 42 CFR 435.603(e).

~~[(k)]~~ "Presumptive eligibility" means a period ~~[of time]~~that ~~[during which]~~a child may receive CHIP benefits based on preliminary information that the child meets the eligibility criteria.

~~[(l)]~~ "Quarterly Premium" means a payment that enrollees must pay every three months to receive coverage under CHIP.

(m) "Review month" means the last month of the eligibility certification period for ~~[an enrollee]~~ a member, in which [during which] the eligibility agency determines [an enrollee's] a member's eligibility for a new certification period.

(n) "Utah's Premium Partnership for Health Insurance" or "UPP" means the program described in Rule R414-320.

R382-10-4. Applicant and Enrollee Rights and Responsibilities.

(1) A parent or an adult who assumes responsibility for the care or supervision of a child may apply or reapply for CHIP benefits on behalf of a child. [-]A child who is independent may apply on ~~[his]~~ the child's own behalf.

(2) If a person needs assistance to apply, the person may request assistance from a friend, family member, the eligibility agency, or outreach staff.

(3) The applicant must provide verification requested by the eligibility agency to establish the eligibility of the child, including information about the parents.

(4) Anyone may look at the eligibility policy manuals located on [-]line or at any eligibility agency office that is not [-, except at] an outreach or telephone-only location[s].

(5) If the eligibility agency determines that the child received CHIP coverage during a period when the child was not eligible for CHIP, the parent, child, or legal guardian who arranges for medical services on behalf of the child must repay the ~~[D]~~ department for the cost of services.

(6) The parent or child, or other responsible person acting on behalf of a child, must report certain changes to the eligibility agency.

(a) The following changes are reportable within ~~[10]~~ ten calendar days of the day of the change:

(i) ~~[An enrollee]~~ the member begins to receive coverage or to have access to coverage under a group health plan or other health insurance coverage;

(ii) ~~[An enrollee]~~ the member leaves the household or dies;

(iii) ~~[An enrollee]~~ the member or the household moves out of state;

(iv) the member or the household changes address [Change of address of an enrollee or the household]; and

(v) ~~[An enrollee]~~ the member enters a public institution or an institution for mental disease[s].

(b) Certain changes are reportable as part of the review process if these changes occurred anytime during the certification period and before the 10-day notice due date in the review month. ~~[A change in the following must be reported.]~~ The member must report a change in the following as part of the review process for any household member:

(i) ~~[F]~~ income source;

(ii) ~~[G]~~ gross income of \$25 or more;

(iii) ~~[T]~~ tax filing status;

(iv) ~~[P]~~ pregnancy or termination of a pregnancy;

(v) ~~[N]~~ number of dependents claimed as tax dependents;

(vi) ~~[E]~~ earnings of a child;

(vii) ~~[M]~~ marital status; and

(viii) ~~[S]~~ student status of a child under 24 years of age.

(7) An applicant and ~~[enrollee]~~ a member may review the information that the eligibility agency uses to determine eligibility.

(8) An applicant and ~~[enrollee]~~ a member have the right to be notified about actions that the agency takes to determine ~~[their]~~ the applicant's or member's eligibility or continued eligibility, the right to be notified about the reason the action was taken, and the right to

request an agency conference or agency action as defined in Section R414-301-6 and Section R414-301-7.

(9) ~~[An enrollee in CHIP]~~ A CHIP member must pay ~~[quarterly premiums to the agency, and] co[-]payments or co[-]insurance amounts to providers for medical services that the ~~[enrollee]~~ member receives under CHIP.~~

R382-10-6. Citizenship and Alienage.

(1) To be eligible to enroll in CHIP, a child must be a United States (US) citizen, a [or] US national, [of the United States (U.S.)] or a qualified alien.

(2) ~~[The provisions of] Section R414-302-3,~~ regarding citizenship and alien status requirements, appl[y]ies to CHIP applicants and members [applicants and enrollees of CHIP].

(3) The ~~[D]~~ department elects to cover an applicant and a member [applicants and recipients] who are under 19 years of age and lawfully present as defined in 42 U.S.C. 1396b(v) and 42 U.S.C. 1397gg(e)(1), and referenced in Section CS18 of the Utah CHIP State Plan.

R382-10-15. Application and Eligibility Reviews.

(1) ~~[The Department adopts and incorporates by reference]~~ The department conducts application and eligibility reviews in accordance with 42 CFR 457.330, 457.340, 457.343, and 457.348, [October 1, 2013 ed.]

(2) ~~[The provisions of] Section R414-308-3~~ appl[y]ies to applicants for CHIP, except for Subsection R414-308-3([+0]9) and except for the three months of retroactive coverage.

(3) An individual [Individuals] can apply without having an interview.

(4) The eligibility agency may interview an applicant, [applicants and] a member, [enrollee's,] the parents or spouse, and any adult who assumes responsibility for the care or supervision of the child[-] ~~[when necessary]~~ to resolve discrepancies or to gather information that cannot be obtained otherwise.

(5) ~~[4]~~ The eligibility agency shall complete a periodic review of ~~[an enrollee's] a member's~~ eligibility for CHIP medical assistance in accordance with ~~[the requirements of]~~ 42 CFR 457.343.

(6) ~~[5]~~ (a) If a member [an enrollee] fails to respond to a request for information to complete the review during the review month, the agency shall end the member's [enrollee's] eligibility effective at the end of the review month and send proper notice to the member [enrollee].

(b) ~~[a]~~ If the member [enrollee] responds to the review or reapplies within three calendar months of the review closure date, the eligibility agency shall treat the response as a new application without requiring the member [enrollee] to reapply. [-]The application processing period then applies for this new request for coverage.

(c) ~~[b]~~ If the member [enrollee] is determined eligible based on this reapplication, the new certification period begins the first day of the month that [in which] the member [enrollee] contacts the agency to complete the review if verification is provided within the application processing period.

(i) Under these circumstances, t[+T]he four--day grace period may apply.

(ii) If the [enrollee] member fails to return verification within the application processing period, or if the [enrollee] member is determined ineligible, the eligibility agency shall send a denial notice to the [enrollee] member.

(d) ~~[e]~~ The eligibility agency may not continue eligibility while it makes a new eligibility determination.

(7[6]) Except as defined in Subsection R382-10-15(5), the member[enrollee] must reapply for CHIP if the member's[enrollee's] case is closed for one or more calendar months.

(8[7]) If the eligibility agency sends proper notice of an adverse decision during the review month, the agency shall change eligibility for the month that follows.

(9[8]) If the eligibility agency does not send proper notice of an adverse change for the month that follows, the agency shall extend eligibility to that month. [-]The eligibility agency shall send proper notice of the effective date of an adverse decision.[-]The enrollee does not owe a premium for the due process month.

(10[9]) If the member[enrollee] responds to the review in the review month and the verification due date is in the month that follows, the eligibility agency shall extend eligibility to the month that follows. [-]The member[enrollee] must provide [all-]verification by the verification due date.

(a) If the member[enrollee] provides [all-]requested verification by the verification due date, the eligibility agency shall determine eligibility and send proper notice of the decision.

(b) If the member[enrollee] does not provide [all-]requested verification by the verification due date, the eligibility agency shall end eligibility effective at the end of the month that[is] which the eligibility agency sends proper notice of the closure.

(c) If the member[enrollee] returns [all-]verification after the verification due date and before the effective closure date, the eligibility agency shall treat the date that[is] it receives [all-]verification as a new application date. [-]The eligibility agency shall determine eligibility and send a notice to the member[enrollee].

(11[10]) The eligibility agency may not continue eligibility while it determines eligibility. [-]The new certification date for the application is the day after the effective closure date if the member[enrollee] is found eligible.

(12[11]) The eligibility agency shall provide ten-day notice of case closure if the member[enrollee] is determined to be ineligible or if the member[enrollee] fails to provide verification by the verification due date.

(13[12]) If eligibility for CHIP enrollment ends, the eligibility agency shall review the case for eligibility under any other medical assistance program without requiring a new application. [-]The eligibility agency may request additional verification from the household if there is insufficient information to [make a determination]determine eligibility.

(14[13]) An applicant must report at application and review whether any of the children in the household for whom enrollment is being requested have access to or are covered by a group health plan, other health insurance coverage, or a state employee's health benefits plan.

(15[14]) The eligibility agency shall deny an application or review if the member[enrollee] fails to respond to questions about health insurance coverage for any children for whom the household seeks to enroll or renew in the program.

R382-10-18. Enrollment Period and Benefit Changes.

(1) Subject to [the provisions in-]Subsection [R382-10-18](2), a child determined eligible for CHIP receives 12 months of coverage that begins with the effective month of enrollment.

(2) CHIP coverage may end or change before the end of the 12-month certification period if the child:

- (a) turns 19 years of age;
- (b) moves out of the state;
- (c) becomes eligible for Medicaid;
- (d) leaves the household;

(e) is not eligible, or is eligible for a different plan due to a change described in Subsection R382-10-4(6)(b);

~~[-] (f) begins to be covered under a group health plan or other health insurance coverage;~~

~~[-] (g) gains access to state employee health benefits as defined in 42 CFR 457.310;~~

~~[-] (h) enters a public institution or an institution for mental disease; or~~

~~[-] (i) fails to respond to a request to verify access to employer-sponsored health coverage;~~

~~[-] (j) fails to respond to a request to verify reportable changes as described in Subsection R382-10-4(6)(b); or~~

~~[-] (k) does not pay the quarterly premium.~~

(h) gained lawfully present eligibility as defined in Subsection R382-10-6(3), and subsequently lost lawfully present status.

(3) A child who becomes pregnant while enrolled in the program retains eligibility for the remainder of the pregnancy and the 12-month post-partum period.

([3]4) The agency evaluates changes and may re[-]determine eligibility when it receives a change report as described in Subsection R382-10-4(6). [-]If the agency requests verification of the change, the agency shall give the [client]member at least [4]ten days to provide verification. [-]The agency shall provide proper notice of an adverse action.

([4]5) If a member[client] reports a change that occurs during the certification period and requests a redetermination, the agency shall re[-]determine eligibility.

(a) If a member[an enrollee] gains access to health insurance under an employer-sponsored plan or COBRA coverage, the [enrollee]member may switch to UPP. [-]The [enrollee]member must report the health insurance within [4]ten calendar days of enrolling, or within [10]ten calendar days of when coverage begins, whichever is later. [-]The employer-sponsored plan must meet UPP criteria.

(b) If the change would cause an adverse action, eligibility [shall-]would remain unchanged through the end of the certification period.

~~[-] (c) If the change results in a better benefit, the agency shall take the following actions:~~

~~[-] (i) If the change makes the enrollee eligible for Medicaid, the eligibility agency shall end CHIP eligibility and enroll the child in Medicaid.~~

~~[-] (ii) If the change results in a lower premium, the decrease is effective as follows:~~

~~[-] (A) The premium change is effective the month of report if income decreased that month and the family provides timely verification of income;~~

~~[-] (B) The premium change is effective the month following the report month if the decrease in income is for the following month and the family provides timely verification of income;~~

~~[-] (C) The premium change is effective the month in which verification of the decrease in income is provided, if the family does not provide timely verification of income.~~

([5]6) Failure to make a timely report of a reportable change may result in an overpayment of benefits and case closure.

[R382-10-19. Quarterly Premiums.

~~[-] (1) Each family with children enrolled in the CHIP program must pay a quarterly premium based on the countable income of the family during the first month of the quarter.~~

~~(a) The eligibility agency may not charge a premium to a child who is American Indian or Alaska Native.~~

~~(b) A family with countable income up to 150% of the federal poverty level must pay a quarterly premium of \$30.~~

~~(c) A family with countable income greater than 150% and up to 200% of the federal poverty level must pay a quarterly premium of \$75.~~

~~(d) The agency shall charge the family the lowest premium amount when the family has two or more children, and those children qualify for different quarterly premium amounts.~~

~~(2) The eligibility agency shall end CHIP coverage and assess a \$15 late fee to a family who does not pay its quarterly premium by the premium due date.~~

~~(3) The agency may reinstate coverage if the family pays the premium and the late fee by the last day of the month immediately following the termination.~~

~~(4) A child is ineligible for CHIP for three months if CHIP is terminated for failure to pay the quarterly premium. The child must reapply at the end of the three months. If eligible, the agency shall approve eligibility without payment of the past due premiums or late fee.~~

~~(5) The eligibility agency may not charge the household a premium during a due process month associated with the periodic eligibility review.~~

~~(6) The eligibility agency shall assess premiums that are payable each quarter for each month of eligibility.~~

R382-10-~~20~~19. Termination and Notice.

(1) The eligibility agency shall notify an applicant or member~~[enrollee]~~ in writing of the eligibility decision made on the application or periodic eligibility review.

(2) The eligibility agency shall notify ~~[an]~~a member~~[enrollee]~~ in writing ten calendar days before the effective date of an action that adversely affects the member's~~[enrollee's]~~ eligibility.

(3) ~~[Notices under Section R382-10-20]~~The eligibility agency shall provide the following information:

(a) the action to be taken;

(b) the reason for the action;

(c) the regulations or policy that support the action when the action is a denial, closure, or an adverse change to eligibility;

(d) the applicant's or member's~~[enrollee's]~~ right to a hearing;

(e) how an applicant or member~~[enrollee]~~ may request a hearing; and

(f) the applicant's or member's~~[enrollee's]~~ right to represent ~~[himself]~~themselves or~~[7]~~ use legal counsel, a friend, relative, or other spokesperson.

(4) The eligibility agency need not give ten-day notice of termination if:

(a) the child is deceased;

(b) the child moves out~~[-]~~ of~~[-]~~ state and is not expected to return;

(c) the child enters a public institution or an institution for mental disease~~[s]~~; or

(d) the child's whereabouts are unknown and the post office has returned mail to ~~[indicate]~~show that there is no forwarding address.

R382-10-~~24~~20. Case Closure or Withdrawal.

(1) The eligibility agency shall end a child's enrollment upon enrollee request or upon discovery that the child is no longer

eligible. ~~[-]~~An applicant may withdraw an application for CHIP benefits any time before the eligibility agency ~~[makes a decision]~~decides on the application.

(2) The eligibility agency shall comply with the requirements of 42 CFR 457.350(i), regarding transfer of the electronic file ~~[for the purpose of determining]~~to determine eligibility for other insurance affordability programs.

R382-10-2~~2~~1. Public Health Emergency Provisions.

(1) During the public health emergency declared by the Secretary of Health and Human Services on January 27, 2020, the ~~[D]~~department will continue coverage of children enrolled in CHIP.

(a) This applies to an individual who is eligible and enrolled on March 18, 2020, the date of enactment of Pub. L. No. 116 127, or who subsequently becomes eligible and enrolled in medical assistance during the emergency period and any extensions.

(b) Coverage for an individual eligible for CHIP during the public health emergency period will end only under the following circumstances:

(i) when a beneficiary is no longer a Utah resident;

(ii) upon a beneficiary's request; or

(iii) upon a beneficiary's death. ~~[-]~~Coverage continues through the date of death.

(2) An individual is not required to pay CHIP Premiums through the duration of the emergency period and any extensions. The ~~[D]~~department will refund the individual any premiums collected during the emergency period and any extensions.

(3) The ~~[D]~~department shall exclude the following from an individual's income:

(a) \$600 per week federal pandemic unemployment payments as defined in Section 2102 and 2104(b) of the Coronavirus Aid, Relief, and Economic Security (Cares) Act, Pub. L. No. 116 136, for programs established under Title XXI of the Social Security Act; and

(b) recovery rebates for individuals as defined in Section 2201 of the Cares Act, Pub. L. No. 116 136, for programs established under Title XXI of the Social Security Act. ~~[-]~~These rebates are treated as a refundable tax credit and may be paid in advance or upon filing a 2020 tax return.

(4) The ~~[D]~~department shall exclude from income certain employer payments of student loans as defined in Section 2206 of the Cares Act, Pub. L. No. 116 136.

(a) Payments toward an employee's student loans may be paid directly to the employee or to the lender.

(b) This exclusion applies to payments made on or after the effective date of Pub. L. No. 116 136 and before January 1, 2021.

(5) The ~~[D]~~department shall exclude the amount of qualified charitable contributions made by individuals during the taxable year as defined in Section 2204 of the Cares Act, Pub. L. No. 116 136.

(a) Allowable taxable years begin in the year 2020.

(b) The excluded contributions must not exceed \$300.

(6) An individual is not required to pay any cost-sharing fees associated with Coronavirus (COVID-19) testing services and treatments, including vaccines, specialized equipment, and therapies during the duration of the emergency period.

KEY: children's health benefits

Date of Last Change: 2024~~[September 16, 2020]~~

Notice of Continuation: April 10, 2023

Authorizing, and Implemented or Interpreted Law: 26B-1-~~5~~213; 26B-~~40~~3-902

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R414-307-3	Filing ID: 56445

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
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
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-307-3. General Requirements for Home and Community-Based Services Waivers
3. Purpose of the new rule or reason for the change:
The purpose of this change is to include time-frame exceptions to the application process for home and community-based services waivers.
This proposed change was deemed necessary a result of internal review.
4. Summary of the new rule or change:
This amendment allows Medicaid to authorize exceptions to the 60-day time frames to apply for a home and community-based services waiver.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact to the state budget as this change introduces an exception to the administrative process but affects neither member services nor provider

reimbursement, which would have potentially caused a cost or savings.

B) Local governments:

There is no fiscal impact on 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 fiscal impact on small businesses as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.

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

There is no fiscal impact on non-small businesses as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.

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 fiscal impact to other persons or entities as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.

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 to any person or entity as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.

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	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 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-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:	06/14/2024
9. This rule change MAY become effective on:	06/21/2024
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:	04/28/2024
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R414. Health and Human Services, Integrated Healthcare. R414-307. Eligibility for Home and Community-Based Services Waivers.

R414-307-3. General Requirements for Home and Community-Based Services Waivers.

(1) The department shall apply Sec. 2404 of Pub. L. No. 111 148, Patient Protection and Affordable Care Act, which refers to applying Section 1924 of the Social Security Act to married individuals who are eligible for home and community-based waiver services.

(2) To qualify for Medicaid coverage of home and community-based waiver services, an individual shall meet:

(a) the medical eligibility criteria defined in the state waiver implementation plan, which applies to the specific waiver under which the individual is seeking services, as verified by the operating agency case manager;

(b) the financial and non-financial eligibility criteria for one of the Medicaid coverage groups selected in the specific waiver implementation plan under which the individual is seeking services; and

(c) other requirements defined in this rule that apply to waiver applicants and members, or specific to the waiver for which the individual is seeking eligibility.

(3) Except as otherwise stated in this rule, Rules R414-304 and R414-305 apply to eligibility determinations under an HCBS waiver.

(4) The department shall limit the number of individuals covered by an HCBS waiver as provided in the specific waiver implementation plan.

(5)(a) The department implements the requirements for liens, adjustments, recoveries, and the transfers of assets described in 42 U.S.C. 1396p(f). An individual is ineligible for nursing facility and other long-term care services if an individual has home equity that exceeds the limit set forth in [Subsection]42 U.S.C. 1396p(f).

(b) The department sets that limit at the minimum level allowed under [Subsection]42 U.S.C. 1396p(f).

(c) An individual who has excess home equity and meets eligibility criteria under a community Medicaid eligibility group defined in the Utah Medicaid State Plan may receive Medicaid for services other than long-term care services provided under the plan or the HCBS waiver.

(d) An individual who has excess home equity and does not qualify for a community Medicaid eligibility group, is ineligible for Medicaid under both the special income group and the medically needy waiver group.

(6)(a) The operating agency or designee shall send a completed waiver referral to the eligibility agency, so the eligibility agency may determine initial eligibility for a Medicaid coverage group under an HCBS waiver. Additionally, an individual who is not eligible for Medicaid shall complete a Medicaid application.

(b) The operating agency or designee shall verify the form meets the level-of-care requirements as defined in the state waiver implementation plan.

(c) The following provisions apply for Medicaid eligibility under the HCBS waiver:

NOTICES OF PROPOSED RULES

(i) A member shall obtain approval within 60 days of the level-of-care date stated on the waiver referral form for the waiver referral form to remain valid, otherwise the operating agency or designee shall submit a new waiver referral form to the eligibility agency to establish a new level-of-care date;

(ii) waiver eligibility cannot begin before the level-of-care date stated on a valid waiver referral form; and

(iii) the eligibility start date begins within 60 days of the level-of-care date stated on the valid waiver referral form.

(d) the Medicaid agency may authorize exceptions to the time frames defined in Subsections (6)(c)(i) and (6)(c)(iii) due to circumstances beyond the applicant's control.

([d]e) The Medicaid agency may not pay for waiver services before the start date of the individual's approved comprehensive care plan, which may not be earlier than the date the individual meets:

(i) the eligibility criteria for a Medicaid coverage group included in the applicable waiver; and

(ii) the level-of-care date verified on a valid waiver referral form.

(7) In the event an individual is not approved for Waiver Medicaid services due to Subsection (6), an individual who otherwise meets Medicaid financial and non-financial eligibility criteria for a Non-Waiver Medicaid coverage group may qualify for Medicaid services other than services under an HCBS waiver.

(8) If an individual's Medicaid eligibility ends and the individual reapplies for Waiver Medicaid, the department shall establish a process of obtaining approval from the operating agency or designee in which the individual continues to meet medical criteria for the waiver. The operating agency or designee approval may establish a new date in which eligibility to receive coverage of waiver services may begin.

(9)(a) An individual denied Medicaid coverage for an HCBS waiver may request a fair hearing.

(b) The department shall conduct hearings on programmatic eligibility for payment of waiver services.

(c) The Department of Workforce Services shall conduct hearings on financial eligibility issues for a Medicaid coverage group.

KEY: eligibility, waivers, special income group

Date of Last Change: ~~January 22,~~ 2024

Notice of Continuation: March 1, 2022

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R414-320-16	Filing ID: 56446

Agency Information

1. Department:	Health and Human Services
Agency:	Integrated Healthcare
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
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-320-16. Benefits
3. Purpose of the new rule or reason for the change:
Based on recent approval of an amendment to Utah's 1115 Demonstration Waiver and subsequent direction from the Legislature to increase funding for Utah's Premium Partnership for Health Insurance (UPP) program, the purpose of this change is to update the maximum child reimbursement amount for medical expenses.
4. Summary of the new rule or change:
This amendment allots a new maximum reimbursement amount of \$180 for children and clarifies adult coverage for consistency in the text.

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 expects an annual increase to the state budget of about \$120,000 based on an agency review of funding available for the UPP program, and the total number of 219 children who receive UPP coverage.
There are no estimated savings. As of this time, the agency is only aware of a fiscal impact for FY2025. As this rule will not be made effective until FY2025, there is no fiscal impact for FY2024.
B) Local governments:
There is no anticipated fiscal impact on 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 fiscal impact on small businesses as this increase in coverage does not create business revenue through an increase in customer services.

Additionally, small businesses will not see administrative or overhead costs that accompany this change.

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

There is no fiscal impact on non-small businesses as this increase in coverage does not create business revenue through an increase in customer services.

Additionally, non-small businesses will not see administrative or overhead costs that accompany this change.

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**):

This amendment does not impose new costs on other entities and creates out-of-pocket savings up to \$120,000 for families based on the total number of 219 children enrolled in the UPP program.

As of this time, the agency is only aware of a fiscal impact for FY2025. As this rule will not be made effective until FY2025, there is no fiscal impact for FY2024.

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 to a child as this increase in coverage does not impose new costs or requirements.

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	FY2024	FY2025	FY2026
State Government	\$0	\$120,000	\$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	\$120,000	\$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	\$120,000	\$0
Total Fiscal Benefits	\$0	\$120,000	\$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.

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	
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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:	06/14/2024
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9. This rule change MAY become effective on:	06/21/2024
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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:	04/28/2024
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R414. Health and Human Services, Integrated Healthcare. R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver. R414-320-16. Benefits.

(1) The UPP program shall provide members a monthly reimbursement payment for health coverage.

NOTICES OF PROPOSED RULES

(2) The reimbursement may not exceed the amount that the member pays toward the cost of the employer-sponsored health plan, or COBRA continuation coverage.

(3) The UPP program shall reimburse up to \$300 monthly for each eligible adult's medical coverage.

(4) The UPP program shall reimburse up to \$~~120~~180 for each eligible child's medical coverage.

(a) If the employer-sponsored insurance does not include dental benefits, a child shall receive dental-only benefits through CHIP in addition to the medical insurance reimbursement.

(b) If the employer also offers employer-sponsored dental coverage, the applicant may choose to enroll a child in the employer-sponsored dental coverage, in which case, the UPP program will include an additional \$20 for each eligible child enrolled.

KEY: CHIP, Medicaid, PCN, UPP

Date of Last Change: ~~2024~~November 10, 2023

Notice of Continuation: January 25, 2021

Authorizing, and Implemented or Interpreted Law: 26B-3-108; 26B-1-213

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R414-401-5	Filing ID: 56447

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
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
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-401-5. Penalties and Interest

3. Purpose of the new rule or reason for the change:
The purpose of this change is to modify penalties and interest for the assessment in accordance with H.B. 392, passed in the 2024 General Session.
4. Summary of the new rule or change:
This amendment requires nursing care facilities to pay a penalty for failure to timely pay an assessment.
It also makes structural and formatting changes to the text in accordance with the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact to the state budget as a direct result of this rule, as these changes are covered under appropriations from the Legislature and therefore, introduce no cost or savings.
A holdover appropriation from a previous fiscal year provided this funding to cover any costs that otherwise would have been incurred by this proposed rule.
B) Local governments:
There is no fiscal impact to local governments as they neither fund nor administer nursing facilities under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact to small businesses as these changes are covered under appropriations from the Legislature and therefore, introduce no cost or savings.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no fiscal impact on non-small businesses as these changes are covered under appropriations from the Legislature and therefore, introduce no cost or savings.
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 fiscal impact to other persons or entities as these changes are covered under appropriations from the Legislature and therefore, introduce no cost or savings.

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 to a person or entity as these changes are covered under appropriations from the Legislature and therefore introduce no cost or savings.

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	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 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-1-213 | Section 26B-3-404 | 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: 06/14/2024

9. This rule change MAY become effective on: 06/21/2024

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:	04/28/2024
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R414. Health and Human Services, Integrated Healthcare.

R414-401. Nursing Care Facility Assessment.

R414-401-5. Penalties and Interest.

(1) ~~The penalty[ies] for failure to file a [report or pay the assessment due are provided] return or pay the assessment due within the time prescribed in Section 26B-3-40[4]3 is the greater of \$100 or 5% of the assessment due on the assessment patient day report. [The department may suspend Medicaid payments, after giving notice, to a nursing facility until the facility pays the assessment and penalties due in full or until the facility and the department reach a negotiated settlement.]~~

(2) ~~After giving notice, the department may suspend Medicaid payments to a nursing facility until the facility pays the assessment and penalties due in full or until the facility and the department reach a negotiated settlement. [The department shall charge penalties as prescribed in Subsections 26B-3-404(1) through 26B-3-404(2).]~~

~~(3) The department shall charge a nursing facility a negligence penalty as prescribed in Subsection 26B-3-404(3)(a) if the facility does not pay in full within 60 days of the due date.~~

~~(4) The department shall charge a nursing facility an intentional disregard penalty as prescribed in Subsection 26B-3-404(3)(b) if the facility does not pay in full within 90 days of the due date.~~

~~(5) The department shall charge a nursing facility an intent to evade penalty as prescribed in Subsection 26B-3-404(4) if the facility does not pay in full within 120 days of the due date.~~

~~(6)](3) The [P]penalty[ies and interest] accrues according to [the]this [statute and]rule without notification.~~

~~(7)4) If a facility seeks to have the department waive penalties, a facility must request a state fair hearing to allow an administrative law judge to determine whether the facility has shown good cause for the department to waive penalties.~~

~~(8)5) [The department does not waive interest accrued by the facility.~~

~~(9)]For non-Medicaid certified facilities, the department may refer a delinquent facility to its Division of Licensing and~~

NOTICES OF PROPOSED RULES

Background Checks based on administrator requirements as noted in Section R432-150-8.

KEY: Medicaid, nursing facility
Date of Last Change: [January 1,] 2024
Notice of Continuation: November 7, 2023
Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-404; 26B-3-108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R414-516-3	Filing ID: 56459

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
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
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-516-3. Quality Improvement Program Requirements of Participation
3. Purpose of the new rule or reason for the change:
The purpose of this change is to update and clarify provisions for the nursing facility non-state government-owned upper payment limit quality improvement program (NSGO UPL). The change was deemed necessary based on internal review and consultation with the industry.
4. Summary of the new rule or change:
This amendment includes a new metric for nursing facilities (NFs) under the NF NSGO UPL program.

It also makes other clarifications and technical updates to formatting.

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 NSGO entities fund the UPL with seed money that draws a federal match.												
B) Local governments:												
There is no impact on local governments as NSGO entities fund the UPL with seed money that draws a federal match.												
C) Small businesses ("small business" means a business employing 1-49 persons):												
There is no impact on small businesses as NSGO entities fund the UPL with seed money that draws a federal match.												
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):												
There is no impact on non-small businesses as NSGO entities fund the UPL with seed money that draws a federal match.												
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 or entities as NSGO entities fund the UPL with seed money that draws a federal match.												
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 to a single person or entity as NSGO entities fund the UPL with seed money that draws a federal match.												
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												
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2024</th> <th>FY2025</th> <th>FY2026</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2024	FY2025	FY2026	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0
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 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-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: 06/14/2024
9. This rule change MAY become effective on: 06/21/2024
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:	04/30/2024
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R414. Health and Human Services, Integrated Healthcare. R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program. R414-516-3. Quality Improvement Program Requirements of Participation.

- (1) A program is required in six of nine metrics to:
 - (a) ~~to~~ score better than the national average;
 - (b) improve from the ~~prior~~ earlier state fiscal year (SFY);
 or
 - (c) not receive a state survey deficiency of F, H, I, J, K, or L ~~[in six of nine metrics]~~.
- (2) The metrics and state survey used for the QI Program are in accordance with the following data:
 - (a) CASPER percentage of long-stay residents assessed and appropriately given the seasonal influenza vaccine;
 - (b) CASPER percentage of long-stay residents with a urinary tract infection;
 - (c) CASPER percentage of high-risk long-stay residents with pressure ulcers;
 - (d) CASPER percentage of long-stay residents experiencing one or more falls with major injury;
 - (e) CASPER percentage of long-stay residents who lose too much weight;
 - (f) CASPER percentage of long-stay residents who receive an antipsychotic medication;
 - (g) CASPER percentage of long-stay residents whose ability to move independently worsens;
 - (h) adjusted nursing staff hours ~~per~~ for each resident ~~per~~ each day; and
 - (i) ~~[a-]~~ state survey without a quality of care deficiency of F, H, I, J, K, or L.
- (3) If CMS modifies or removes a metric for any state fiscal year (SFY), the department shall notify the facilities and consider the metric as achieved for the facilities.
- (4) If state licensing does not conduct a survey for a program in any given SFY, then the survey requirement described in Subsection ~~(1)2~~(i) of this section is removed from consideration, and the facility must meet five of eight metrics.
 - (1) If more than one survey is completed during the QI SFY, then all surveys are used for the period.
 - (2) The source of data used to calculate compliance comes from the CMS website, except for data described in Subsection ~~R414-516-3(2)(i)~~(2)(i), which comes from state licensing. ~~[-]The data that represent the SFY are used for the analysis. [-]Each program provides data to CMS for nursing hours and CASPER. []The data is then made available in the subsequent SFY and ~~will be~~ downloaded by DIH.~~
 - (3) DIH does not require a provider that enters the NF NSGO UPL program for only part of an SFY, based on provider participation start date, to comply with the QI requirements described in Subsection ~~(1)2~~(2) in the first SFY.

KEY: Medicaid
Date of Last Change: 2024~~November 10, 2023~~
Notice of Continuation: December 30, 2022
Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-1	Filing ID: 56460

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-1. General Definitions
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization. (EDITOR'S NOTE: The proposed new Rule R911-1 is under ID 56485 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
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A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.
B) Local governments:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 <i>agency</i>):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
As there are no affected persons, there are no compliance costs as a result of this filing.
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	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 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-4-101	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:	06/14/2024

9. This rule change MAY become effective on:	06/21/2024
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:	04/30/2024
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~~R426. Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426-1. General Definitions.~~

~~R426-1-100. Authority and Purpose.~~

~~_____ This rule establishes uniform definitions for all R426 rules. It also provides administration standards applicable to all R426 rules.~~

~~R426-1-200. General Definitions.~~

~~_____ The definitions in Title 26B, Chapter 4, Part 1 are adopted and incorporated by reference into this rule, in addition:~~

~~_____ (1) "Advanced Emergency Medical Technician" or "AEMT" means an individual who has completed an AEMT training program, approved by the Department, who is licensed by the Department as qualified to render services enumerated in this rule.~~

~~_____ (2) "Affiliated Provider" means a licensed EMS individual's secondary employer or employers.~~

~~_____ (3) "Air Ambulance" means a specially equipped and permitted aircraft, especially a helicopter or fixed-wing airplane, for transporting patients.~~

~~_____ (4) "Air Ambulance Personnel" means the pilot and patient care personnel who are involved in an air medical transport.~~

~~_____ (5) "Air Ambulance Service" means any publicly or privately owned organization that is licensed or applies for licensure under R426-3 and provides transportation and care of patients by air ambulance.~~

~~_____ (6) "Air Ambulance Service Medical Director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.~~

~~_____ (7) "Categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-9-300.~~

~~_____ (8) "Certify," "Certification," and "Certified" means the official Department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which they may be licensed.~~

~~_____ (9) "Competitive Grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds.~~

~~_____ (10) "Continuing Medical Education" means a Department approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.~~

~~_____ (11) "County or Multi County EMS Council or Committee" means a group of persons recognized as the legitimate entity within the county to formulate policy regarding the provision of EMS.~~

NOTICES OF PROPOSED RULES

(12) "Course Coordinator" means an individual who has completed a Department course coordinator course and is endorsed by the Department as capable to conduct Department authorized EMS courses.

(13) "Department" means the Utah Department of Health and Human Services.

(14) "Emergency Medical Dispatcher" or "EMD" means an individual who has completed a Department approved EMD training program, and is licensed by the Department as qualified to render services enumerated in this rule.

(15) "Emergency Medical Service Dispatch Center" means a call center designated by the Department for the routine acceptance of calls for emergency assistance, staffed by trained operators who utilize a selective medical dispatch system to dispatch licensed designated quick response units or licensed ambulance and paramedic services.

(16) "Emergency Medical Responder" or "EMR" means an individual who has completed a Department approved EMR training program, and is licensed by the Department as qualified to render services enumerated in this rule.

(17) "Emergency Medical Technician" or "EMT" means an individual who has completed a Department approved EMT training program and is licensed by the Department as qualified to render services enumerated in this rule.

(18) "Emergency Medical Technician Intermediate Advanced" means an individual who has completed a Department approved EMT IA training program and is licensed by the Department as qualified to render services enumerated in this rule.

(19) "Emergency vehicle operator" means an individual on the roster of an EMS provider who may, in the normal course of the individual's duties, drive an ambulance or an emergency medical response vehicle.

(20) "EMS" means Emergency Medical Services.

(21) "Emergency Medical Incident" means any instance in which an Emergency Medical Services Provider is requested to provide or potentially provide emergency medical services.

(22) "EMS Instructor" means an individual who has completed a Department EMS instructor course and is endorsed by the Department as capable to teach EMS personnel.

(23) "EMS stand-by event" means the on-site licensed ambulance, paramedic service, or designated quick response unit at a scheduled event or activity provided by the local 911 exclusive license provider or their designee.

(24) "Endorsement" means a Department recognized set of skills or specific authority extended to an individual's EMS license.

(25) "Exclusive License" means the sole right to perform the licensed act in a defined geographic service area, and that prohibits the Department from performing the licensed act, and from granting the right to anyone else.

(26) "Grants Review Subcommittee" means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize and make grant funding recommendations to the EMS Committee.

(27) "Ground Ambulance" means a vehicle which is properly equipped, maintained, permitted and used to transport a patient to a patient destination such as a patient receiving facility or resource hospital.

(28) "Inclusive Trauma System" means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under 26B, Chapter 2, Part 2, trauma centers, and pre-hospital providers which have established communication linkages and triage protocols to provide

for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.

(29) "Inter facility Transfer" means an ambulance transfer of a patient, who does not have an emergency medical condition as defined in UCA 26B-4-101(8), and the ambulance transfer of the patient is arranged by a transferring physician for the particular patient, from a hospital, nursing facility, patient receiving facility, mental health facility, or other licensed medical facility.

(30) "Individual" means a human being.

(31) "Level of Care" means the capabilities and commitment to the care of the trauma patient available within a specified facility.

(32) "Level of License" means the official Department recognized step in the licensure process in which an individual has attained as an EMS provider. It also means the licensed or designated level of an ambulance provider or Quick Response Unit.

(33) "Licensed EMS Individual" means a person licensed by the Department to perform an EMS function.

(34) "Meritorious Complaint" means a complaint against a licensed ambulance provider, designated agency, or licensed provider(s) that is made by a patient, a member of the immediate family of a patient, or health care provider, that the Department determines is substantially supported by the facts or a licensed ambulance provider, designated agency, or licensed provider(s):

(a) has repeatedly failed to provide service at the level or in the exclusive geographic service area required licensee;

(b) has repeatedly failed to follow operational standards established by the EMS Committee;

(c) has committed an act in the performance of a professional duty that endangered the public or constituted gross negligence; or

(d) has otherwise repeatedly engaged in conduct that is adverse to the public health, safety, morals or welfare, or would adversely affect the public trust in the emergency medical service system.

(35) "Matching Funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures.

(36) "On-line Medical Control" which refers to physician medical direction of pre-hospital personnel during a medical emergency; and

(37) "Off-line Medical Control" which refers to physician oversight of local EMS services and personnel to assure their medical accountability.

(38) "Medical Director" means a physician certified by the Department to provide off-line medical control.

(39) "Mid-level Provider" means a licensed nurse practitioner or a licensed physician assistant.

(40) "Net Income" means the sum of net service revenue, plus other regulated operating revenue and subsidies of any type, less operating expenses, interest expense, and income.

(41) "Paramedic" means an individual who has completed a Department approved Paramedic training program and is licensed by the Department as qualified to render services enumerated in this rule.

(42) "Paramedic Ground Ambulance" means the provision of advanced life support patient care and transport by licensed paramedic personnel in a licensed ambulance.

(43) "Paramedic Rescue Service" means the provision of advanced life support patient care by licensed paramedic personnel without the ability to transport patients.

(44) "Paramedic Unit" means a vehicle which is properly equipped, maintained and used to transport licensed paramedics to

the scene of emergencies to perform paramedic services without the ability to transport patients to a designated hospital or designated patient receiving facility.

~~(45) "Paramedic Tactical Service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by licensed paramedics who are trained in combat medical response.~~

~~(46) "Paramedic Tactical Unit" means a vehicle which is properly equipped, maintained, and used to transport licensed paramedics to the scene of traumatic confrontations to provide paramedic tactical services.~~

~~(47) "Patient Care Report" means a record of the response by each responding Emergency Medical Services Provider unit to each patient during an EMS Incident.~~

~~(48) "Patient Receiving Facility" means a Department designated medical clinic or designated resource hospital that is approved to receive patients transported by a licensed ambulance provider.~~

~~(49) "Per Capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in 26B-4-107, as part of the Emergency Medical Services Grants Program.~~

~~(50) "Permit" means the document issued by the Department that authorizes a vehicle to be used in providing emergency medical services.~~

~~(51) "Person" means an individual, firm, partnership, association, corporation, company, or group of individuals acting together for a common purpose, agency, or organization of any kind public or private.~~

~~(52) "Physician" means a medical doctor licensed to practice medicine in Utah.~~

~~(53) "Pilot" means an individual licensed to operate an air ambulance.~~

~~(54) "Pre hospital Care" means medical care given to an ill or injured patient by a designated or licensed EMS provider outside of a hospital setting.~~

~~(55) "Primary Affiliated Provider" or "PAP" means a licensed EMS individual's primary or main employer or provider.~~

~~(56) "Primary emergency medical services" means an organization that is the only licensed or designated service in a geographical area.~~

~~(57) "Provider" means a Department licensed or designated entity that provides emergency medical services.~~

~~(58) "Provisional License" means temporary terms and conditions placed on a licensed EMS individual's license until completion of an investigation or a final adjudication or conclusion of the pending matter.~~

~~(59) "Quick Response Unit" or "QRU" means an entity that provides emergency medical services to supplement local licensed ambulance providers or provide unique services.~~

~~(60) "Quick Response Vehicle" or "QRV" means a vehicle which is properly equipped, maintained, permitted and used to perform assistive services at a scene. A QRV may transport or deliver a patient to a licensed ambulance provider access point. The QRV may include an automobile, an all-terrain vehicle or a watercraft.~~

~~(61) "Resource Hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of pre-hospital emergency care.~~

~~(62) "Restricted License" means a licensed EMS individual may not function in their EMS capacity for an interim period of time.~~

~~(63) "Scene" means the location of initial contact with the patient.~~

~~(64) "Selective Medical Dispatch System" means a Department approved reference system used by a designated local dispatch agency to dispatch aid to medical emergencies which includes:~~

~~(a) systemized caller interrogation questions;~~

~~(b) systemized pre arrival instructions; and~~

~~(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration.~~

~~(65) "Specialized Life Support Air Ambulance Service" means a level of care which requires equipment or specialty patient care by one or more medical personnel in addition to the regularly scheduled air medical team.~~

~~(66) "Training Officer" means an individual who has completed a department Training Officer Course and is endorsed by the Department to be responsible for an EMS provider organization's continuing medical education, license renewal records, and testing.~~

KEY: emergency medical services

Date of Last Change: November 5, 2023

Notice of Continuation: September 28, 2023

Authorizing, and Implemented or Interpreted Law: 26B, Chapter 4, Part 1]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-2	Filing ID: 56461

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization. (EDITOR'S NOTE: The proposed new Rule R911-2 is under ID 56486 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.
B) Local governments:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is

no anticipated change to costs or savings to 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 fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
As there are no affected persons, there are no compliance costs as a result of this filing.

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	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 Benefits	Fiscal \$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.			

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-4-101	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:	06/14/2024

9. This rule change MAY become effective on:	06/21/2024
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:	04/30/2024
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~~[R426.— Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews.~~

~~R426-2-100. Authority and Purpose.~~

~~(1) This rule is established under Title 26B, Chapter 4, Part 1. It describes types of providers that require a designation, the application process for obtaining a designation and minimum designation requirements.~~

~~(2) The rule also establishes criteria for critical incident stress management and the process for quality assurance reviews.~~

~~R426-2-200. EMS Provider Designation Types.~~

~~The following type of provider shall obtain a designation from the Department:~~

- ~~(1) Quick Response Provider;~~
- ~~(2) Emergency Medical Service Dispatch Center; or~~
- ~~(3) Nonemergency Secured Behavioral Health Transport.~~

~~R426-2-300. Quick Response Provider Minimum Designation Requirements.~~

~~A quick response provider shall meet the following minimum designation requirements:~~

- ~~(1) vehicles, equipment, and supplies that meet Department requirements;~~
- ~~(2) describe locations for stationing its vehicles, equipment and supplies;~~
- ~~(3) a current dispatch agreement with a designated Emergency Medical Service Dispatch Center;~~
- ~~(4) a Department endorsed training officer;~~
- ~~(5) a current plan of operations, which shall include:

 - ~~(a) the name, EMS license number, and license level of personnel;~~
 - ~~(b) operational procedures; and~~
 - ~~(c) a description of how the designated provider proposes to interface with other licensed and designated EMS providers.~~~~
- ~~(6) a current agreement with a Department certified off-line medical director who will perform the following:

 - ~~(a) develop and implement patient care standards which include written standing orders and triage, treatment, pre-hospital protocols, and pre-arrival instructions to be given by designated emergency medical dispatch centers;~~
 - ~~(b) ensure the qualification of field licensed EMS personnel involved in patient care and dispatch through the provision of ongoing continuing medical education programs and appropriate review and evaluation;~~
 - ~~(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;~~
 - ~~(d) annually review triage, treatment, and transport protocols and update them as necessary;~~
 - ~~(e) suspend from patient care, pending Department review, a field EMS personnel or dispatcher who does not comply with local medical triage, treatment and transport protocols, pre-arrival instruction protocols, or who violates EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner;~~
 - ~~(f) notify the Department within one business day of any imposed suspensions; and~~
 - ~~(g) attend meetings of the local EMS Council, if one exists, to coordinate operations of local EMS providers;~~~~
- ~~(7) provide current treatment protocols approved by the certified off-line medical director for the designated service level;~~
- ~~(8) provide a copy of its certificate of insurance; and~~
- ~~(9) provide a letter of support from the licensed ambulance providers in the geographical service area.~~

~~R426-2-400. Emergency Medical Service Dispatch Center Minimum Designation and Certified Emergency Medical Dispatcher Requirements.~~

- ~~(1) Designated emergency medical service dispatch centers shall have a selective medical dispatch system that meets EMS Committee approval, and uses local dispatch protocols approved by the off-line medical director including:

 - ~~(a) systemized caller interrogation questions;~~
 - ~~(b) systemized pre-arrival instructions;~~
 - ~~(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;~~~~

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~~(d) use protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;~~

~~(e) provide pre-hospital arrival instructions by a certified Emergency Medical Dispatcher (EMD);~~

~~(f) have a current updated plan of operations including:~~

~~(i) plan of operations to be used in a disaster or emergency;~~

~~(ii) communication systems; and~~

~~(iii) aid agreements with other designated medical service dispatch centers;~~

~~(g) a current agreement with a Department-certified off-line medical director;~~

~~(h) an ongoing medical call review quality assurance program; and~~

~~(i) a licensed emergency medical dispatcher roster including certified EMD staff names, certification numbers and expiration dates.~~

~~(2) EMDs shall be certified by the dispatch center's selective medical dispatch system vendor. Before authorization of a training and certification program by the vendor of a qualified medical dispatch system, the vendor must meet the certification requirements approved by the EMS Committee. Certification requirements shall include:~~

~~(a) successful completion of the certification course and related testing;~~

~~(b) keep documentation of having completed a training course, utilizing the 2020 American Heart Association emergency cardiovascular care guidelines, in high quality telephone cardiopulmonary resuscitation (T-CPR), the instruction shall incorporate recognition protocols for out of hospital cardiac arrest (OHCA) CPR instructions for callers, and continuous education;~~

~~(c) certified EMDs shall be included in the Department's license management system for compliance monitoring and may adjust state EMS grant revenues based on failure to comply with the requirements of this section;~~

~~(d) meet background screening requirements as described in Section 26B-4-125; and~~

~~(e) be at least 18 years of age or older.~~

~~R426-2-500. Nonemergency Secured Behavioral Health Transport Minimum Designation Requirements.~~

~~(1) Vehicles, equipment, and supplies that meet the current requirements of the Department for designated nonemergency secured behavioral health transport providers as found on the Office of EMS and Preparedness' website.~~

~~(2) Meet staffing requirements as set forth by the EMS Committee. During transport each designated nonemergency secured behavioral health transport vehicle shall be staffed with two personnel. One or both staff shall have completed required training as approved by Department policy for mental health patient de-escalation and American Heart Association cardiopulmonary resuscitation or equivalent.~~

~~R426-2-600. Designation Applications.~~

~~(1) Any person applying for designation shall submit to the Department:~~

~~(a) applications fees;~~

~~(b) complete application on Department forms; and~~

~~(c) documentation verifying that the provider meets the minimum requirements for the designation.~~

~~(2) The Department may determine if clarifying information is needed for approval or processing. The Department will provide needed requirements to the applicant.~~

~~(3) A provider applying for re-designation should submit an application as described above 90 days before the expiration of its designation to avoid a lapsed period.~~

~~(4) A designation may be issued for up to a four-year period.~~

~~R426-2-700. Quick Response Provider Designation Applications.~~

~~A Quick Response Provider shall provide:~~

~~(1) name of the organization and its principles;~~

~~(2) name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility;~~

~~(3) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;~~

~~(4) a description of the geographical area of service; and~~

~~(5) a demonstrated need for the service.~~

~~R426-2-800. Emergency Medical Service Dispatch Center Designation Applications.~~

~~An Emergency Medical Service Dispatch Center shall provide:~~

~~(1) name of the organization and its principles;~~

~~(2) name of the person or organization financially responsible for the service provided by the designee and documentation from that entity accepting responsibility;~~

~~(3) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;~~

~~(4) a description of the geographical area of service; and~~

~~(5) a demonstrated need for the service.~~

~~R426-2-900. Nonemergency Secured Behavioral Health Transport Designation Applications.~~

~~(1) A designated nonemergency-secured behavioral health transport provider shall provide to the Department:~~

~~(a) name of the organization and its principles;~~

~~(b) name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility; and~~

~~(c) if the applicant is privately owned, they shall submit certified copies of the document creating the entity.~~

~~(2) Provide a current plan of operations, which shall include:~~

~~(a) a description of operational procedures;~~

~~(b) description of how the designated nonemergency secured behavioral health transport will interface with hospitals, emergency receiving facilities, licensed mental health facilities, and EMS providers;~~

~~(c) a list of current insurance carriers and health facilities in which the designated provider has current contracts;~~

~~(d) written policies that address under what circumstances a transport will be declined for medical or payment purposes;~~

~~(e) a written protocol to activate 911 if an emergency medical situation arises; and~~

~~(f) procedures for patient care.~~

~~(3) Provide a written policy of how the designated nonemergency secured behavioral health transport will report patient care data to the Department.~~

~~_____ (4) Provide a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the and following minimum amounts:~~

~~_____ (a) liability insurance in the amount of \$1,000,000 for each individual claim; and~~

~~_____ (b) liability insurance in the amount of \$1,000,000 for property damage from any one occurrence.~~

~~_____ (5) A designated nonemergency secured behavioral health transport provider shall obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:~~

~~_____ (a) provide the Department with a copy of its certificate of insurance demonstrating compliance with this section;~~

~~_____ (b) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage within 60 days; and~~

~~_____ (c) provide the Department with a copy of its certificate of insurance indicating coverage at or above \$1,000,000 for liability.~~

~~_____ (6) Before approval of the designation, all vehicles will be inspected and permitted by the Department and shall meet the requirements in Subsection R426-4-300(5).~~

R426-2-1000. Denial or Revocation of Designation.

~~_____ (1) The Department may deny an application for a designation for any of the following reasons:~~

~~_____ (a) failure to meet requirements as specified in the rules governing the service;~~

~~_____ (b) failure to meet vehicle, equipment, or staffing requirements;~~

~~_____ (c) failure to meet requirements for renewal or upgrade;~~

~~_____ (d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26B-4-127 and 26B-4-130;~~

~~_____ (e) failure to meet agreements covering training standards or testing standards;~~

~~_____ (f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;~~

~~_____ (g) a history of criminal activity by the licensed or designated provider or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;~~

~~_____ (h) falsifying or misrepresenting any information required for licensure or designation or by the application for either;~~

~~_____ (i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the Department;~~

~~_____ (j) failure to submit records and other data to the Department as required by statute or rule;~~

~~_____ (k) misuse of grant funds received under Section 26B-4-107; and~~

~~_____ (l) violation of federal standards required for the provision of EMS service.~~

~~_____ (2) An applicant who has been denied a designation may request a Department review by filing a written request for reconsideration within 30 calendar days of the issuance of the Department's denial.~~

R426-2-1100. Application Review and Approval.

~~_____ If the Department finds that an application for designation is complete and that the applicant meets requirements, it may approve the designation.~~

R426-2-1200. Change in Designated Level of Service.

~~_____ (1) A quick response provider may apply to provide a higher designated level of service by:~~

~~_____ (a) submitting the applicable fees; and~~

~~_____ (b) submitting an application on Department forms to the Department.~~

~~_____ (2) As part of the application, the applicant shall provide:~~

~~_____ (a) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;~~

~~_____ (b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service;~~

~~_____ (c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director; and~~

~~_____ (d) provide the Department with a letter of support from the licensed providers in the geographical service area.~~

~~_____ (3) If the Department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.~~

R426-2-1300. Critical Incident Stress Management and Peer Support Training.

~~_____ (1) The Department may establish a critical incident stress management (CISM) team to meet its public health responsibilities.~~

~~_____ (2) The Department's CISM team may conduct stress debriefings, defusings, demobilizations, education, and other critical incident stress interventions upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.~~

~~_____ (3) The Department's CISM team may assist the Department in approving peer support training for licensed EMS personnel.~~

~~_____ (4) Individuals who serve on the CISM team shall complete Department approved initial and ongoing training.~~

~~_____ (5) While serving as a CISM team member, the individual is acting on behalf of the Department. Records collected by the CISM team are Department records. CISM team members may not share Department identifiable personal information related to activities under Subsection (2).~~

~~_____ (6) The Department may reimburse a CISM team member for travel expenses incurred in performing their duties in accordance with state finance mileage reimbursement policy.~~

~~_____ (7) The Department will maintain a list of individuals who have successfully completed an approved peer support training program.~~

~~_____ (8) Individuals who perform peer support functions may receive legal protections to not be compelled to disclose information as described in Section 78B-5-9.~~

~~_____ (9) Individuals who perform peer support functions for a licensed or designated EMS provider shall be familiar with peer support policies for the licensed or designated EMS provider with whom they are employed or otherwise serving.~~

R426-2-1400. Quality Assurance Reviews.

~~_____ (1) The Department may conduct quality assurance reviews of licensed and designated providers and training programs on an annual basis or more frequently as necessary to enforce this rule.~~

~~_____ (2) The Department shall conduct a quality assurance review before issuing a new license or designation.~~

~~_____ (3) The Department may conduct quality assurance reviews on personnel, vehicles, facilities, communications;~~

NOTICES OF PROPOSED RULES

equipment, documents, records, methods, procedures, materials and other attributes or characteristics of the designated provider.

~~(a) The Department will provide a written copy to the designated provider.~~

~~(b) The designated provider shall correct deficiencies within 30 days unless otherwise directed by the Department.~~

~~(c) The designated provider shall immediately notify the Department on a Department approved form when the deficiencies have been corrected.~~

~~KEY: emergency medical services~~

~~Date of Last Change: November 5, 2023~~

~~Notice of Continuation: September 28, 2023~~

~~Authorizing, and Implemented or Interpreted Law: 26B, Chapter 4, Part 1]~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-3	Filing ID: 56462

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-3. Licensure
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024,

so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.

4. Summary of the new rule or change:

This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization.

(EDITOR'S NOTE: The proposed new Rule R911-3 is under ID 56488 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

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

A) State budget:

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.

B) Local governments:

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.

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

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.

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

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS

authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.

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

As there are no affected persons, there are no compliance costs as a result of this filing.

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	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 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-4-101	Section 26B-4-102	
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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:	06/14/2024
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9. This rule change MAY become effective on:	06/21/2024
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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:	04/30/2024
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~~R426. Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426-3. Licensure.~~

~~R426-3-1. Authority and Purpose.~~

- ~~(1) Subsection 26B-4-102(5)(a) authorizes this rule.~~
- ~~(2) The purpose of this rule is to set forth ground ambulance policies, rules, and standards adopted by the Utah Emergency Medical Services Committee, which promotes and protects the health and safety of the people of this state.~~

~~R426-3-2. Requirement for Licensure.~~

~~A provider of ground ambulance, paramedic ground ambulance, or paramedic services shall obtain a license from the Department of Health and Human Services before providing these services.~~

~~R426-3-3. Licensure Types.~~

- ~~(1) The Department may issue exclusive ground ambulance transport licenses for the following types of service:

 - ~~(a) emergency medical technician (EMT);~~
 - ~~(b) advanced emergency medical technician (AEMT); and~~
 - ~~(c) paramedic.~~~~
- ~~(2) The Department may issue exclusive ground ambulance inter-facility transport licenses for the following types of service:

 - ~~(a) emergency medical technician (EMT);~~
 - ~~(b) advanced emergency medical technician (AEMT); and~~
 - ~~(c) paramedic.~~~~
- ~~(3) The Department may issue exclusive paramedic, non-transport licenses.~~
- ~~(4) The Department may issue a paramedic tactical license that is a function not tied to a specific geographical location.~~

R426-3-4. Scope of Operations.

~~(1) A ground ambulance or paramedic licensed provider may only provide service to its specific licensed geographic service area and is responsible to provide all services to its entire specific geographic service area except as provided by aid agreements. It will provide emergency medical services for its category of licensure.~~

~~(2) A ground ambulance provider or paramedic service provider shall provide services 24 hours a day, every day of the year.~~

~~(3) A ground ambulance provider or paramedic service provider shall provide all standby services for any special event that requires ground ambulance or paramedic services within its geographic service area. The licensed provider may arrange for those services through aid agreements. Designated quick response units may also support licensed ground ambulance or paramedic services at special events. If a licensed provider refuses to provide service, or is non responsive in a timely manner to a request for a special event, the event organizer may use a licensed or designated provider of their choice.~~

~~(4) A ground ambulance provider may provide arranged patient care services through a community paramedicine program. The licensed ground ambulance provider shall submit a description of the community paramedicine program to the Department to be included with the operations plan for licensure.~~

R426-3-5. Minimum Licensure Requirements Ground Ambulance and Paramedic Services.

~~A licensed provider shall meet the following minimum requirements:~~

~~(1) sufficient ground ambulances, emergency response vehicles, equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensed provider;~~

~~(2) locations or staging areas for stationing its vehicles;~~

~~(3) a current written dispatch agreement with a designated emergency medical dispatch center;~~

~~(4) ground ambulances may have current written aid agreements with other ground ambulance licensed providers to give assistance in times of unusual demand;~~

~~(5) a Department certified EMS training officer that is responsible for continuing education;~~

~~(6) a current plan of operations;~~

~~(7) a description of how the licensed provider or applicant proposes to interface with other licensed and designated EMS providers;~~

~~(8) demonstrate fiscal viability;~~

~~(9) medical personnel roster which includes level of licensure to ensure there is sufficient trained and licensed staff for operational procedures;~~

~~(10) all proposed permitted vehicles;~~

~~(11) a current written agreement with a Department certified off line medical director or a medical director certified in the state where the service is based;~~

~~(12) provide a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the manner and following minimum amounts:~~

~~(a) liability insurance in the amount of \$1,000,000 for each individual claim;~~

~~(b) liability insurance in the amount of \$1,000,000 for property damage from any one occurrence; and~~

~~(c) obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self insurance program and shall;~~

~~(i) provide the Department with a copy of its certificate of insurance demonstrating compliance with this section; and~~

~~(ii) direct the insurance carrier or self insurance program to notify the Department of all changes in insurance coverage within 60 days;~~

~~(13) not be disqualified for disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state;~~

~~(14) a paramedic tactical service shall be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical service's geographic service area;~~

~~(15) applicable fees and application on Department approved forms to the Department;~~

~~(16) a detailed description and detailed map of the exclusive geographical areas that will be served;~~

~~(17) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;~~

~~(18) if an applicant is responding to a public bid, the applicant shall include detailed maps and descriptions for all geographical areas served;~~

~~(19) documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;~~

~~(20) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;~~

~~(21) patient care protocols, medications, and equipment approved by the provider's medical director based on licensure level according to Department policies;~~

~~(22) applicant's plans for operations during times of unusual demand;~~

~~(23) a written assessment of field performance from the applicant's off line medical director;~~

~~(24) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.~~

~~(25) written cost, quality, and access goals as described in Subsection R426-3-6, if available;~~

~~(26) response to a request for proposal;~~

~~(27) if, upon Department review, the application for a new license is complete and meets all the requirements, the Department shall issue a notice of approved application;~~

~~(28) award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review;~~

~~(29) after review and before issuing a license to a new service, the Department will inspect the ground vehicle, equipment, and required documentation; and~~

~~(30) a license may be issued for up to a four year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.~~

~~R426-3-6. Cost, Quality, and Access Goals for Ground Ambulance Providers.~~

- ~~(1) A local government shall establish emergency medical service goals.~~
- ~~(2) The local government emergency medical service shall renew their goals every four years in concurrence with the licensure process for the EMS licensed ground ambulance provider. All local governments in a licensed service area are required to participate.~~
- ~~(3) The local government may amend goals if necessary, due to:

 - ~~(a) unforeseen changes in service delivery;~~
 - ~~(b) community impacts; or~~
 - ~~(c) significant unforeseen impact in the geographical service area.~~~~
- ~~(4) The local government shall write and approve the emergency medical service goals, and submit them to the Department with the licensure or re-licensure application by the EMS licensed ground ambulance provider for that geographical service area.~~
- ~~(5) Local governments may choose to recognize EMS providers who have achieved accreditation by a Department approved accreditation organization as meeting the cost, quality, and access goals.~~
- ~~(6) Cost goals shall indicate the expected financial cost to the local government and patients for the level of service provided.~~
- ~~(7) Quality goals shall indicate the expected level of service plus any additional foreseen improvements or advancements in service expectations.~~
- ~~(8) Access goals shall indicate the local government's expectation for access to the EMS system by any individual within the local government's geographic area.~~

~~R426-3-7. Medical Control.~~

- ~~(1) All licensed providers shall enter into a written agreement with a physician to serve as its off line medical director to supervise the medical care or instructions provided by the field EMS personnel and dispatchers. The physician shall be familiar with:

 - ~~(a) the design and operation of the local pre-hospital EMS system; and~~
 - ~~(b) local dispatch and communication systems and procedures.~~~~
- ~~(2) The off line medical director shall:

 - ~~(a) develop and implement patient care standards which include written standing orders and triage, treatment, and transport protocols;~~
 - ~~(b) ensure the qualification of field EMS personnel involved in patient care through the provision of ongoing continuing medical education programs and appropriate review and evaluation;~~
 - ~~(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;~~
 - ~~(d) annually review triage, treatment, and transport protocols and update them as necessary;~~
 - ~~(e) suspend from patient care, pending Department review, a field EMS personnel who does not comply with local medical triage, treatment and transport protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner;~~
 - ~~(f) the medical director shall notify the Department within one business day of the suspension;~~
 - ~~(f) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers; and~~~~

- ~~(3) Licensed providers shall notify the Department if an off line medical director is replaced, within 30 days.~~

~~R426-3-8. Ground Ambulance or Paramedic Service Provider Aid Agreements.~~

- ~~(1) The Department and the surrounding ambulance providers expect all licensed ground ambulance providers to provide mutual aid support for adjoined geographical service areas. Mutual aid support means that a licensed ground ambulance provider may be called upon to provide assistance during times of unusual demand. The licensed ground ambulance provider shall submit exceptions for the mutual aid expectation as part of a license application.~~
- ~~(2) Other types of aid agreements shall be in writing, signed by both parties, and detail the:

 - ~~(a) purpose of the agreement;~~
 - ~~(b) type of assistance required;~~
 - ~~(c) circumstances under which the assistance would be given; and~~
 - ~~(d) duration of the agreement.~~~~
- ~~(3) The parties shall provide a copy of any aid agreement except for mutual aid support to the Department and to the designated emergency medical dispatch center that dispatch the licensed ground ambulance providers.~~
- ~~(4) When mutual aid support is given the licensed ground ambulance provider rendering support will be responsible for the following, unless otherwise stated in writing, and approved by the Department prior to the event:

 - ~~(a) billing or other financial reimbursements;~~
 - ~~(b) liability for EMS operations related to staff and patient care; and~~
 - ~~(c) patient care protocols for licensure level.~~~~

~~R426-3-9. Application Review and Award for Ground Ambulance Providers Selected by Public Bid.~~

- ~~(1) Upon receipt of an appropriately completed application, for ground ambulance or paramedic service license and submission of license fees, the Department shall collect supporting documentation and review each application.~~
- ~~(2) If, upon Department review, the application is complete and meets all the requirements, the Department shall:

 - ~~(a) for a new license application, issue a notice of approved application;~~
 - ~~(b) issue a renewal license to an applicant;~~
 - ~~(c) issue a four year renewal license to a license selected by a political subdivision if the political subdivision verified to the Department that the licensed provider has met all specifications of the original bid and requirements; or~~
 - ~~(d) issue a second four year renewal license to a licensed provider selected by a political subdivision if:

 - ~~(i) the political subdivision verified to the Department that the licensed provider has met all the specifications of the original bid and requirements; and~~
 - ~~(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.~~~~~~
- ~~(3) Upon the request of the political subdivision and the agreement of all interested parties and the Department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.~~

NOTICES OF PROPOSED RULES

R426-3-10. Criteria for Denial or Revocation of Licensure.

(1) The Department may deny an application for a license, a renewal of a license, or revoke, suspend or restrict a license without reviewing whether a license shall be granted or renewed to meet public convenience and necessity for any of the following reasons:

- (a) failure to meet substantial requirements as specified in the rules governing the service;
- (b) failure to meet vehicle, equipment, staffing, or insurance requirements;
- (c) failure to meet agreements covering training standards or testing standards;
- (d) substantial violations;
- (e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;
- (f) a history of serious or substantial public complaints;
- (g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;
- (h) falsification or misrepresentation of any information in the application or related documents;
- (i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the Department;
- (j) failure to submit records and other data to the Department as required;
- (k) a history of inappropriate billing practices;
- (l) misuse of grant funds; or
- (m) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) If an applicant or licensed provider has been denied, revoked, suspended, or issued a restricted license by the Department, the applicant or licensed provider may appeal a denial by filing a written appeal within 30 calendar days of the receipt of the issuance of the Department's denial.

R426-3-11. Change of Owner:

- (1) A licensed provider cannot transfer their license and the vehicle permits to another party.
- (2) A new owner shall submit within ten calendar days before the acquisition of property, applications and fees for a new license and vehicle permits.

KEY: emergency medical services, licensure

Date of Last Change: November 5, 2023

Notice of Continuation: September 28, 2023

Authorizing, and Implemented or Interpreted Law: 26B, Chapter 4, Part 1

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-4	Filing ID: 56463

Agency Information

1. Department:	Health and Human Services
Agency:	Population Health, Emergency Medical Services
Room number:	2438

Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-4. Operations
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization.
(EDITOR'S NOTE: The proposed new Rule R911-4 is under ID 56489 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.
B) Local governments:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is

no anticipated change to costs or savings to local governments.

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

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.

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

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.

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

As there are no affected persons, there are no compliance costs as a result of this filing.

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	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 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-4-101	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:	06/14/2024
--	------------

9. This rule change MAY become effective on:	06/21/2024
---	------------

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:	04/30/2024
---	-------------------------------------	--------------	------------

~~[R426. Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426 4. Operations.~~

~~R426 4 100. Authority and Purpose.~~

~~———— This rule establishes standards for the operation of licensed ground EMS providers or designated EMS providers under the provisions of Title 26B, Chapter 4, Part 1.~~

~~R426 4 200. Licensed Ground Ambulance, Designated QRU, and Designated Nonemergency Secured Behavioral Health Transport Staffing.~~

~~———— (1) While responding to a call, each permitted QRV shall be staffed by at least one individual licensed at or above the provider's designated level of service.~~

~~———— (2) While responding to a call, each licensed ground ambulance shall be staffed with the following minimum complement of licensed personnel for the level of service described unless otherwise determined by local selective medical dispatch system protocols for a lower level response as described in the licensed ground ambulance provider's operational plan:~~

~~———— (a) EMT ambulance: One EMT, and one EMT, AEMT, EMT IA, or paramedic;~~

~~———— (b) AEMT ambulance: one AEMT and one EMT, AEMT, EMT IA or paramedic;~~

~~———— (c) Paramedic ambulance: one paramedic; and one EMT, AEMT, EMT IA, or paramedic;~~

~~———— (d) Paramedic Rescue (non transport): one paramedic;~~

~~———— (e) Paramedic inter facility: one paramedic and one EMT, AEMT, EMT IA, or paramedic; or~~

~~———— (f) Paramedic tactical (non transport): one paramedic.~~

~~———— (3) A licensed ground ambulance or EMS provider shall deploy at least one licensed personnel at the appropriate level of service to the scene of a 911 call, as determined by local selective medical dispatch system protocols. It is required that ground ambulance responses have a minimum of two licensed personnel on scene of 911 calls.~~

~~———— (4) Transport of a patient from a scene to a hospital or patient receiving facility, or the transfer of a patient to another licensed ground ambulance provider shall be accomplished by two or more personnel licensed at a level deemed appropriate by the on-scene licensed providers. This shall be determined by a patient's medical condition and local EMS provider treatment protocols.~~

~~———— (5) When providing care, responders not in a uniform shall display upon request their level of medical licensure.~~

~~———— (6) Each licensed or designated provider shall maintain a personnel file for each licensed individual. The personnel file shall include records documenting the individual's qualifications, training, endorsements, certifications, licensure, immunizations, and continuing medical education.~~

~~———— (7) A licensed individual may perform only to his licensed EMS provider level of service, even if the licensed EMS or designated provider is licensed or designated at a higher level of service.~~

~~———— (8) During transport each designated nonemergency secured behavioral health transport vehicle shall be staffed with a minimum of two personnel, with at least one who has obtained required training as approved by Department policy for mental health patient de-escalation and American Heart Association cardiopulmonary resuscitation or equivalent.~~

~~R426 4 300. Permits and Inspections.~~

~~———— (1) A licensed ground ambulance or designated EMS provider shall only use vehicles for which the provider has obtained a permit from the Department. All new ground ambulances shall meet current State approved specifications and standards. Department policy for ground ambulances will be posted on the Bureau of Emergency Medical Services and Preparedness's website.~~

~~———— (2) A permit issued by the Department is valid for one year.~~

~~———— (3) The provider shall display the current permit location on vehicle in a location easily visible at ground level from outside of the vehicle.~~

~~———— (4) Permits and decals are not transferable to other vehicles.~~

~~———— (5) Each licensed ambulance and designated QRU provider shall annually provide proof upon request that every operator of an emergency vehicle has successfully completed an emergency vehicle operator's course approved by the Department.~~

~~R426 4 400. Licensed Ground Ambulance, Designated QRU Provider, and Designated Nonemergency Secured Behavioral Health Transport Operations.~~

~~———— (1) Each licensed ground ambulance provider or designated QRU provider shall notify the Department of the permanent location of its ground ambulances and QRVs. The licensed ground EMS provider or designated QRU provider shall notify the Department in writing whenever it changes the permanent location for any permitted vehicles.~~

~~———— (2) Each licensed ground ambulance provider, designated QRU provider, or designated nonemergency secured behavioral health transport provider shall maintain each operational permitted vehicle on a premise suitable to make it available for immediate use, in good mechanical repair, properly equipped, and in a sanitary condition.~~

~~———— (3) Each licensed ground ambulance provider or designated provider shall maintain each operational vehicle in a clean condition with the interior being thoroughly cleaned after each use in accordance with OSHA standards and the provider's exposure control plan.~~

~~———— (4) Each licensed ground ambulance provider or designated provider shall equip each operational vehicle with adult and child safety restraints. To the point practicable and feasible, all occupants shall be safely restrained during operation.~~

~~———— (5) Each licensed ground ambulance provider or designated QRU provider shall assure that each emergency vehicle operator who may drive the emergency vehicle:~~

~~———— (a) is at least 18 years of age;~~

~~———— (b) possesses a valid driver license;~~

~~———— (c) successfully passed the provider's criminal background check within the prior four years; and~~

~~———— (d) successfully completed a department approved emergency vehicle operator's course or refresher course within the past two years.~~

~~———— (6) The Department shall verify annually that licensed ground ambulance providers or designated providers are in compliance with this requirement.~~

~~R426 4 500. Scene and Patient Management.~~

~~———— (1) Designated emergency medical service dispatch centers shall use a selective medical dispatch system to determine which licensed ambulance provider will be notified for patient transport.~~

~~(2) When responding to a medical emergency call, EMS personnel shall follow protocols approved by the service provider's medical director, and act within their scope of practice.~~

~~(3) EMS personnel shall establish communication with on-line medical control as soon as reasonable.~~

~~(4) Licensed Paramedic tactical service provider may only function at the invitation of the local or state public safety authority. When called upon for assistance, the licensed tactical paramedic provider shall immediately notify the local emergency medical service dispatch center to coordinate patient transportation.~~

~~(5) Patients who are to be transferred to a different hospital, patient receiving facility, or mental health facility may be delayed by the licensed ambulance provider for severe weather, hazardous conditions, or any other situation that may endanger the safety of the EMS personnel, employed staff, the person being transported, or the public.~~

~~(a) Severe weather should be evaluated based on the licensed ambulance provider's written policies. Policies for weather assessment should be shared with hospitals and other receiving facilities in the geographical service area. During periods of severe weather, the transport should be delayed until the transportation risks are acceptable. The licensed providers shall maintain a weather assessment policy.~~

~~(b) When EMS personnel are not immediately able to respond due to unusual demands with other events, the licensed ambulance provider shall communicate the delay with the transferring hospital or facility. Additionally, the transferring hospital or facility should notify the receiving hospital facility, or mental health facility regarding the delay. Communications shall provide an estimated response time. The licensed ambulance provider is responsible to coordinate with the discharging facility an acceptable delay period or make reasonable attempts to arrange the transport with another licensed ambulance provider.~~

~~(6) Personnel shall be evaluated by the licensed ambulance provider for fatigue as to reduce possibilities of accidents while driving. If the licensed ambulance provider determines that personnel have fatigue to the point of compromised ability to drive or perform medical skills, the licensed ambulance shall discuss transport options with the transferring facility. Additionally, the transferring facility should notify the delay to the receiving facility. Options may include a possible transport delay, or assistance through mutual agreements.~~

R426-4-600. Pilot Projects.

~~(1) A person who proposes to undertake a research or study project which requires waiver of any rule shall have a project director who is a physician licensed to practice medicine in Utah, and shall submit a written proposal to the Department for presentation to the EMS Committee for recommendation.~~

~~(2) The proposal shall include the following:~~

- ~~(a) a project description that describes the~~
- ~~(b) need for project;~~
- ~~(c) project goal;~~
- ~~(d) specific objectives;~~
- ~~(e) approval by the provider off-line medical director;~~
- ~~(f) methodology for the project implementation;~~
- ~~(g) geographical area involved by the proposed project;~~
- ~~(h) specific rule or portion of rule to be waived;~~
- ~~(i) proposed waiver language;~~
- ~~(j) evaluation methodology;~~
- ~~(k) a list of the EMS providers and hospitals participating in the project; and~~

~~(1) a signed statement of endorsement from the participating hospital medical directors and administrators, the director of each participating licensed paramedic and ambulance provider, other project participants, and other parties who may be significantly affected.~~

~~(3) If the pilot project requires the use of additional skills, a description of the skills to be utilized by the field EMS licensed personnel and provision for training and supervising the field EMS licensed personnel who are to utilize these skills, including the names of the field EMS licensed personnel.~~

~~(4) The name and signature of the project director attesting to his or her support and approval of the project proposal.~~

~~(5) If the pilot project involves human subjects' research, the applicant shall also obtain Department Institutional Review Board approval.~~

~~(6) The Department or Committee, as appropriate, may require the applicant to meet additional conditions as it considers necessary or helpful to the success of the project, integrity of the EMS system, and safety to the public.~~

~~(7) The Department or Committee, as appropriate, may initially grant project approval for one year. The Department or Committee, as appropriate, may grant approval for continuation beyond the initial year based on the achievement and satisfactory progress as evidenced in written progress reports to be submitted to the Department at least 90 days prior to the end of the approved period. A pilot project may not exceed three years.~~

~~(8) The Department or Committee, as appropriate, may only waive a rule if:~~

- ~~(a) the applicant has met the requirements of this section;~~
- ~~(b) the waiver is not inconsistent with statutory requirements;~~
- ~~(c) there is not already another pilot project being conducted on the same subject; and~~
- ~~(d) it finds that the pilot project has the potential to improve pre-hospital medical care.~~

~~(9) Approval of a project allows the field EMS licensed personnel listed in the proposal to exercise the specified skills of the participants in the project. The project director shall submit the names of field EMS licensed personnel not initially approved to the Department.~~

~~(10) The Department or Committee, as appropriate, may rescind approval for the project at any time if:~~

- ~~(a) those implementing the project fail to follow the protocols and conditions outlined for the project;~~
- ~~(b) it determines that the waiver is detrimental to public health; or~~
- ~~(c) it determines that the project's risks outweigh the benefits that have been achieved.~~

~~(11) The Department or Committee, as appropriate, shall allow the licensed or designated EMS provider involved in the study to appear before the Department or Committee, as appropriate, to explain and express its views before determining to rescind the waiver for the project.~~

~~(12) At least six months prior to the planned completion of the project, the medical director shall submit to the Department a report with the preliminary findings of the project and any recommendations for change in the project requirements.~~

R426-4-700. Confidentiality of Patient Information.

~~(1) Licensed or designated EMS providers and all licensed EMS personnel shall not disclose patient information except as necessary for patient care or as allowed by statute or rule.~~

R426-4-800. Permitted Vehicle Supply Requirements.

(1) In accordance with the licensed EMS provider level or designation type and level, each permitted vehicle shall carry the quantities of supplies, medications, and equipment as described in the Department inspection requirements. The vehicle requirements shall be approved by the State EMS Medical Director and the State EMS Committee.

(2) Medical directors for licensed or designated providers are responsible to provide protocols, training, and quality assurance for all medications used by licensed individuals performing duties for their respective licensed or designated provider.

(3) If a licensed or designated EMS provider desires to carry different equipment, supplies, or medication from the vehicle supply requirements, the provider shall submit a written request from the certified off line medical director to the Department requesting the waiver. The request shall include:

- (a) a detailed training outline;
- (b) protocols;
- (c) proficiency testing;
- (d) supporting documentation;
- (e) local EMS Council or committee comments; and
- (f) a detailed letter of justification.

(4) All non disposable equipment shall be designed and constructed of materials that are durable and capable of withstanding repeated cleaning. The provider shall:

- (a) clean the equipment after each use in accordance with OSHA standards;
- (b) sanitize or sterilize equipment prior to reuse;
- (c) not reuse equipment intended for single use;
- (d) clean and change linens after each use; and
- (e) store or secure all equipment in a readily accessible and safe manner to prevent its movement.

(5) The provider shall have all equipment tested, maintained, and calibrated according to the manufacturer's standards.

(6) The provider shall document all equipment inspections, testing, maintenance and calibrations. Testing or calibration conducted by an outside service shall be documented. Such inspections, testing and calibration shall be performed monthly. All testing documentation shall be maintained and available for Department review upon request.

(7) A provider required to carry any of the following equipment shall perform monthly inspections to ensure proper functionality:

- (a) defibrillator, manual, or automatic;
- (b) autovent;
- (c) infusion pump;
- (d) glucometer;
- (e) flow restricted, oxygen powered ventilation devices;
- (f) suction equipment;
- (g) electronic Doppler device;
- (h) automatic blood pressure/pulse measuring device;
- (i) pulse oximeter; and
- (j) any other electronic, battery powered, or critical care device.

(8) The licensed or designated EMS provider shall perform monthly inspections to ensure proper functionality of all equipment that require consumable items, power supplies, electrical cables, pneumatic power lines, hydraulic power lines, or related connectors.

(9) Unless otherwise authorized by the State EMS Medical Director, a licensed or designated EMS provider shall store all medications according to the manufacturers' recommendations, including temperature control and packaging requirements.

(10) All medication known or suspected to have been subjected to temperatures outside the recommended temperature range shall be return to the supplier for replacement.

(11) The Department shall maintain and publish requirements for ground ambulances, QRVs, and other designated providers on the Department's website.

KEY: emergency medical services

Date of Last Change: November 5, 2023

Notice of Continuation: September 28, 2023

Authorizing, and Implemented or Interpreted Law: 26B, Chapter 4, Part 1]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-5	Filing ID: 56464

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.

4. Summary of the new rule or change:
 This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization.
 (EDITOR'S NOTE: The proposed new Rule R911-5 is under ID 56490 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

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

A) State budget:
 There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.

B) Local governments:
 There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
 There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
 There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.

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

As there are no affected persons, there are no compliance costs as a result of this filing.

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	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 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-4-101	Section 26B-4-102	
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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:	06/14/2024
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9. This rule change MAY become effective on: 06/21/2024

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:	04/30/2024
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~~R426. Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards.~~

~~R426-5-100. Authority and Purpose.~~

~~(1) Authority for this rule is found in Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.~~

~~(2) The purpose of this rule is to:~~

~~(a) describe requirements for training, certification, endorsements, and licensing of individuals who provide emergency medical services; and~~

~~(b) provide uniform minimum standards to be met by those providing emergency medical services within the state.~~

~~R426-5-110. Definitions as Used in this Rule.~~

~~(1) "Advanced Emergency Medical Technician" (AEMT) as defined in Subsection R426-1-200(1).~~

~~(2) "Committee" as defined in Subsection 26B-4-101(5).~~

~~(3) "Crisis Response Technician" (CRT) is a person who provides "Behavioral Emergency Services" as defined in Subsection 26B-4-101(4)(a)(b).~~

~~(4) "Department" as defined in Subsection R426-1-200(13).~~

~~(5) "Emergency Medical Responder" (EMR) as defined in Subsection R426-1-200(16).~~

~~(6) "Emergency Medical Services" (EMS) as defined in Subsection R426-1-200(20).~~

~~(7) "Emergency Medical Technician" (EMT) as defined in Subsection R426-1-200(17).~~

~~(8) "Paramedic" as defined in Subsection R426-1-200(41).~~

~~(9) "Provider" as defined in Subsection R426-1-200(57).~~

~~R426-5-200. Scope of Practice.~~

~~(1) The department may license an individual as an EMR, EMT, AEMT, paramedic, or CRT who meets the requirements in this rule.~~

~~(2) The committee adopts the standard for EMR, EMT, AEMT, and paramedic training and competency as defined in the National Association of State EMS Officials National EMS Scope of Practice Model 2019 (Report No. DOT HS 812-666). Washington,~~

~~DC: National Highway Traffic Safety Administration, which is incorporated by reference.~~

~~(3) An EMR, EMT, AEMT, paramedic, or CRT may perform the skills to their level of licensure, as adopted in this section.~~

~~(4) A CRT may perform skills including crisis response triage, discussion of available resources, and referral to appropriate mental health professions as determined by department approved training and local mental health authority approved protocols in the corresponding response area.~~

~~R426-5-210. Professional Conduct and Code of Ethics for EMS Personnel.~~

~~EMS personnel shall maintain professional conduct and follow the code of ethics from the 2023 EMT Student Handbook, incorporated by reference in this rule.~~

~~(1) The following are examples of conduct, while providing patient care and transport, that may result in investigation of an EMS personnel's license or a provider's license or designation pursuant to Subsection R426-5-3300(2):~~

~~(a) theft or inappropriate removal or possession of property;~~

~~(b) falsification of personal or hospital records;~~

~~(c) functioning under the influence of alcohol, illegal drugs, or medications that may impair judgment or capability;~~

~~(d) possession, distribution, sale, transfer, or use of alcohol or illegal drugs;~~

~~(e) fighting or threatening violence;~~

~~(f) negligence or improper conduct leading to damage of property;~~

~~(g) violation of safety or health rules that threatens the safety of patients receiving care;~~

~~(h) sexual or other unlawful or unwelcome harassment;~~

~~(i) possession of dangerous or unauthorized materials, such as explosives or illegal firearms;~~

~~(j) unauthorized access or disclosure of confidential information;~~

~~(k) misrepresentation of an individual's level of licensure;~~

~~(l) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure; and~~

~~(m) violation of laws pertaining to medical practice, drugs, or controlled substances.~~

~~(2) Complaints regarding EMS personnel's actions or behaviors, on or off duty, that can be interpreted as possible violations of this section:~~

~~(a) must be submitted to the department in writing; and~~

~~(b) if determined a potential violation, will be investigated pursuant to Section R425-5-3300.~~

~~(3) Any EMS personnel who is found to have violated this section may be subject to license suspension or revocation.~~

~~R426-5-300. EMS Personnel Licensure for EMRs, EMTs, AEMTs, Paramedics, and CRTs.~~

~~(1) The department may license an EMR, EMT, AEMT, paramedic, or CRT for a two-year period. The department may modify a license period to standardize renewal cycles.~~

~~(2) An individual who wishes to become licensed as an EMR, EMT, AEMT, paramedic, or CRT shall:~~

~~(a) successfully complete a department approved EMR, EMT, AEMT, paramedic, or CRT course;~~

~~(b) be able to perform the functions listed in the National EMS Education Standards referenced in Subsection R426-5-200(2)~~

as verified by personal attestation and successful accomplishment by department endorsed EMS instructors;

~~(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of training requirements for an EMR, EMT, AEMT, paramedic, or CRT licensure;~~

~~(d) submit the applicable fees and a completed application, including Social Security number, to the department;~~

~~(e) submit to and pass a background investigation, including an FBI background investigation; and~~

~~(f) keep documentation of having completed a department approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for the Level of Adult and Pediatric Healthcare Cardiopulmonary Resuscitation and Emergency Cardiac Care Basic Life Support.~~

~~(3) An individual who wishes to become licensed as a CRT shall:~~

~~(a) successfully complete a department approved CRT course;~~

~~(b) be able to perform the functions as described in Subsection R426-5-200(4);~~

~~(c) submit the applicable fees and a completed application, including Social Security number, to the department; and~~

~~(d) submit to and pass a background investigation, including an FBI background investigation.~~

~~(4) Age requirements:~~

~~(a) EMR may be licensed at 16 years of age or older;~~

~~(b) EMT, AEMT, and paramedic may be licensed at 18 years of age or older; and~~

~~(c) CRT may be licensed at 21 years of age or older.~~

~~(5) Within two years after the official course end date, the applicant for EMR, EMT, AEMT, paramedic, or CRT licensure shall successfully complete the department's approved National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, or paramedic examinations, or re-examinations, if necessary.~~

~~(6) Licensed personnel shall keep and submit upon request by the department any documentation required for licensure.~~

~~(7) An individual who wishes to enroll in an AEMT or paramedic course shall have as a minimum a Utah EMT license, and the license shall remain current until the new license level is obtained.~~

~~(8) An individual who wishes to enroll in a CRT course shall be a licensed EMS personnel or a law enforcement officer for at least two years before enrollment or have at least two years of equivalent experience before enrollment into a CRT course or program.~~

~~(9) Upon successful completion of the program, written verification of the successful candidates shall be submitted to the department for review.~~

~~(10) The department may extend time limits for an individual who has unusual circumstances or hardships.~~

R426-5-400. Licensure at a Lower Level.

An individual who completed a paramedic course, but has not been recommended for licensure, may request to become licensed at the AEMT levels if:

(1) the paramedic course coordinator submits to the department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and

~~(2) the individual successfully completes other application and testing requirements for an AEMT.~~

R426-5-500. License Challenges for EMTs or AEMTs.

(1) The department may license an individual as an EMT or AEMT, in consecutive order, who has military medical training, a Utah registered nurse license, a Utah nurse practitioner license, a Utah physician assistant license, or a Utah physician license, and:

(a) can demonstrate knowledge, proficiency, and competency to perform the functions listed in the National EMS education standards as described in Subsection R426-5-200(2), as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off line medical director;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT or AEMT, respectively;

(c) maintains and submits documentation of having completed a CPR course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular, which is incorporated by reference; and

(d) is 18 years of age or older.

(2) To become licensed as either an EMT or AEMT, the individual shall:

(a) submit the applicable fees and a completed application, including Social Security number, signature, and proof of current Utah license as a registered nurse, a physician assistant, or a medical doctor, or military transcripts for training;

(b) successfully complete the National Registry of Emergency Medical Technicians EMT or AEMT cognitive and psychomotor examinations, or re-examinations, if necessary; and

(c) submit to and pass a background screening clearance, per Section R426-5-3200.

(3) The department may license as a CRT an individual with military mental health training, or a licensed mental health professional in Utah, who:

(a) can demonstrate knowledge, proficiency, and competency to perform the functions as verified by personal attestation and successful demonstration to a county mental health authority or designee;

(b) has a knowledge of:

(i) crisis response protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of a CRT;

(c) maintains and submits documentation of having completed a cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular; and

(d) is 21 years of age or older.

R426-5-510. License Challenges for CRTs.

To become licensed as a CRT, the individual shall:

(1) submit the applicable fees and a completed application, including Social Security number, signature, and proof of current Utah license as a mental health professional, or military transcripts for training;

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_____ (2) successfully complete the department approved written and practical CRT examinations, or re-examinations, if necessary; and

_____ (3) submit to and pass a background screening clearance, per Section R426-5-3200.

R426-5-600. License Renewal Requirements for EMRs, EMTs, AEMTs, and Paramedics.

_____ (1) The department may renew an individual license for a two-year period. The department may modify the period for a license to standardize renewal cycles.

_____ (2) An individual seeking license renewal shall:

_____ (a) submit the applicable fees and a completed application, including Social Security number, to the department;

_____ (b) submit a completed Utah EMS application to the department, no later than 30 days and no earlier than six months before the individual's current license expiration date;

_____ (c) have a current National Registry of Emergency Medical Technicians certification for their current license level;

_____ (d) submit to and pass a background screening clearance, per Section R426-5-3200;

_____ (e) keep documentation and submit, upon request, proof of having completed a department approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular;

_____ (f) provide documentation of completion of department approved continuing medical education requirements; and

_____ (g) maintain cardiopulmonary resuscitation certification during licensure period.

_____ (3) The EMR, EMT, AEMT, and paramedic shall complete the required continuing medical education hours, as outlined in Recertification Guide Version 4, published by the National Registry of Emergency Medical Technicians, incorporated by reference in this rule. The hours shall be completed throughout the prior two years.

_____ (4) An individual is responsible to complete and submit required renewal material and the recertification application to the National Registry of Emergency Medical Technicians, per the guidance provided under "Renewal License" on the department website.

_____ (5) A department approved entity that provides continuing medical education may compile renewal materials on behalf of an EMR, EMT, AEMT, or paramedic; however, the individual EMR, EMT, AEMT, or paramedic is responsible for a timely and complete submission.

_____ (6) The department may not lengthen an individual's license period to more than two years, unless the individual is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires.

R426-5-700. License Renewal Requirements for CRTs.

_____ (1) A CRT applying for a renewal license shall be in good standing with the local mental health authority. The local mental health authority or designee may revoke a CRT's license upon written request to the department.

_____ (2) A CRT applying for a renewal license shall complete department approved continuous education requirements of no less than eight hours every two years.

_____ (3) An individual is responsible to complete and submit required renewal materials to the department at one time, no later than 30 days and no earlier than one year before the individual's current license expiration date. Renewal materials submitted less

than 30 days before license expiration may result in license expiration. The department processes renewal material in the order received.

_____ (4) The department may shorten a CRT's license period.

_____ (5) The department may not lengthen an individual's license period to more than two years unless the individual is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires.

R426-5-800. Reciprocity for EMRs, EMTs, AEMTs, and Paramedics.

_____ (1) The department may license an individual as an EMR, EMT, AEMT, or paramedic who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

_____ (2) An individual seeking reciprocity for licensure in Utah based on out-of-state training and experience shall:

_____ (a) submit the applicable fees and a completed application, including Social Security number, to the department; and

_____ (b) complete the following within two years of submitting the application:

_____ (i) submit to and pass a background screening clearance, per Section R426-5-3200;

_____ (ii) keep and submit upon request documentation of having completed a department approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular;

_____ (iii) successfully complete the National Registry of Emergency Medical Technician cognitive and psychomotor for EMR, EMT, AEMT, or paramedic examinations, or re-examinations, if necessary; and

_____ (iv) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs.

_____ (3) A paramedic candidate shall also keep documentation of successful completion of Advanced Care Life Support or equivalent.

_____ (4) AEMT and paramedic licensed personnel shall keep documentation of PEPP, PALS, or equivalent courses within the prior two years.

R426-5-810. Reciprocity for CRTs.

_____ (1) The department may license an individual as a CRT who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

_____ (2) An individual seeking reciprocity for CRT licensure in Utah based on out-of-state training and experience shall:

_____ (a) submit the applicable fees and a completed application, including Social Security number, to the department; and

_____ (b) complete the following within two years of submitting the application:

_____ (i) submit to and pass a background screening clearance, per Section R426-5-3200;

_____ (ii) keep documentation of having completed a CPR course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular; and

~~_____ (iii) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution.~~

~~R426-5-900. Lapsed Licenses with National Registry of Emergency Medical Technician Certification.~~

~~_____ (1) An individual whose EMR, EMT, AEMT, paramedic, or CRT license has expired for less than one year shall recertify with the National Registry of Emergency Medical Technicians.~~

~~_____ (2) An individual whose license for EMR, EMT, AEMT, or paramedic has expired for more than one year shall:~~

~~_____ (a) comply with the recertification requirements per the guidance of the National Registry of Emergency Medical Technicians;~~

~~_____ (b) pay a late licensure fee; and~~

~~_____ (c) complete renewal requirements.~~

~~_____ (3) If an EMR, EMT, AEMT, or paramedic license for an individual remains expired for more than a year, any new license will be issued with an expiration date two years from the previous license's expiration.~~

~~_____ (4) An individual whose license for CRT has expired for more than one year shall:~~

~~_____ (a) submit a letter of recommendation including results of an oral examination, from a county mental health director or designee, verifying proficiency in behavioral health care skills at the licensure level;~~

~~_____ (b) successfully complete the applicable department's approved written examination; and~~

~~_____ (c) complete renewal requirements.~~

~~_____ (5) If a CRT license for an individual remains expired for more than a year, any new CRT license will be issued with an expiration date two years from the completion of renewal materials.~~

~~_____ (6) An individual whose certification or license has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, paramedic, or CRT until the individual completes the renewal process.~~

~~R426-5-1000. Emergency Medical Care During Clinical Training.~~

~~_____ A student enrolled in a department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require licensure to perform.~~

~~R426-5-1100. Instructor Requirements.~~

~~_____ (1) The department may endorse an individual as an EMS instructor who:~~

~~_____ (a) meets the initial licensure requirements in Section R426-5-1200;~~

~~_____ (b) is currently in Utah as an EMR, EMT, AEMT, or paramedic; and~~

~~_____ (c) has been a licensed EMR, EMT, AEMT, or paramedic for a minimum of two years.~~

~~_____ (2) The department adopts the United States Department of Transportation's EMS Instructor Training Program as the standard for EMS instructor training and competency in the state, which is incorporated by reference in this rule.~~

~~_____ (3) An EMS instructor may only teach up to the license level to which the instructor is licensed.~~

~~_____ (4) An EMS instructor shall comply with the teaching standards and procedures in the March 2023 Course Coordinator Manual as incorporated by reference in this rule.~~

~~_____ (5) An EMS instructor shall maintain the EMS license for the level the instructor is endorsed to teach. If an individual's EMS license lapses, the instructor endorsement is invalid until the EMS license is renewed.~~

~~R426-5-1200. Instructor Endorsement.~~

~~_____ (1) The department may endorse an individual who is a licensed EMR, EMT, AEMT, or paramedic as an EMS instructor for a two year period.~~

~~_____ (2) An individual who wishes to become endorsed as an EMS instructor shall:~~

~~_____ (a) submit an application and pay applicable fees;~~

~~_____ (b) submit one letter of recommendation regarding EMS skills and teaching abilities from a licensed or designated agency, which must be on department or agency letterhead and signed;~~

~~_____ (c) submit documentation of 15 hours of teaching experience with teaching experience in EMS or other related medical discipline, such as first aid or CPR, being preferred; and~~

~~_____ (d) successfully complete the department-sponsored initial EMS instructor training course.~~

~~_____ (3) An individual who wishes to be endorsed as an EMS instructor to teach EMR, EMT, AEMT, or paramedic courses or CME shall provide documentation of a minimum of 25 patient contacts within the prior year with a licensed or designated agency or an emergency health care facility. Documentation must be on department or agency letterhead and signed.~~

~~_____ (4) An individual shall submit a completed and signed instructor contract to the department every two years agreeing to abide by the standards and procedures in the March 2023 Course Coordinator Manual.~~

~~R426-5-1300. Instructor Endorsement Renewal.~~

~~_____ An EMS instructor who wishes to renew an endorsement as an instructor shall:~~

~~_____ (1) maintain current EMS licensure;~~

~~_____ (2) attend the required department-approved instructor seminar at least once in the two-year endorsement renewal cycle; and~~

~~_____ (3) submit an application and pay applicable fees.~~

~~R426-5-1400. Instructor Lapsed Endorsement.~~

~~_____ (1) An EMS instructor whose instructor endorsement expired less than one year ago may again become endorsed by:~~

~~_____ (a) completing endorsement requirements;~~

~~_____ (b) submitting an application; and~~

~~_____ (c) paying any associated fees.~~

~~_____ (2) An EMS instructor whose instructor endorsement has expired for more than one year shall complete any initial instructor endorsement requirements and reapply as if there were no prior endorsement.~~

~~R426-5-1500. Training Officer Endorsement.~~

~~_____ (1) The department may endorse a licensed individual who is an endorsed EMS instructor as a training officer for a two year period.~~

~~_____ (2) An individual who wishes to become endorsed as an EMS training officer shall:~~

~~_____ (a) have completed a minimum of 30 hours of EMS instruction within the past year and have a current EMS instructor endorsement;~~

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~~_____ (b) successfully complete the department's course for new training officers;~~

~~_____ (c) submit an application and pay applicable fees; and~~

~~_____ (d) submit biennially a completed and signed training officer contract to the department agreeing to abide by the standards and procedures in the July 2023 Training Officer Manual, incorporated by reference in this rule.~~

~~_____ (3) A training officer shall maintain an EMS instructor endorsement.~~

~~_____ (4) An EMS training officer shall abide by the terms of the training officer contract and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective training officer contract.~~

R426-5-1600. Training Officer Endorsement Renewal.

~~_____ A training officer who wishes to renew an endorsement as a training officer shall:~~

~~_____ (1) attend a training officer seminar at least once in the two year endorsement renewal cycle;~~

~~_____ (2) maintain a current EMS instructor endorsement and EMS license;~~

~~_____ (3) submit an application and pay applicable fees; and~~

~~_____ (4) submit a completed and signed new training officer contract to the department agreeing to abide by the standards and procedures in the current Training Officer Manual.~~

R426-5-1700. Training Officer Lapsed Endorsement.

~~_____ (1) An individual whose training officer endorsement expired less than one year ago may again become endorsed by completing the endorsement renewal requirements and paying applicable fees. The individual's new expiration date will be two years from the old expiration date.~~

~~_____ (2) An individual whose training officer endorsement expired more than one year ago shall complete each initial training officer endorsement requirement and reapply as if there were no prior endorsement.~~

R426-5-1800. Course Coordinator Endorsement.

~~_____ (1) The department may endorse an individual as an EMS course coordinator for a two year period.~~

~~_____ (2) An individual who wishes to become endorsed as a course coordinator shall:~~

~~_____ (a) be endorsed as an EMS instructor;~~

~~_____ (b) be a co coordinator of record for one department approved course with an endorsed course coordinator;~~

~~_____ (c) co coordinate a course equivalent to what they will be functioning as a course coordinator;~~

~~_____ (d) submit a written evaluation and recommendation from the course coordinator in the co coordinated course;~~

~~_____ (e) complete endorsement requirements within one year of completion of the department's course for new course coordinators;~~

~~_____ (f) submit an application and pay applicable fees;~~

~~_____ (g) complete the department's course for new course coordinators;~~

~~_____ (h) sign and submit the course coordinator contract to the department agreeing to abide to the standards and procedures in the March 2023 Course Coordinator Manual; and~~

~~_____ (i) maintain EMS instructor endorsement.~~

~~_____ (3) A course coordinator may only coordinate courses up to the licensure level to which the course coordinator is licensed.~~

~~_____ (4) A course coordinator shall abide by the terms of the course coordinator contract and comply with the standards and~~

~~procedures in the March 2023 Course Coordinator Manual as incorporated into the course coordinator contract.~~

~~_____ (5) A course coordinator shall maintain an EMS instructor endorsement and the EMS license for the level that the course coordinator is endorsed to coordinate. If an individual's EMS license or EMS instructor endorsement lapses, the course coordinator endorsement is invalid until EMS license or EMS instructor endorsement is renewed.~~

R426-5-1900. Course Coordinator Endorsement Renewal.

~~_____ A course coordinator who wishes to renew an endorsement as a course coordinator shall:~~

~~_____ (1) maintain a current EMS instructor endorsement and EMR, EMT, AEMT, or paramedic license;~~

~~_____ (2) coordinate or co coordinate at least one department approved course every two years;~~

~~_____ (3) attend a course coordinator seminar at least once in the two year endorsement renewal cycle;~~

~~_____ (4) submit an application and pay applicable fees; and~~

~~_____ (5) sign and submit a course coordinator contract to the department agreeing to abide by the policies and procedures in the March 2023 Course Coordinator Manual.~~

R426-5-2000. Course Coordinator Lapsed Endorsement.

~~_____ (1) An individual whose course coordinator endorsement expired less than one year ago may again become endorsed by completing the renewal requirements. The individual's new expiration date will be two years from the old expiration date.~~

~~_____ (2) An individual whose course coordinator endorsement has expired for more than one year shall complete each initial course coordinator endorsement requirement and reapply as if there were no prior endorsement. The department may waive the co coordinator requirement if the candidate provides written verification they coordinated or co coordinated a course within the past two years.~~

R426-5-2100. Critical Care Paramedic Endorsement.

~~_____ (1) The department may endorse an individual as a critical care paramedic for up to a four year period.~~

~~_____ (2) An individual who wishes to become endorsed as a critical care paramedic shall:~~

~~_____ (a) be a licensed paramedic in Utah;~~

~~_____ (b) be certified by the International Board of Specialty Certification as a:~~

~~_____ (i) certified critical care paramedic (CCP-C); or~~

~~_____ (ii) certified flight paramedic (FP-C);~~

~~_____ (c) submit an application for critical care paramedic certification and pay applicable fees;~~

~~_____ (d) submit proof of certification from the International Board of Specialty Certification; and~~

~~_____ (e) maintain a paramedic license.~~

~~_____ (3) Education cannot be used in lieu of a valid and current International Board of Specialty Certification critical care or flight paramedic certification to maintain the critical care endorsement.~~

R426-5-2200. Critical Care Paramedic Endorsement Renewal.

~~_____ A critical care paramedic who wishes to renew shall:~~

~~_____ (1) maintain a paramedic license;~~

~~_____ (2) submit an application for critical care paramedic;~~

~~_____ (3) pay applicable fees; and~~

~~_____ (4) submit proof of certification from the International Board of Specialty Certification.~~

R426-5-2300. Course Approvals.

A course coordinator offering EMS training to individuals who wish to become licensed as an EMR, EMT, AEMT, or paramedic shall obtain department approval before initiating an EMS training course. The department shall approve a course if:

- (1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days before commencing the course;
- (2) the applicant has sufficient equipment available for the training;
- (3) the department finds the course meets the department rules and contracts governing training;
- (4) the course coordinators and instructors hold current respective course coordinator and EMS instructor endorsements; and
- (5) the department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R426-5-2400. Paramedic Training Institutions Standards Compliance.

(1) A person shall be authorized by the department to provide training leading to the licensure of a paramedic.

(2) To become authorized and maintain authorization to provide paramedic training, a person shall follow:

- (a) the March 2023 Course Coordinator Manual; and
- (b) the 2023 Standard and Guidelines for the Accreditation of Education Programs in the Emergency Medical Services Professions, incorporated by reference in this rule.

R426-5-2500. Off-line Medical Director Requirements.

(1) The department may certify an off-line medical director for a four-year period.

(2) An off-line medical director shall be:

- (a) a physician actively engaged in providing emergency medical care or meets this requirement at the discretion of the state EMS medical director;
- (b) familiar with Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System and applicable EMS administrative rules under Title R426; and
- (c) familiar with medical equipment and medications required.

R426-5-2600. Off-line Medical Director Certification.

(1) An individual who wishes to certify as an off-line medical director shall:

- (a) complete an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the department's medical director training course within 12 months of becoming a medical director;
- (b) submit an application; and
- (c) pay applicable fees.

(2) An individual who wishes to recertify as an off-line medical director shall:

- (a) attend the medical directors annual workshop at least once every four years;
- (b) submit an application; and
- (c) pay applicable fees.

R426-5-2700. Epinephrine Auto-Injector and Stock Albuterol Use.

(1)(a) Any qualified entity or qualified adult shall receive training approved by the department.

- (b) The epinephrine auto-injector training shall include:
 - (i) recognition of life-threatening symptoms of anaphylaxis;
 - (ii) appropriate administration of an epinephrine auto-injector;
 - (iii) proper storage of an epinephrine auto-injector;
 - (iv) disposal of an epinephrine auto-injector; and
 - (v) an initial and annual refresher course.
- (c) The stock albuterol training shall include:
 - (i) recognition of life-threatening symptoms of an asthma emergency;
 - (ii) appropriate administration of stock albuterol;
 - (iii) proper storage of stock albuterol;
 - (iv) disposal of stock albuterol; and
 - (v) an initial and annual refresher course.
- (2) The annual refresher course requirement may be waived if:

(a) the qualified entities or qualified adults are currently licensed at the EMR or higher level by the state; or

(b) the approved training is the Red Cross Anaphylaxis and Epinephrine Auto-Injector course, found within the online classes and training section of <https://redercross.org>.

(3) Training in the school setting shall be based on approved department trainings found on <https://heal.utah.gov/SN-training/> pursuant to Sections 26B-4-107 and 26B-4-108.

(4) To become qualified, a teacher or school employee who is 18 years of age or older shall successfully complete the training program listed in Subsection (1).

(5) Any epinephrine auto-injector and stock albuterol shall be kept in a secure unlocked location for use in an emergency.

(6) Devices shall be disposed of following the manufacturer's specifications.

R426-5-2800. Law Enforcement Blood Draws Authorized Individual Qualifications.

Individuals who are not authorized to draw blood pursuant to Subsection 41-6a-523(1)(b), or individuals who are not licensed by the department, such as AEMTs, or paramedics, shall meet one of the following requirements as a prerequisite for authorization to withdraw blood to determine its alcohol or drug content when requested to do so by a peace officer:

(1) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit;

(2) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course that prepares individuals to function in routine clinical or emergency medical situations; or

(3) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.

R426-5-2900. Permits for Blood Draws.

(1) The department may issue permits to withdraw blood to determine the alcohol or drug content therein, when requested by a peace officer, to qualified applicants, as determined by the department. Individuals described in Section R426-5-2800 are exempt from permit requirements.

(2) An applicant shall submit to the department an application on forms the department provides.

(3) When the permit holder is requested to withdraw blood for the purpose stated in Subsection (1), the permit holder shall have a valid permit card.

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- ~~_____ (4) Permits shall be valid for a three-year period. The date the permit expires shall appear on the permit.~~
- ~~_____ (5) An individual shall submit an application to the department on department provided forms to renew permits within three months before the expiration date to ensure that it will not lapse. The permit holder shall either verify that they have been engaged in performing blood withdrawal procedures during the current permit period or submit verification signed by a physician attesting to their competence to perform blood withdrawal procedures.~~
- ~~_____ (6) Permit holders shall notify the department within 15 days of a change in name or mailing address.~~

~~**R426-5-3000. Cause for Blood Draw Permit Termination or Revocation.**~~

- ~~Permits shall be subject to termination or revocation under any of the following conditions:~~
- ~~_____ (1) the permit holder has made a misrepresentation of a material fact in the application, or any other communication to the department or its representatives, which misrepresentation was material to the eligibility of the permit holder;~~
 - ~~_____ (2) the permit holder is not qualified to hold a permit;~~
 - ~~_____ (3) the permit holder after having received a permit has been convicted of a felony or of a misdemeanor that involves moral turpitude; or~~
 - ~~_____ (4) the permit holder does not comply with the possession requirements.~~

~~**R426-5-3100. Published List of Individuals Permitted to Draw Blood.**~~

- ~~_____ (1) The department shall make available to the public a list of individuals permitted to withdraw blood for determination of its alcohol or drug content.~~
- ~~_____ (2) The department may publish amended lists.~~

~~**R426-5-3200. Background Screening Clearance for EMS Licensure.**~~

- ~~_____ (1) The department shall conduct a background screening on each individual who seeks licensure or renewal as an EMR, EMT, AEMT, paramedic, or EMD. The department shall approve EMS licensure upon successful completion of a background screening. Background clearance indicates the individual does not pose an unacceptable risk to public health and safety.~~
- ~~_____ (2) The individual seeking licensure or renewal shall submit the completed applications, including fees, before submission of fingerprints.~~
- ~~_____ (3) The department may review relevant information obtained from the following sources:

 - ~~_____ (a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;~~
 - ~~_____ (b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;~~
 - ~~_____ (c) federal criminal background databases available to the state;~~
 - ~~_____ (d) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;~~
 - ~~_____ (e) child abuse or neglect findings described in Section 78A-6-3a;~~~~

- ~~_____ (f) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; and~~
- ~~_____ (g) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions.~~
- ~~_____ (4) If the department determines an individual is not eligible for licensure based upon the criminal background screening and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided in Title 77, Chapter 18a, The Appeal.~~
- ~~_____ (5) If the department determines an individual is not eligible for licensure based upon the noncriminal background screening and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.~~
- ~~_____ (6) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses within the past 15 years, they may not be approved for licensure:

 - ~~_____ (a) any felony or Class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;~~
 - ~~_____ (b) any felony or Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, excluding Sections 76-9-103 and 76-9-108;~~
 - ~~_____ (c) any felony or Class A or B misdemeanor under the following:

 - ~~_____ (i) Section 76-9-301.8, Bestiality;~~
 - ~~_____ (ii) Section 76-9-702.1, Sexual battery; or~~
 - ~~_____ (iii) Section 76-9-702.5, Lewdness involving a child.~~~~
 - ~~_____ (7) If an individual has been convicted or has pleaded no contest for the following offenses, 15 years have passed since the last conviction, and the offense cannot be expunged, they shall be considered for licensure:

 - ~~_____ (a) any felony or Class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;~~
 - ~~_____ (b) any felony or Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, excluding Sections 76-9-103 and 76-9-108; or~~
 - ~~_____ (c) any felony or Class A or B misdemeanor under the following:

 - ~~_____ (i) Section 76-9-301.8, Bestiality;~~
 - ~~_____ (ii) Section 76-9-702.1, Sexual battery; or~~
 - ~~_____ (iii) Section 76-9-702.5, Lewdness involving a child.~~~~
 - ~~_____ (8) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses, they shall be considered for licensure:

 - ~~_____ (a) any felony or Class A misdemeanor not listed in Subsections (6)(a) through (6)(c).~~
 - ~~_____ (b) any class B or C misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;~~
 - ~~_____ (c) any felony, Class A misdemeanor under Title 76, Chapter 6, Offenses Against Property;~~
 - ~~_____ (d) any felony or Class A misdemeanor under Title 76, Chapter 6a, Pyramid Scheme Act;~~
 - ~~_____ (e) any felony or Class A misdemeanor under Title 76, Chapter 8, Offenses Against the Administration of Government;~~
 - ~~_____ (f) any felony, Class A misdemeanor under Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare and Morals;~~~~~~~~

~~(g) any felony, Class A, B, or C misdemeanor under the following:~~

~~(i) Sections 76-10-1201 through 79-10-1229.5, Pornographic and Harmful Materials and Performances; and~~

~~(ii) Sections 76-10-1301 through 76-10-1314, Prostitution;~~

~~(iii) any felony or Class A misdemeanor under Section 76-10-2301, Contributing to the Delinquency of a Minor;~~

~~(h) any felony or Class A or B misdemeanor under Utah Motor Vehicles Traffic Code Sections 41-6a-502, 41-6a-502.5, and 41-6a-517.~~

~~(i) any felony or Class A or B misdemeanor under Title 58, Chapter 37, Utah Controlled Substances Act.~~

~~(j) any felony or Class A or B misdemeanor under Section 32B-4-409.~~

~~(k) any criminal conviction or pattern of convictions that may represent an unacceptable risk to public health and safety.~~

~~(9) An individual seeking licensure who has been convicted or has pleaded no contest, is subject to a plea in abeyance, a diversion agreement, a warrant for arrest, arrested or charged for any of the identified offenses in Subsection R426-5-3200(8), shall be considered for licensure.~~

~~(10) A licensed EMS personnel who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in Subsection R426-5-3200(8), and after an investigation and peer review board process as established in Section R426-5-3400, the department may issue license, suspend or revoke a license, or place a license on probation.~~

~~(11) A licensed EMS personnel who is subject to a warrant of arrest, arrested, or charged for any of the identified offenses in Subsection R426-5-3200(6) shall immediately have the individual's EMS license placed on restriction pending the outcome of a department investigation as per the process established in Section R426-5-3300.~~

~~(12) As required by Subsection 26B-4-124(5)(b), juvenile court records shall be reviewed if an individual is:~~

~~(a) under the age of 28; or~~

~~(b) over the age of 28 and has convictions or pending charges identified in Subsection R426-5-3200(6).~~

~~(13) Adjudications by a juvenile court may exclude the individual from licensure if the adjudications refer to an act that, if committed by an adult, would be a felony or a misdemeanor of the identified offenses in Subsection R426-5-3200(6).~~

~~(14) The department may deny licensure based on a supported finding from:~~

~~(a) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;~~

~~(b) child abuse or neglect findings described in Section 78A-6-3a; or~~

~~(c) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;~~

~~(15) The department may deny licensure based on a finding from licensing records of individuals licensed by the Division of Professional Licensing under Title 58, Occupations and Professions.~~

~~(16) Results of background screening review, as listed in Subsection R426-5-3200(7), (8), (12), or (14), may be reviewed to determine under what circumstance, if any, the individual may be granted licensure. The following factors may be considered:~~

~~(a) types and number;~~

~~(b) passage of time;~~

~~(c) surrounding circumstances;~~

~~(d) intervening circumstances; and~~

~~(e) steps taken to correct or improve.~~

~~(17) The department shall rely on relevant information identified in Subsection R426-5-3200(2) as conclusive evidence and may deny licensure based on that information.~~

~~(18) A licensed EMS personnel may appeal a department licensure decision as listed in Subsection R426-5-3200(16) to the department per the process established in Section R426-5-3400.~~

~~(19) A licensed EMS personnel who has been arrested, charged, or convicted shall notify the department and each employer or affiliated entity who utilizes the EMS personnel's license within seven business days. The licensed EMS personnel shall also notify the department of each entity they work for or are affiliated with.~~

~~(20) A licensed or designated EMS provider who is notified or becomes aware of a licensed EMS personnel's arrest, charge, or conviction shall notify the department within seven business days.~~

~~R426-5-3300. Review and Investigation of Complaints and Referrals.~~

~~(1) The department shall review each complaint filed against an EMS provider and a licensed EMS personnel.~~

~~(2)(a) The department may investigate designated or licensed provider complaints.~~

~~(b) The department may conduct interviews with a provider or EMS personnel.~~

~~(c) The department may allow the licensed EMS personnel or provider an opportunity to respond to the allegations and to provide supporting witnesses and documentation.~~

~~(d) Based on the investigation, the department shall make a recommendation to the department's office director.~~

~~(e) If the department's recommendation is that the licensed EMS personnel or provider is to be placed on probation or suspension, the department's recommendation shall include terms and conditions.~~

~~(f) The department may take action against a designated or licensed provider's license or designation based on the investigative findings.~~

~~(g) The department shall notify the licensed EMS personnel or provider in writing of the department's decision within 30 days of completion of the investigation.~~

~~(3)(a) Licensed EMS personnel complaints shall be investigated either by the department or by the primary affiliated provider (PAP).~~

~~(b) The department shall investigate and may take action if the department determines any of the following applies to a licensed EMS personnel:~~

~~(i) the licensed EMS personnel demonstrates a threat to themselves or to a coworker;~~

~~(ii) the licensed EMS personnel demonstrates a threat to the public health;~~

~~(iii) the licensed EMS personnel demonstrates a threat to the safety or welfare of the public;~~

~~(iv) the licensed EMS personnel potentially violated Subsection R426-5-3200(4); or~~

~~(v) the department determines the risk cannot be reasonably mitigated.~~

~~(c) The department may place the licensed EMS personnel on a restricted license while an investigation is pending until terms are reached for a provisional license using the process outlined in Subsection R426-5-3300(5)(f)(i).~~

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~~_____ (d) The department may conduct interviews with any individual necessary. The department may gather information and evidence, which may include requiring the licensed EMS personnel to submit to a drug or alcohol screening or any other appropriate evaluation.~~

~~_____ (e) The licensed EMS personnel shall have an opportunity to respond to the allegations and to provide supporting witnesses and documentation.~~

~~_____ (f) Once the department has completed its investigation, it shall submit the report with any findings and recommendations to the peer review board per Subsection R426-5-3400(4) for review.~~

~~_____ (g)(i) The PAP shall investigate a complaint against the licensed EMS personnel who the department refers to the PAP.~~

~~_____ (ii) The PAP investigation shall:~~

~~_____ (A) be investigated by the licensed or designated EMS provider's EMS endorsed training officer or designee; and~~

~~_____ (B) be completed and findings submitted to the department within 30 calendar days from receipt of complaint from the department;~~

~~_____ (iii) If the department determines that the PAP actions are insufficient, the department may initiate an investigation of the licensed EMS personnel which follows the department and the peer review board process.~~

~~_____ (4) The department shall investigate an EMS personnel's license, a provider's license or designation, or an individual's department endorsement for any of the following reasons:~~

~~_____ (a) refusal to submit to a drug test requested by the EMS provider or the department;~~

~~_____ (b) failure to report by an individual or any affiliated provider pursuant to Subsections R426-5-3200(19) and R426-5-3200(20);~~

~~_____ (c) non-prescribed use of or addiction to narcotics or drugs;~~

~~_____ (d) use of alcoholic beverages or being under the influence of alcoholic beverages at any level while on call or on duty as an EMS personnel or while driving an EMS vehicle;~~

~~_____ (e) being under the influence of a prescribed or non-prescribed medication or drug, legal or illegal, while on call or on duty as a licensed EMS personnel that affects the person's ability to operate or function safely;~~

~~_____ (f) failure to comply with the training, licensing, or relicensing requirements for the license;~~

~~_____ (g) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator. Action taken by the department on this item shall only be against the individual's ability to perform this particular function and would not affect their base EMS license;~~

~~_____ (h) fraud or deceit in applying for or obtaining a license;~~

~~_____ (i) fraud, deceit, lack of professional competency, patient abuse, or theft in the performance of the duties as a licensed EMS personnel;~~

~~_____ (j) false or misleading information or failure to disclose criminal background information during an investigation or an EMS personnel peer review board proceeding;~~

~~_____ (k) unauthorized use or removal of narcotics, medications, supplies, or equipment from a provider, emergency vehicle, or health care facility;~~

~~_____ (l) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure;~~

~~_____ (m) violation of laws pertaining to medical practice, drugs, or controlled substances;~~

~~_____ (n) mental incompetence as determined by a court of competent jurisdiction;~~

~~_____ (o) demonstrated inability and failure to perform adequate patient care;~~

~~_____ (p) inability to provide EMS with reasonable skill and safety because of illness, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated;~~

~~_____ (q) misrepresentation of an individual's level of licensure;~~

~~_____ (r) failure of a licensed EMS personnel to display a clearly identifiable level of EMS licensure during an EMS response;~~

~~_____ (s) unsafe, unnecessary, or improper operation of an emergency vehicle that would likely cause concern or create a danger to the general public; or~~

~~_____ (t) improper or unnecessary use of emergency equipment.~~

~~_____ (5)(a) Background screening referrals may be submitted to the department for review and investigation.~~

~~_____ (b) The department shall review any case referred under Section R426-5-3200.~~

~~_____ (c) The department may require the licensed EMS personnel to provide the proper criminal background documentation.~~

~~_____ (d) The licensed EMS personnel shall notify the department of each entity they work for or are affiliated with or that they may become affiliated with in connection with their EMS licensure.~~

~~_____ (e) Failure to comply with any department requirements may result in disciplinary action against the EMS personnel's licensure.~~

~~_____ (f)(i) The department may negotiate with the licensed EMS personnel and their PAP to determine terms and conditions of the EMS personnel's provisional licensure.~~

~~_____ (ii) When the department determines an EMS personnel's license will be restricted, the department shall notify both the licensed EMS personnel and each licensed or designated provider the individual is affiliated with.~~

~~_____ (iii) The department shall try to contact and begin negotiations with the PAP and the licensed EMS personnel. Each individual shall try to determine reasonable terms and conditions to the EMS personnel's license.~~

~~_____ (iv) If terms and conditions are agreed upon between the parties, the licensed EMS personnel and each affiliated licensed or designated provider shall be notified immediately. This notification shall include information that the licensed EMS personnel is under a provisional license with terms and conditions until the resolution of any criminal charge or the completion of an investigation.~~

~~_____ (v) If the licensed EMS personnel is not employed or affiliated with a licensed or designated provider or if terms and conditions are not agreed upon, the department may act as necessary to protect the public's best interest.~~

~~_____ (vi) The department, the licensed EMS personnel, and the PAP, if applicable, shall sign the terms of the provisional licensure agreement. Any other affiliated licensed or designated EMS providers shall be notified of the provisional license and its terms and conditions.~~

~~_____ (vii) Once the provisional license has been signed, the department shall notify any known EMS provider the licensed EMS personnel is affiliated with.~~

~~_____ (viii) If an affiliated licensed or designated EMS provider or the licensed EMS personnel fail to abide by the terms and conditions of a provisional license, they may be subject to sanctions by the department.~~

~~(g) The department shall submit recommended background clearance actions for licensed EMS personnels to the peer review board under Section R426-5-3400.~~

~~(6) Appeal process:~~

~~(a)(i) If a licensed or designated EMS provider or a licensed EMS personnel chooses to appeal an action by the department, they may appeal to the EMS committee or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.~~

~~(ii) If the department action is appealed to the EMS committee, then the recommendation shall be given to the department executive director for a final decision.~~

~~(b) If a licensed EMS personnel chooses to appeal an action by the department, they may appeal to the executive director, or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.~~

R426-5-3400. EMS Personnel Peer Review Board.

~~(1) The EMS personnel peer review board is created under Subsection 26B-4-102(4).~~

~~(2) The EMS personnel peer review board shall be composed of the following 15 members appointed by the executive director of the Department of Health and Human Services:~~

~~(a) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the first or second class;~~

~~(b) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the third through sixth class;~~

~~(c) one educational representative from an accredited EMS training program;~~

~~(d) one physician certified and practicing as an EMS medical director;~~

~~(e) one EMD;~~

~~(f) two representatives from professional employee groups, one fire based, and one non fire based;~~

~~(g) two endorsed EMS training officers;~~

~~(h) two non-supervisory licensed EMTs;~~

~~(i) two non-supervisory licensed AEMTs; and~~

~~(j) two non-supervisory licensed paramedics.~~

~~(3) The EMS personnel peer review board member's terms of office shall comply with the following criteria.~~

~~(a) Except as provided in Subsection (2)(b), members shall be appointed for a six-year term.~~

~~(b) The department shall adjust the length of terms to ensure the terms of members of the board are staggered so about one-third of the board is appointed every two years.~~

~~(c) No member shall serve consecutive full terms.~~

~~(d) When a vacancy occurs in the membership of the board for any reason, the executive director of the department shall appoint the replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.~~

~~(e) The EMS personnel peer review board shall organize and select one of its members as chair and one of its members as vice chair to serve no more than two years in each position.~~

~~(f) If a board member becomes ineligible for the EMS personnel peer review board membership position through promotion, an increase in level of licensure, or transfer out of the~~

~~employment position that qualified them for the appointment, they shall be replaced at the next two-year interval.~~

~~(g) An equitable mix of urban and rural members is preferred.~~

~~(4) The EMS personnel peer review board meeting shall take place quarterly.~~

~~(a) Regular meetings shall be noticed and posted to employers and posted in accordance with the Utah Open and Public Meetings Act, Section 52-4-202.~~

~~(b) Failure to attend three or more consecutive meetings by any member may be grounds for removal of that member and replacement in accordance with Subsection (2)(d).~~

~~(c) A member may not receive compensation or benefits from the department for the member's service. The member may receive per diem and travel expenses in accordance with department rules and policies.~~

~~(5) Once a complaint or background screening finding against a licensed EMS personnel is investigated, the department shall refer the case and provide a report with any findings and recommendations to the EMS personnel peer review board.~~

~~(6) If the EMS personnel peer review board chooses to recommend any action that deviates from the department recommendation, the board shall provide written justification for that recommendation.~~

~~(7) The EMS personnel peer review board may make recommendations to the department's office director of:~~

~~(a) no department action;~~

~~(b) a letter of notice;~~

~~(c) probation of the licensed EMS personnel's license with specific terms and conditions for a period;~~

~~(d) suspension of the licensed EMS personnel's license for a defined period;~~

~~(e) permanent revocation of the licensed EMS personnel's license; or~~

~~(f) a combination of any of these actions.~~

~~(8) If the department's office director modifies the recommended action of the EMS personnel peer review board, the department's office director shall attach a written letter of dissent noting the reasoning for the decision. The department's office director shall then notify the EMS personnel peer review board of the dissent and action taken.~~

~~(9) The department shall notify the licensed EMS personnel of any action taken within 15 days of the decision by mail.~~

~~(10) An action to restrict, place on probation, suspend, or revoke the licensed EMS personnel's license shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~

R426-5-3500. EMS Rules Task Force.

~~(1) The EMS rules task force is created under Title 26B, Chapter 4, Part 1, Utah EMS System.~~

~~(2) The EMS rules task force shall be composed of the following members appointed by the executive director of the Department of Health and Human Services:~~

~~(a) a representative from the Utah Fire Chiefs' Association;~~

~~(b) a representative from the Utah Rural EMS Directors' Association;~~

~~(c) an EMS medical director;~~

~~(d) a representative from a privately owned EMS agency;~~

~~(e) a rural EMS medical dispatch representative;~~

~~(f) a paramedic licensed representative;~~

~~(g) an urban EMS medical dispatch representative;~~

NOTICES OF PROPOSED RULES

~~(h) an Emergency Nurses Association representative;~~
~~(i) a course coordinator from an accredited EMS training program;~~
~~(j) an endorsed EMS training officer;~~
~~(k) a representative from the state EMS committee;~~
~~(l) a designated trauma center representative;~~
~~(m) a designated patient receiving facility representative;~~
 and
~~(n) a designated nonemergency secured behavioral patient transport representative.~~
~~(3) The EMS rules task force member's terms of office will comply with the following criteria:~~
~~(a) Except as provided in Subsection (2)(b), members shall be appointed for a three year term.~~
~~(b) The department shall adjust the length of terms to ensure the terms of members of the EMS rules task force are staggered so about one third of the EMS rules task force is appointed every two years.~~
~~(c) Members may serve two consecutive full terms.~~
~~(d) When a vacancy occurs in the membership for any reason, the department shall solicit applications for replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.~~
~~(e) The EMS rules task force shall organize and select one of its members as chair and one of its members as vice chair to serve no more than two years in each position.~~
~~(f) If an EMS rules task force member becomes ineligible for the EMS rules task force membership position through promotion, an increase in level of license, or transfer out of the employment position that qualified them for the appointment, they shall be replaced at the next two year interval.~~
~~(g) An equitable mix of urban and rural members is preferred.~~
~~(4) Regular meetings of the EMS rules task force shall be scheduled as determined by the membership and the department.~~

~~KEY: emergency medical services~~
~~Date of Last Change: 2024~~
~~Notice of Continuation: November 16, 2021~~
~~Authorizing, and Implemented or Interpreted Law: 26B-4-1]~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-6	Filing ID: 56465

Agency Information

1. Department:	Health and Human Services
Agency:	Population Health, Emergency Medical Services
Room number:	2438
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 142004

City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-6. Emergency Medical Services Per Capita Grants and Competitive Grants Program
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization.
(EDITOR'S NOTE: The proposed new Rule R911-6 is under ID 56491 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.
B) Local governments:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.

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

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.

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

As there are no affected persons, there are no compliance costs as a result of this filing.

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	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 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-4-101	Section 26B-4-102	
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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:	06/14/2024
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9. This rule change MAY become effective on:

06/21/2024
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:	04/30/2024
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~~R426. Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426-6. Emergency Medical Services Per Capita Grants and Competitive Grants Program.~~

~~R426-6-100. Authority and Purpose.~~

~~(1) Authority for this rule is found in Title 26B, Chapter 4, Part 1.~~

~~(2) This rule provides distribution of Emergency Medical Services (EMS) per capita grant funds and competitive grant funds.~~

~~R426-6-200. Per Capita Grants and Competitive Grants Eligibility.~~

~~(1) Per capita and competitive grant funds are available to a licensed ground ambulance provider, a licensed paramedic non-transport provider, a designated quick response provider, or a designated emergency medical service dispatch center that is:~~

- ~~(a) a licensed or designated EMS provider owned by political subdivisions of local or state government;~~
- ~~(b) an incorporated non-profit entity; or~~
- ~~(c) a for-profit licensed or designated EMS provider who is the primary EMS provider for a geographical service area.~~

~~(2) A for-profit licensed or designated EMS provider is a primary EMS provider if they are licensed or designated and provide a service at a higher level than the public or non-profit provider located in the same geographical service area. EMS provider levels rank in the following order:~~

- ~~(a) Paramedic;~~
- ~~(b) Emergency medical technician intermediate advanced (EMT IA);~~
- ~~(c) Advanced emergency medical technician (AEMT);~~
- ~~(4) Emergency medical technician (EMT);~~
- ~~(5) Emergency medical responder (EMR);~~
- ~~(6) Emergency medical dispatcher (EMD).~~

~~A licensed ground ambulance provider who is only licensed to provide inter-facility transport in a geographical service area, or is a licensed paramedical tactical provider are not eligible for per capita grant funds or competitive grant funds.~~

~~EMS per capita grants and competitive grants are available for use specifically related to the provision of emergency medical services and staff education. Grant funds cannot be used for rescue equipment or fire equipment not directly used for patient medical care.~~

~~A per capita grant or a competitive grant recipient shall be in compliance with Title 26B Chapter 4, Part 1 and Administrative Rules R426-2 through R426-9 before receiving grant funds.~~

~~(4) A per capita grant or competitive grant recipient shall not be more than six months overdue in owed payments to the Department.~~

~~(5) A licensed ground ambulance provider that exceeded 10% profitability in the previous three fiscal reporting period is not eligible for EMS Grant funds.~~

~~R426-6-300. Per Capita Grants and Competitive Grants Implementation.~~

~~(1) A grant award shall be implemented through a contract between the Department and a grant recipient.~~

~~(2) The Committee shall establish annual grant program guidelines. The Department shall use the current annual grant program guidelines to award grant funds paid to recipients.~~

~~(3) The Department may reject a grant application that does not adhere to current annual grant program guidelines.~~

~~(4) Grant funds may be used during the terms indicated in an award contract.~~

~~(5) Grant funds are paid by the Department's terms in the contract with grant recipients.~~

~~(6) Grant funds do not require matching recipient funds.~~

~~(8) A per capita grant award shall be no less than \$500.~~

~~R426-6-400. Per Capita Application and Award Formula.~~

~~(1) A per capita grant applicant shall attest to the accuracy of their licensed or designated EMS provider's personnel roster on December 31 of the year before the grant award.~~

~~(a) A licensed or certified EMS individual who works for both a public and a for-profit agency may be credited only to the public or non-profit licensed or designated EMS provider.~~

~~(b) A licensed EMS individual who is employed by two or more licensed or designated EMS providers may be included on a percentage basis for grant award calculations. However, if a certified EMD is also an EMT, EMT I, AEMT, EMT IA, or paramedic, the certified EMD may be credited to one licensed or designated EMS provider as a certified EMD, and to a licensed or designated EMS provider as an EMT, EMT I, AEMT, EMT IA, or paramedic.~~

~~(2) The Department shall allocate funds by using the following point totals for licensed or certified personnel: certified EMDs = 1; licensed EMRs = 1; licensed EMTs = 2; licensed Advanced EMTs = 3; licensed Intermediate Advanced EMTs = 3; and licensed Paramedics = 4. The number of certified or licensed personnel is based upon the personnel rosters of each licensed EMS provider, designated EMS dispatch agency, and designated EMS quick response provider on December 31 of the preceding fiscal year. Point totals of each eligible licensed or designated EMS provider will be multiplied by the current county classification.~~

~~R426-6-500. Competitive Grant Process.~~

~~(1) Competitive EMS Grants are available to a licensed EMS provider in a county between the third and sixth class. Grant funds will be allocated and approved by the Committee. Grant award prioritization shall use a standardized application with questions to assess comparative need for a licensed EMS provider;~~

~~(2) the Rural EMS Directors' Association of Utah may provide content for application questions and recommend priorities for grant awards;~~

~~(3) the Grants Subcommittee may review suggested competitive grant awards and make recommendations to the Committee for final approval.~~

~~R426-6-600. Emergency Grant Awards.~~

~~(1) The Grants Subcommittee may recommend interim or emergency grants if the following are met:~~

- ~~(a) grant funds are available;~~
- ~~(b) the applicant clearly demonstrates need;~~
- ~~(c) the application was not rejected by the Grants Subcommittee during the current grant cycle; and~~
- ~~(d) delay of funding to the next scheduled grant cycle would impair the licensed or designated EMS provider's ability to provide care.~~

~~(2) Applicants for emergency grants shall:~~

- ~~(a) submit an emergency grant application, following the same format as annual grant applications; and~~
- ~~(b) submit the emergency grant application to the Department at least 30 days before the EMS Committee meeting at which the grant application will be reviewed.~~

~~(3) The Grants Subcommittee shall review the emergency grant application and forward recommendations to the EMS Committee. The EMS Committee shall review and comment on the Grants Subcommittee recommendations and forward to the Department.~~

~~KEY: emergency medical services~~

~~Date of Last Change: November 5, 2023~~

~~Notice of Continuation: March 22, 2023~~

~~Authorizing, and Implemented or Interpreted Law: 26B, Chapter 4, Part 1]~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-7	Filing ID: 56466

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-7. Emergency Medical Services Prehospital Data System Rules
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization. (EDITOR'S NOTE: The proposed new Rule R911-7 is under ID 56492 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

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

A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.
B) Local governments:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 <i>agency</i>):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
As there are no affected persons, there are no compliance costs as a result of this filing.
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	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 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-4-101	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:	06/14/2024

9. This rule change MAY become effective on:	06/21/2024
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:	04/30/2024
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~~R426. Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426-7. Emergency Medical Services Prehospital Data System Rules.~~

~~R426-7-1. Authority and Purpose.~~

- ~~_____ (1) Section 26B-4-106 authorizes this rule.~~
- ~~_____ (2) This rule establishes minimum mandatory emergency medical service (EMS) data reporting requirements.~~
- ~~_____ (3) Persons providing emergency medical services shall provide data to the Department of Health and Human Services (department) as identified in this rule.~~

~~R426-7-2. Prehospital Data Set.~~

- ~~_____ (1) Each EMS provider shall collect and report all data as specified by the department.~~
- ~~_____ (2) Each EMS provider shall submit data to the department electronically in the National Emergency Medical Services Information System (NEMSIS) format for every dispatch instance regardless of patient disposition.~~
- ~~_____ (a) Each EMS provider shall report data for every individual with whom the EMS provider has contact, whether care was given or refused, including in the case of a mass casualty event.~~
- ~~_____ (b) Stand-by or special events are exempt from this section.~~
- ~~_____ (3) The department incorporates by reference:~~
 - ~~_____ (a) NEMSIS Data Dictionary National Highway Traffic Safety Administration (NHTSA) version 3.5; and~~
 - ~~_____ (b) NEMSIS V3 State Data Set Utah NEMSIS Version 3.5.~~
- ~~_____ (4) An EMS provider shall use a NEMSIS-compliant EMS reporting system, unless written arrangements are made with the department.~~
- ~~_____ (5) An EMS provider shall submit NEMSIS demographic data elements within 30 days after the end of each calendar quarter and in the format defined in the NEMSIS EMS Demographic Data Set.~~
 - ~~_____ (a) An EMS provider shall submit NEMSIS demographic data in the state EMS licensing system.~~
 - ~~_____ (b) An EMS provider shall make all demographic changes in the state EMS licensing system.~~
 - ~~_____ (c) The department may consider an EMS provider's data submitted after it has been entered or updated in the department-provided system.~~
 - ~~_____ (6) Each EMS provider shall submit NEMSIS EMS incident data elements for each patient care report (PCR) in the format defined in the NEMSIS EMS data set within seven days of the incident occurring.~~
 - ~~_____ (a) The department may consider data submitted as soon as it has been directly entered or updated in the department provided system.~~

~~(b) Each EMS provider shall submit incident data with at least 90% of each submission complete with correct information in the state system for the submission to be considered correct and complete.~~

~~(c) Each EMS provider shall configure its electronic patient care report (ePCR) systems to correctly send incidents as soon as they are completed and not wait until the record has been billed.~~

~~(7) Each EMS provider shall reconcile NEMSIS EMS incident data monthly via email for each PCR for the prior month's ePCR count.~~

~~(a) If there are no incidents to report for the previous month, the EMS provider shall report confirmation of no data within seven days after the previous month ends.~~

~~(b) The department shall provide monthly reports to the EMS provider on completeness for ePCRs with less than 90% complete and correct.~~

~~(8) Each EMS provider may submit optional NEMSIS data elements.~~

~~(9) Each EMS provider shall notify the department at least 90 calendar days before changing reporting systems.~~

~~(10) For each patient an EMS provider transports to a hospital or patient receiving facility, the EMS provider shall report the patient status containing information critical to the ongoing care of the patient upon transfer.~~

~~(11) For each patient an EMS provider transports to a hospital or patient receiving facility, the hospital or patient receiving facility shall provide the following information for that patient to the EMS provider within 24 hours of request:~~

- ~~(a) the patient's emergency department disposition;~~
- ~~(b) the patient's hospital disposition;~~
- ~~(c) the patient's demographic information, including payment source; and~~
- ~~(d) a hospital face sheet.~~

R426-7-3. Penalty for Violation of Rule.

~~Any person who violates any provision of this rule may be assessed a penalty as provided in Section 26B-1-224.~~

~~KEY: emergency medical services~~

~~Date of Last Change: April 22, 2024~~

~~Notice of Continuation: September 24, 2020~~

~~Authorizing, and Implemented or Interpreted Law: 26B-4-106, 26B-1-224]~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-8	Filing ID: 56467

Agency Information

1. Department:	Health and Human Services
Agency:	Population Health, Emergency Medical Services
Room number:	2438
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116

Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-8. Emergency Medical Services Ground Ambulance Rates and Charges
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization.
(EDITOR'S NOTE: The proposed new Rule R911-8 is under ID 56493 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.
B) Local governments:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.

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

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.

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

There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.

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

As there are no affected persons, there are no compliance costs as a result of this filing.

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	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 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-4-101	Section 26B-4-102	
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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:	06/14/2024
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9. This rule change MAY become effective on:	06/21/2024
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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:	04/30/2024
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~~R426. Health and Human Services, Population Health, 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 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 may not charge more than the rate described pursuant to Subsections R426-8-200(6) through (12) on ambulance transports.~~

~~(2) Net income and subsidies for a licensed ground ambulance provider may 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 may 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—\$1,176.11 per transport;~~

~~(b) advanced EMT ground ambulance license level—\$1,552.68 per transport;~~

~~(c) paramedic ground ambulance license level—\$2,270.22 per transport; and~~

~~(d) any EMT or AEMT level licensed ground ambulance provider with a paramedic on board—\$2,270.22 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 base rate may not include costs for:~~

~~(a) providing procedures to an individual; or~~

~~(b) administering medications.~~

~~(8) A mileage rate may be charged up to a maximum of \$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.~~

~~(9) A surcharge of \$1.50 per mile may be assessed if an ambulance is required to travel two or more miles on unpaved roads.~~

~~(10) 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.~~

~~(11) 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 halfway point of the trip; and~~

~~(b) no more than \$22.05 per quarter hour is charged for time over 30 minutes.~~

~~(12) A licensed ground ambulance provider may charge for disposable supplies used and medications administered during patient care, in addition to the base rate and mileage rate if the disposable supplies and medications are priced fairly and competitively with a similar product in the local area.~~

~~(13) A licensed ground ambulance provider may charge for supplies, providing supplies, medications, and administering medications on a response if:~~

~~(a) supplies and medications 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, but does not transport.~~

~~(14) 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.~~

~~(15) 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.~~

~~(16) 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.~~

~~(17) 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: 2024~~

~~Notice of Continuation: September 24, 2020~~

~~Authorizing, and Implemented or Interpreted Law: 26B-4-152; 26B-4-102]~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-9	Filing ID: 56468

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-9. Specialty Care Systems Facility Designations
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization. (EDITOR'S NOTE: The proposed new Rule R911-9 is under ID 56494 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.

B) Local governments:			
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 <i>agency</i>):			
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
As there are no affected persons, there are no compliance costs as a result of this filing.			
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	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 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-4-101 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: 06/14/2024
9. This rule change MAY become effective on: 06/21/2024
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: 04/30/2024
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~~[R426. Health and Human Services, Population Health, Emergency Medical Services.
R426-9. Specialty Care Systems Facility Designations.
R426-9-100. Authority and Purpose for Specialty Care Systems Standards.~~

~~(1) This rule establishes requirements pursuant to statute for a statewide specialty care systems and related emergency medical systems including the following:~~

~~(a) establishes and actively supervises a statewide trauma system;~~

~~(b) establishes, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport, and transfer of trauma patients to the most appropriate health care facility; and~~

~~(c) allows designation of trauma care facilities consistent with the trauma center designation requirements and verification process established by the Department and applicable statutes.~~

~~(2) This rule provides standards for the categorization of all hospitals and the voluntary designation of trauma centers to assist physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.~~

~~(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.~~

~~R426-9-200. Trauma System Advisory Committee.~~

~~(1) The Trauma System Advisory Committee shall:~~

~~(a) be a broad and balanced representation of healthcare providers and health care delivery systems; and~~

~~(b) conduct meetings in accordance with committee procedures.~~

~~(2) The Department shall appoint committee members to serve terms from one to four years.~~

~~(3) The Department may re-appoint committee members for one additional term in the position initially appointed by the Department.~~

~~(4) Causes for removal of a committee member include the following:~~

~~(a) more than two unexcused absences from meetings within 12 calendar months;~~

~~(b) more than three excused absences from meetings within 12 calendar months;~~

~~(c) conviction of a felony; or~~

~~(d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.~~

~~R426-9-300. Trauma Center Categorization Guidelines.~~

~~The Department adopts as criteria for Level I, Level II, Level III, IV and Pediatric trauma center designation, compliance with national standards published in the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 2014.~~

R426-9-400. Trauma Center Review Process.

(1) The Department shall conduct a quality review site visit of trauma centers and applicants to verify compliance with standards set in R426-9-300. In conducting each evaluation, the Department may consult with experts from the following disciplines:

- (a) trauma surgery;
- (b) emergency medicine;
- (c) emergency or critical care nursing; and
- (d) hospital administration.

(2) A consultant shall not assist the Department in evaluating a facility in which the consultant is employed, practices, or has any financial interest.

R426-9-500. Trauma Center Categorization Process.

The Department shall:

- (1) Develop a survey document based upon the Trauma Center Criteria described in R426-9-300.
- (2) Periodically survey all Utah hospitals which provide emergency trauma care to determine the maximum level of trauma care which each is capable of providing.
- (3) Disseminate survey results to all Utah hospitals, and as appropriate, to Utah licensed ambulance providers.

R426-9-600. Trauma Center Designation Process.

(1) Hospitals seeking voluntary designation and all designated Trauma Centers desiring to remain designated, shall apply for designation by submitting the following information to the Department at least 30 days prior to the date of the scheduled site visit:

- (a) a completed and signed application and appropriate fees for trauma center verification;
- (b) a letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;
- (c) the data specified under R426-9-700 are current;
- (d) Level I and Level II Trauma Centers must submit a copy of the Pre review Questionnaire (PRQ) from the American College of Surgeons in lieu of the application in 1a above;
- (e) Level III and Level IV and Level V trauma centers must submit a complete Department approved application.

(2) Hospitals desiring to be designated as Level I and Level II Trauma Centers must be verified by the American College of Surgeons (ACS) within three (3) months of the expiration date of previous designation and must submit a copy of the full ACS report detailing the results of the ACS site visit. A Department representative must be present during the entire ACS verification or consultation visit. Hospitals desiring to be Level III or Level IV Trauma Centers must be designated by hosting a formal site visit by the Department.

(3) Hospitals not previously designated as a Level I or a Level II trauma center, applying for designation after December 31, 2016, will be considered for designation implementing the point system suggested by the American College of Surgeons as follows and using data from the Utah Trauma Registry:

- (a) population as defined by the federal Office of Management and Budget total Metropolitan Statistical Area (MSA);
 - (i) total MSA population of less than 600,000 receives 2 points;
 - (ii) total MSA population of 600,000 to 1,200,000 receives 4 points;
 - (iii) total MSA population of 1,200,000 to 1,800,000 receives 6 points;

- (iv) total MSA population of 1,800,000 to 2,400,000 receives 8 points;
- (v) total MSA population of greater than 2,400,000 receives 10 points.
- (b) Median Transport Times (combined air and ground—scene only no transfer);
 - (i) median transport time of less than 10 minutes received 0 points;
 - (ii) median transport time of 10—20 minutes receives 1 points;
 - (iii) median transport time of 21—30 minutes receives 2 points;
 - (iv) median transport time of 31—40 minutes receives 3 points;
 - (v) median transport time of greater than 41 minutes receives 4 points.
- (c) Department/System Stakeholder/Community Support;
 - (i) Department support for a trauma center (if none exist) or an additional trauma center in the MSA—5 points;
 - (ii) Department position that no additional trauma centers are needed—negative 5 points;
 - (iii) Trauma System Advisory Committee (or equivalent body) statement of support for a trauma center (if none exist) or an additional trauma center in the MSA—5 points;
 - (iv) community support demonstrated by letters of support from 25—50% of city and county governing bodies within the MSA—1 points;
 - (v) community support demonstrated by letters of support from over 50% of city and county governing bodies within the MSA—2 points.
- (d) Severely injured patients (ISS more than 15) discharged from acute care facilities not designated as Level I, II, or III trauma centers;
 - (i) discharges of 0-200 severely injured patients receives 0 points;
 - (ii) discharges of 201—400 severely injured patients receives 1 points;
 - (iii) discharges of 401—600 severely injured patients receives 2 points;
 - (iv) discharges of 601—800 severely injured patients receives 3 points;
 - (v) discharges of greater than 800 severely injured patients receives 4 points.
- (e) Level I Trauma Centers;
 - (i) for the existence of each verified Level I trauma center already in the MSA assign 1 negative point;
 - (ii) for the existence of each verified Level II trauma center already in the MSA assign 1 negative point;
 - (iii) for the existence of each verified Level III trauma center already in the MSA assign 0.5 negative points.
 - (f) Numbers of severely injured patients (ISS more than 15) seen in trauma centers (Level I and II) already in the MSA. The expected number of high ISS patients is calculated as: $500 \times (\text{Number of Level I and Level II centers in the MSA}) = (\text{Expected Number of high ISS patients})$;
 - (i) if the MSA has more than 500 severely injured patients above the expected number assign 2 points;
 - (ii) if the MSA has 0—500 severely injured patients above the expected number assign 1 point;
 - (iii) if the MSA has 0—500 fewer severely injury patients than the expected number assign 1 negative point;

~~(iv) if the MSA has more than 500 fewer severely injured patients than the expected number assign 2 negative points.~~

~~(g) The following scoring system shall be used to allocate trauma centers within the MSAs:~~

~~(i) MSAs with scores of 5 points or less shall be allocated 1 Level I or II trauma center;~~

~~(ii) MSAs with scores of 6–10 points shall be allocated 2 Level I or II trauma centers;~~

~~(iii) MSAs with score of 11–15 points shall be allocated 3 Level I or II trauma centers;~~

~~(iv) MSAs with scores of 16–20 points shall be allocated 4 Level I or II trauma centers.~~

~~(h) If the number of trauma centers allocated by the model is greater than the existing number of Level I or II trauma centers in the MSA, efforts should be undertaken to recruit and designate additional trauma centers.~~

~~(i) If the number of Level I and II trauma centers allocated by the model is less than or equal to the number currently designated, the Department should not designate additional Level I or II trauma centers in the MSA.~~

R426-9-700. Data Requirements for an Inclusive Trauma System.

~~(1) All hospitals shall collect, and monthly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system. Designated trauma centers shall provide such data in a standardized electronic format approved by the Department. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. In order to ensure consistent patient data collection, a trauma patient is defined as a patient sustaining a traumatic injury and meeting the following criteria:~~

~~(a) At least one of the following injury diagnostic codes: ICD10 Diagnostic Codes: S00-S00 with 7th character modifiers of A, B, or C only, T07, T14, T20-T28 with 7th character modifier of A, T30-T32, T79.A1-T79.A9 with 7th character modifier of A excluding the following isolated injuries: S00, S10, S20, S30, S40, S50, S60, S70, S80, S90. Late effect codes, which are represented using the same range of injury diagnosis codes but with the 7th digit modifier code of D through S are also excluded; and~~

~~(b) At least one of the following patient conditions: Stay at a hospital greater than 12 hours (as measured from the Emergency Department arrival to patient discharge); transferred in or out of reporting hospital via EMS transport (including air ambulance); death resulting from the traumatic injury (independent of hospital admission or hospital transfer status).~~

~~(c) The Department adopt by reference the National Trauma Data Standard Data Dictionary for 2016 Admissions published by the American College of Surgeons, and the Utah Trauma Registry State Required Elements for 2016 published by the Department.~~

R426-9-800. Trauma Triage and Transfer Guidelines.

~~The Department adopts by reference the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients published by the Utah Department of Health and Human Services as model guidelines for triage, transfer, and transport of trauma patients. The guidelines do not mandate the transfer of any patient contrary to the judgment of the attending physician. They are a resource for pre-hospital and hospital providers to assist in the triage, transfer and transport of trauma patients to designated trauma centers or acute~~

~~care hospitals which are appropriate to adequately receive trauma patients.~~

R426-9-900. Noncompliance to Trauma Standards.

~~(1) The Department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the Department finds evidence that the facility has not been or will not be operated in compliance to standards adopted under R426-9-300.~~

~~(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the Department has not designated it as such pursuant to this rule.~~

R426-9-1000. Resource Hospital Minimum Designation Requirements.

~~A Resource Hospital shall meet the following minimum requirements for designation:~~

~~(1) Be licensed in Utah or another state as a general acute hospital or be a Veteran's Administration hospital operating in Utah;~~

~~(2) Have the ability to communicate with other EMS providers operating in the area;~~

~~(3) Provide on line medical control for all pre-hospital EMS providers who request assistance for patient care, 24 hours a day, seven days a week;~~

~~(4) Create and abide by written pre-hospital emergency patient care protocols for use in providing on-line medical control for pre-hospital EMS providers;~~

~~(5) Train new staff on the protocols before the new staff is permitted to provide on-line medical control and annually review protocols with physician and nursing staff;~~

~~(6) Annually provide in service training on the protocols to all physicians and nurses who provide on-line medical control;~~

~~(7) Make the protocols immediately available to staff for reference;~~

~~(8) Provide on-line medical control which shall include:~~

~~(a) direct voice communication with a physician; or~~

~~(b) a registered nurse or physician's assistant, who shall to be licensed in Utah, who is in voice contact with a physician;~~

~~(9) Implement a quality improvement process which shall include:~~

~~(a) representatives from local EMS providers that routinely transport patients to the resource hospital;~~

~~(b) quarterly meetings; and~~

~~(c) minutes of the quality improvement meetings which are available for Department review;~~

~~(10) Identify a coordinator for the pre-hospital quality improvement process;~~

~~(11) Cooperate with the pre-hospital EMS providers' off-line medical directors in the quality review process, including granting access to hospital medical records of patients served by the particular pre-hospital EMS provider;~~

~~(12) Participate in local and regional forums for performance improvement; and~~

~~(13) Assist the Department in evaluating EMS system effectiveness by submitting to the Department, in an electronic format quarterly data specified by the Department.~~

~~(14) Designated Trauma Centers are deemed to meet the Resource Hospital standards and are exempt from requirements outlined in this section.~~

~~(15) The resource hospital designation and re-designation shall be for a period of three years.~~

~~R426-9-1100. Stroke Treatment and Stroke Receiving Facility Minimum Designation Requirements.~~

~~(1) A Primary or Comprehensive Stroke Treatment Center or an Acute Stroke Ready Hospital shall be accredited by the Joint Commission or other nationally recognized accrediting body.~~

~~(2) A hospital designated as a Stroke Receiving Facility for receiving stroke patients via Emergency Medical Services shall meet the following requirements:~~

~~(a) Be licensed as an acute care hospital in Utah;~~

~~(b) Require physician response to the emergency department in less than thirty (30) minutes for treatment of stroke patients;~~

~~(c) Maintain the ability of physician and nursing staff to utilize a standardized assessment tool for ischemic stroke patients;~~

~~(d) Maintain and utilize approved thrombolytic medications for treatment of patients meeting criteria for administration of thrombolytic therapy;~~

~~(e) Establish a standardized acute stroke protocol and authorize appropriate emergency department staff to implement the protocol when appropriate;~~

~~(f) Have ancillary equipment and personnel available to diagnose and treat acute stroke patients in a timely manner;~~

~~(g) Establish patient transport protocols with designated stroke treatment centers;~~

~~(h) Have a performance improvement program for acute stroke care and report data as required by the Department; and~~

~~(i) Submit to a site visit by representatives of the Department.~~

~~(3) Upon designation, the Department may, in consultation with off line EMS medical direction and protocol, recommend direct transport of stroke patients to a Stroke Receiving Center or a Stroke Treatment Center by licensed ambulance provider.~~

~~(4) All hospitals shall collect, and submit at least quarterly to the Department, Stroke Registry information necessary to maintain an inclusive stroke system. All hospitals shall provide such data in a standardized electronic format approved by the Department.~~

~~(5) The stroke treatment and stroke receiving designation and re-designation shall be for a period of three years.~~

~~R426-9-1200. Percutaneous Coronary Intervention Center Minimum Designation Requirements.~~

~~(1) A Percutaneous Coronary Intervention (PCI) Center, for the purpose of receiving acute ST-elevation myocardial infarction (STEMI) patients via an ambulance, shall meet the following minimum designation requirements:~~

~~(a) Be licensed as an acute care hospital in Utah;~~

~~(b) Maintain an emergency department staffed by at least one (1) Physician and one (1) Registered Nurse at all times;~~

~~(c) Have the ability to receive 12 lead EKG data from licensed ambulance providers transporting patients to the hospital for treatment of ST Segment Elevation Myocardial Infarction (STEMI);~~

~~(d) Maintain the ability to provide cardiac catheterization and PCI of STEMI patients within ninety (90) minutes of patient arrival in the emergency department twenty-four (24) hours a day and seven (7) days a week;~~

~~(e) Maintain a performance improvement program for STEMI care and report data to the Department as required by the Department; and~~

~~(f) Submit to a site visit by representatives of the Department.~~

~~(2) Upon designation, the Department may, in consultation with off-line EMS medical direction and protocol, recommend direct transport of STEMI patients to a STEMI Treatment Center by a licensed ambulance provider.~~

~~(3) The PCI designation and re-designation shall be for a period of three years.~~

~~(4) All hospitals shall collect, and submit at least quarterly to the Department, Cardiac Registry information necessary to maintain an inclusive cardiac system. All hospitals shall provide such data in a standardized electronic format approved by the Department.~~

~~R426-9-1300. Patient Receiving Facility Minimum Designation Requirements.~~

~~(1) A Patient Receiving Facility shall meet the following minimum designation requirements:~~

~~(a) Have the ability to communicate with licensed and designated EMS providers;~~

~~(b) Be staffed or have on call physician, physician assistant, or nurse practitioner availability during designated hours with a response time of less than 20 minutes;~~

~~(c) Have and maintain ACLS and PALS certification;~~

~~(d) Attend meetings of the local EMS council, if one exists, to participate in the coordination and operations of local licensed and designated EMS providers;~~

~~(e) Abide by off line protocols approved by the licensed ambulance provider's off-line medical director;~~

~~(f) Train staff on protocols used by the licensed ambulance providers who transport patients to the Patient Receiving Facility;~~

~~(g) Implement a quality improvement process of all patients received at the patient receiving facility with the local resource hospital or trauma center including access to medical records for patients transported by ambulance;~~

~~(h) Maintain equipment, services and medications on-site to provide Advanced Life Support (ALS) intervention and appropriate treatment. Equipment and services shall include:~~

~~(i) ECG;~~

~~(ii) ACLS medications;~~

~~(iii) laboratory services;~~

~~(iv) radiology services;~~

~~(v) oxygen delivery systems;~~

~~(vi) airway support equipment and supplies;~~

~~(vii) suction equipment and supplies; and;~~

~~(i) Submit to a yearly site visit by representatives of the Department; and~~

~~(j) Submit monthly data reports to the Department on all patients received by an ambulance, and in an electronic format provided by the Department.~~

~~(2) The Department may recommend the preferential transportation of STEMI patients by ambulance to a Patient Receiving Facility.~~

~~KEY: emergency medical services, trauma, reporting, trauma center designation~~

~~Date of Last Change: November 5, 2023~~

~~Notice of Continuation: September 28, 2023~~

~~Authorizing, and Implemented or Interpreted Law: 26B, Chapter 4, Part 1]~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R426-10	Filing ID: 56469

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone:	Email:
Dean Penovich	801-913-2621	dpenovich@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R426-10. Air Ambulance Licensure and Operations
3. Purpose of the new rule or reason for the change:
Emergency Medical Services (EMS) is moving from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS) effective 07/01/2024, so all EMS rules under Title R426 must be removed and made effective in a title under DPS authority, Title R911.
4. Summary of the new rule or change:
This filing repeals this rule in its entirety under Title R426 so a new rule can be established within DPS rule numbering and organization. (EDITOR'S NOTE: The proposed new Rule R911-10 is under ID 56495 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
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A) State budget:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings in the state budget.
B) Local governments:
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to 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 <i>agency</i>):
There is no fiscal impact because the rule itself is not changing. Rather, it is moving to Title R911 under DPS authority, and there are no anticipated changes to the effectiveness or applicability of the rule itself, so there is no anticipated change to costs or savings to other persons.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
As there are no affected persons, there are no compliance costs as a result of this filing.
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	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 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-4-101	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:	06/14/2024

9. This rule change MAY become effective on:	06/21/2024
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:	04/30/2024
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~~R426. Health and Human Services, Population Health, Emergency Medical Services.~~

~~R426-10. Air Ambulance Licensure and Operations.~~

~~R426-10-1. Authority and Purpose.~~

- ~~(1) Section 26B-4-102 authorizes this rule.~~
- ~~(2) This rule provides department requirements for air ambulance provider licensure and operations.~~

~~R426-10-2. Definitions.~~

- ~~For the purposes of this rule:~~
- ~~(1) "Air ambulance provider" means a state licensed entity providing air ambulance services.~~
- ~~(2) "Base location" means the physical address where the crew, medical equipment, supplies, and the air ambulance are located.~~
- ~~(3) "Deemed status" means an air ambulance provider has received accreditation from a department approved accreditation service.~~
- ~~(4) "Department" means the Department of Health and Human Services.~~
- ~~(5) "PSAP" means the public safety answering point for 911 calls.~~

~~R426-10-3. Air Ambulance Provider Requirements.~~

- ~~(1) A person in any capacity, including as an owner or agent, may furnish, operate, conduct, maintain, advertise, or otherwise be engaged in providing emergency medical care using an air ambulance only when licensed by the department.~~
- ~~(2) The department may conduct air ambulance provider investigations.~~
- ~~(3) A person from another state may only provide emergency medical services (EMS), including patient care, aboard an air ambulance within the state if that person complies with the requirements under this rule.~~
- ~~(4)(a) An air ambulance provider shall have a medical director who shall be responsible for medical direction and oversight regarding credentialing air medical providers, clinical practice, and patient care.~~
- ~~(b) An air ambulance provider shall report a personnel change in the medical director position to the department within 30 days.~~
- ~~(5) An air ambulance provider shall get a deemed status or receive state certification by state approved auditors of the required criteria to meet national standards for patient safety and quality of care.~~
- ~~(6) Air ambulance permits and licenses are not transferable.~~
- ~~(7) An air ambulance provider may get a replacement air ambulance permit or license by submitting a written request to the department certifying that the original permit or license has been lost, destroyed, or made unusable.~~

~~(8) Each air ambulance provider shall get a new air ambulance inspection and subsequent permit from the department before returning an air ambulance to service following a modification, change, or any renovation that results in a change to the stretcher placement or seating in the air ambulance interior configuration.~~

~~(9) An air ambulance provider shall file an amended list of aircraft that are used to provide service within the state to the department within 30 days after an air ambulance is added to or removed permanently from service.~~

~~(10) The licensure period for an air ambulance provider shall be four years.~~

~~(11) An air ambulance provider may only use an air ambulance to provide emergency medical care. State licensure does not constitute authority to provide non-medical air transportation.~~

~~(12) An air ambulance provider shall comply with other statutes, rules, or regulations in effect for medical personnel and EMS, involving:~~

- ~~(a) licensure and authorizations;~~
- ~~(b) insurance;~~
- ~~(c) prescribed and proscribed acts; and~~
- ~~(d) penalties.~~

~~(13) The department may verify and inspect equipment and documentation to ensure compliance.~~

~~(14) An air ambulance provider seeking deemed status shall allow a department representative to be present during a site visit conducted by an accreditation organization.~~

R426-10-4. Air Ambulance Provider Licensure Application.

~~(1) An applicant for an air ambulance license desiring to get or to renew a license shall submit the following to the department:~~

~~(a) the applicable fees and application on the department-approved forms;~~

~~(b) a copy of the air ambulance service licenses concurrently issued and on file with other states;~~

~~(c) information about individual aircraft that will be used while providing medical care for physical inspection of medical compliance, as referenced in Section R426-10-10;~~

~~(d) results from the prior ten years of any investigations, disciplinary actions, or exclusions with the potential to impact the quality of medical care provided to patients. Such investigations, disciplinary actions, or exclusions apply to:~~

- ~~(i) current and prior legal names of the entity;~~
- ~~(ii) other names used by the entity to provide health care services; and~~

~~(iii) any person or entity who had direct or indirect ownership of at least 50% interest in the air ambulance service within the prior 10-year period;~~

~~(e) the name of the air ambulance service medical director pursuant to requirements found in Sections R426-5-2500 and R426-5-2600;~~

~~(f) proof of deemed status or state certification by state-approved auditors;~~

~~(g) emergency contact information, which the department may use to provide effective communications and resource management in the event of a statewide or localized disaster or emergency situation;~~

~~(h) a roster of medical personnel including level of certification or licensure to ensure there is sufficient trained and certified staff that meets the requirements in Section R426-10-22;~~

~~(i) the air ambulance provider's policies and procedures based on state or nationally accepted emergency medical dispatch~~

~~standards and state or nationally accepted EMS clinical guidelines to aid in directing the daily operation of the air ambulance communications center as referenced in Section R426-10-12;~~

~~(j) a copy of the air ambulance provider's plan to send significant clinical data to hospital or emergency patient receiving facility medical personnel before arrival;~~

~~(k) a copy of the air ambulance provider's quality improvement program that assesses and improves patient care provided by the air ambulance services, as referenced in Section R426-10-21;~~

~~(l) an integrated medical transport plan, as established in Section R426-10-17; and~~

~~(m) the air ambulance provider's insurance requirements as referenced in Section R426-10-8.~~

R426-10-5. Exceptions to Air Ambulance Provider Licensure.

~~This rule does not apply to the following:~~

~~(1) an entity providing air ambulance services operated by an agency of the United States Government;~~

~~(2) services that provide rescue and evacuation equipment and aircraft owned and operated by a governmental entity other than one that includes transporting patients by air ambulance in its primary role and receives payment for such services; and~~

~~(3) evacuation and rescue equipment used and owned by the Department of Public Safety in air, ground, or water evacuation.~~

R426-10-6. Department-Approved Accreditation Service.

~~To be recognized as a department-approved accreditation service, a service must meet the following criteria:~~

~~(1) provide evidence of timely reviews of applications from air ambulance providers seeking accreditation;~~

~~(2) publish standards that address the components of medical transport impacting quality of patient care and provider safety;~~

~~(3) outline procedures for random site visits, audits, and other strategies utilized to ensure an accredited provider or a provider seeking accreditation is adhering to accreditation standards;~~

~~(4) publish policies for the initial accreditation requirements, including:~~

- ~~(a) the tenure of accreditation, not to exceed three years;~~
- ~~(b) the requirements for reaccreditation; and~~
- ~~(c) the accreditation decision-making process;~~

~~(5) use trained personnel, including site surveyors, with experience in medical transport at the level of accreditation and licensure;~~

~~(6) utilize a formal training program that educates accreditation personnel, including site surveyors, in consistent interpretation of standards and policies of the accreditation provider;~~

~~(7) publish the required qualifications for accreditation personnel who conduct site surveys that demonstrate experience with and knowledge of the air ambulance industry;~~

~~(8) demonstrate that accreditation standards are updated to comply with national standards in healthcare and air medical transportation;~~

~~(9) have a multi-disciplinary board of directors representing medical transport organizations;~~

~~(10) clearly outline and enforce a conflict of interest policy that excludes board members or other accreditation agency representatives from participating in accreditation decisions, site surveys, or other processes when a real or potential conflict of interest exists;~~

~~(11) publish fees for providers seeking accreditation;~~

NOTICES OF PROPOSED RULES

- ~~_____ (12) utilize and provide documentation of an open process that encourages and accepts comments on changes to its accreditation standards;~~
- ~~_____ (13) explain the procedure for a corrective action plan, which assures that air ambulance providers will implement corrective actions for any identified deficiencies;~~
- ~~_____ (14) demonstrate a continuous quality improvement process that reviews the application process, site surveys, accreditation decisions, and accreditation standards;~~
- ~~_____ (15) maintain and be able to present current certificates of insurance to include:

 - ~~_____ (a) general liability; and~~
 - ~~_____ (b) medical professional liability; and~~~~
- ~~_____ (16) allow a department representative to be present during site surveys, investigations, and any other on-site visit.~~

R426-10-7. Air Ambulance Provider Change of Ownership and Management.

- ~~_____ (1) When an air ambulance provider anticipates a change of ownership, the air ambulance provider shall notify the department 30 calendar days before the change of ownership.~~
- ~~_____ (2) The conversion of an air ambulance provider's legal structure, or the legal structure of an entity that has a direct or indirect ownership interest in the air ambulance provider, is a change of ownership if the conversion includes a transfer of at least 50% of the air ambulance provider's direct or indirect ownership interest to any new owner.~~
- ~~_____ (3) A change of ownership of a licensed air ambulance provider requires a new license if:

 - ~~_____ (a) the change of ownership's transfer is for at least 50% of the ownership interest from a sole proprietor to another individual, regardless of whether the transaction affects the title to real property;~~
 - ~~_____ (b) the dissolution of a partnership and conversion into any other legal structure includes a transfer of at least 50% of the direct or indirect ownership from a partnership to any new owner;~~
 - ~~_____ (c) the consolidation of two or more corporations resulting in the creation of a new corporate entity includes a transfer of at least 50% of the direct or indirect ownership to any new owner;~~
 - ~~_____ (d) the formation of a corporation from a partnership, a sole proprietorship, or a limited liability company includes a transfer of at least 50% of the direct or indirect ownership to any new owner;~~
 - ~~_____ (e) the transfer, purchase, or sale of shares in a corporation result in a shift of at least 50% of the direct or indirect ownership of the corporation to any new owner;~~
 - ~~_____ (f) there is a transfer of at least 50% of the direct and indirect ownership interest in a limited liability company;~~
 - ~~_____ (g) the termination or dissolution of a limited liability company and the conversion into any other entity includes a transfer of at least 50% of the direct or indirect ownership to any new owner;~~
 - ~~_____ (h) any transfer of ownership interest between an existing person or entity in a limited liability company involves the acquisition of ownership interest by a new person or entity with an ownership interest; or~~
 - ~~_____ (i) the air ambulance provider enters into a lease arrangement or management agreement whereby the air ambulance provider keeps no authority or responsibility for the operation and management of service.~~~~
- ~~_____ (4) A change of ownership may not result from:

 - ~~_____ (a) forming a corporation from a sole proprietorship with the proprietor as the sole shareholder; or~~~~

- ~~_____ (b) the dissolution of a partnership to form a corporation with the same persons keeping the same shares of ownership in the new corporation.~~
- ~~_____ (5) To report a change of ownership, each applicant shall provide:

 - ~~_____ (a) the legal name of the entity and any other names used by it to provide health care services;~~
 - ~~_____ (b) contact information for the entity including mailing address, telephone and fax numbers, email address, and website address, as applicable;~~
 - ~~_____ (c) the identity of each person and business with a controlling interest in the air ambulance provider, including:

 - ~~_____ (i) a list of the governing body and officers for a non-profit corporation;~~
 - ~~_____ (ii) a list of the names of the officers and stockholders who directly or indirectly own or control 5% or more of the shares of a for-profit corporation; and~~
 - ~~_____ (iii) proof of lawful presence in the United States in compliance with Subsection 41-1a-202(1)(b) for a sole proprietor;~~~~
 - ~~_____ (d) the name, address, and business telephone number of every person identified in this section as ownership or management and the individual designated by the applicant as the chief executive officer of the entity;~~
 - ~~_____ (e) an alternate address and telephone number for at least one individual for use in the event of an emergency or closure of the air ambulance provider if the addresses and telephone numbers provided are the same as the contact information for the entity itself;~~
 - ~~_____ (f) proof of professional liability insurance held in the name of the applicant;~~
 - ~~_____ (g) by laws or equivalent documents that govern the rights, duties, and capital contributions of the business entity;~~
 - ~~_____ (h) the address of the entity's physical location and the name of the owner of each structure on the campus where licensed services are provided;~~
 - ~~_____ (i) a copy of any management agreement pertaining to operation of the entity that sets forth the financial and administrative responsibilities of each party;~~
 - ~~_____ (j) a statement signed and dated at the same time as the application stating whether any of the new owners have been the subject of, or a party to, any of the following events within the previous ten years, regardless of whether action has been stayed in a judicial appeal or otherwise settled between the parties:

 - ~~_____ (i) a felony or misdemeanor conviction involving crimes as described in Section R426-5-3200;~~
 - ~~_____ (ii) a state license or federal certification denial, revocation, or suspension by another jurisdiction; or~~
 - ~~_____ (iii) a civil judgment or a criminal conviction in a case brought by federal, state, or local authorities that resulted from the operation, management, or ownership of a health facility or other entity related to substandard patient care or health care fraud; and~~~~
 - ~~_____ (k) a statement signed and dated at the same time as the application that:

 - ~~_____ (i) states whether any new owner has ever been or is the subject of, or a party to debarment, suspension, a proposal for debarment, a declaration of ineligibility, or voluntarily exclusion from participation in a contract by any governmental department or agency, whether international, national, state, or local, regardless of whether action has been stayed in a judicial appeal or otherwise settled between the parties; and~~
 - ~~_____ (ii) certifies the applicant is compliant with Section 63G-6a-904 and OMB guidelines at 2 C.F.R. 180 (October 23, 2023) which implement Executive Order Nos. 12549 and 12689.~~~~~~

~~(6) Any statement regarding information requested in Subsection R426-10-7(5)(j) shall, if applicable, include:~~

~~(a) whether the event is the result of action by federal, state, or local authorities and, if so, the full name of the authority; its jurisdiction; the case name; the docket, proceeding, or case number by which the event is designated; and a copy of the consent decree, order, or decision;~~

~~(b) whether the event is a felony or misdemeanor conviction involving moral turpitude and, if so, the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court; and~~

~~(c) whether the event involves a civil action or arbitration proceeding and, if so, the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, court or arbitration decision.~~

~~(7) If an applicant leases one or more buildings to operate as an air ambulance provider, the applicant shall also provide a copy of the lease that clearly shows which party in the agreement is to be held responsible for the physical condition of the property.~~

~~(8) The applicant shall keep any article of incorporation, article of organization, partnership agreement, or other organizing document required by the secretary of state to conduct business.~~

~~(9) The existing applicant shall be responsible for correcting rule violations and deficiencies in any current plan of correction before the change of ownership becomes effective. If the applicant cannot accomplish such corrections in the time frame specified, the prospective applicant shall be responsible for uncorrected rule violations and deficiencies including any current plan of correction submitted by the previous licensee unless the prospective licensee submits a revised plan of correction, approved by the department, before the change of ownership becomes effective.~~

~~(10) If the department issues a license to the new owner, the previous owner shall return its license to the department within five calendar days of the new owner's receipt of its license.~~

~~(11) The applicant shall maintain professional liability insurance during the license term and shall notify the department of any change in the amount, type, or provider of professional liability insurance coverage during the license term.~~

~~(12) An air ambulance provider shall notify the department within 30 days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during the tenure of a license.~~

R426-10-8. Air Ambulance Provider Insurance Requirements.

~~(1) An air ambulance provider applicant shall demonstrate liability coverage for injuries to persons and for loss or property damages resulting from negligence by the service or medical crew.~~

~~(2) An air ambulance provider shall immediately notify the department and stop operations if the coverage required by this section is canceled or suspended.~~

~~(3) The department may not issue an air ambulance license to an applicant unless the applicant has evidence of medical professional liability insurance that requires the insurer to compensate for injuries to persons or unintentional damage to property.~~

~~(4) An air ambulance provider applicant shall provide a copy of the current certificate of insurance demonstrating coverage for each air ambulance medical crew member that states, at a minimum, aggregate limits of \$1,000,000 per claim made and a total~~

~~of \$3,000,000 for claims made against the provider during the policy year.~~

~~(5) An applicant shall provide proof of worker's compensation coverage as required by law.~~

R426-10-9. Base Locations.

~~(1) The air ambulance provider shall provide the base location to the department.~~

~~(2) The department may conduct announced and unannounced inspections at any location where an air ambulance provider operates. An inspection may occur at any time, including nights or weekends, to determine compliance.~~

~~(3) Each base location shall have and maintain security measures that protect medical supplies, pharmaceuticals, and equipment onboard the air ambulance from tampering and unauthorized access, including direct visual monitoring or closed-circuit television~~

~~(4) A base location shall provide a secured location with locked perimeter fencing or hangar for each air ambulance.~~

~~(5) The base location shall prominently display the following within the building:~~

~~(a) the state license or certificate of operation;~~

~~(b) Drug Enforcement Agency registration within base locations that store controlled substances;~~

~~(c) current Post Accident Incident Plan; and~~

~~(d) documentation showing the professional certifications and licenses of flight crew members.~~

~~(6) The air ambulance provider shall ensure the facility is clean and free of debris and compliance with state and local building and fire codes.~~

~~(7) The base location shall maintain evidence of medical professional liability insurance.~~

R426-10-10. Number and Type of Air Ambulances.

~~An air ambulance provider shall provide a list of each air ambulance to be licensed and inspected for medical compliance by the department, including tail number, the N Number, and designation of rotor or fixed-wing capabilities.~~

R426-10-11. Capabilities of Medical Communications.

~~(1) An air ambulance provider shall have a communications network available consisting of reliable equipment designed for clear communications related to the number and condition of patients among each stakeholder within the system.~~

~~(2) The communication center shall demonstrate and maintain voice communications linkage with the radios and other allowable communication devices used in the air ambulance for the declared service area.~~

~~(3) Air ambulance providers shall have two way communications equipment available that allows for or has the following:~~

~~(a) real time patient tracking that shall be maintained and documented every 15 minutes including the time the air ambulance returns to service following transport;~~

~~(b) appropriate wireless communications capabilities with dispatch centers and local first responders to include fire, EMS, and law enforcement;~~

~~(c) communications with medical referral and receiving facilities to exchange patient information and consult with medical control that shall be capable of communications exclusive to the air traffic control system; and~~

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- ~~_____ (d) a dedicated telephone number for the air ambulance service dispatch center.~~
- ~~_____ (4) The air ambulance provider base station shall use a communications network during each phase of patient treatment and transport.~~
- ~~_____ (5) The air ambulance provider shall establish an emergency plan for communications during power outages and in disaster situations.~~
- ~~_____ (6) The air ambulance provider shall establish a policy for delineating methods for maintaining medical communications during power outages and in disaster situations.~~

R426-10-12. Coordination of Medical Communications.

- ~~_____ (1) An air ambulance provider shall have flights coordinated by designated medical dispatchers or communications specialists.~~
- ~~_____ (2) Communication specialists are required for processing requests, initiating responses, telecommunications, and assessing the capability for utilizing emergency medical dispatch protocols approved by the department.~~
- ~~_____ (3) Communication specialists shall have:~~
 - ~~_____ (a) certification;~~
 - ~~_____ (b) appropriate training pertaining to EMS and medical transportation communications related to health care; and~~
 - ~~_____ (c) training commensurate with the scope of responsibility given to them by the particular air ambulance provider.~~
- ~~_____ (4) Air ambulance communications centers shall:~~
 - ~~_____ (a) establish and maintain policies and procedures based on state or nationally accepted emergency medical dispatch standards and state or nationally accepted EMS clinical guidelines to aid in directing the daily operation of the air ambulance communications center;~~
 - ~~_____ (b) coordinate air ambulance deployment activities and communications with primary 911 PSAP call centers and appropriate medical facilities; and~~
 - ~~_____ (c) require its communications specialists to satisfy performance standards that are based on state or nationally accepted emergency medical dispatch standards and state or nationally accepted EMS clinical guidelines.~~
- ~~_____ (5) At a minimum, the air ambulance communications center's performance standards shall measure a communication specialist's ability to:~~
 - ~~_____ (a) deploy the appropriate medical resources within the prescribed timeframe established by the communications center's standard operating procedures; and~~
 - ~~_____ (b) provide pertinent information to the appropriate 911 PSAP call center and receive updated information about the incident from the responding units or medical facilities.~~
- ~~_____ (6) An air ambulance provider's communications center shall establish a quality assurance review process that is executed with consistency and objectivity in accordance with internal standards developed by the air ambulance provider.~~

R426-10-13. Pre-arrival and Hand-Off Communications to Hospitals or Emergency Patient Receiving Facilities.

- ~~_____ (1) An air ambulance provider shall have a plan in place to send significant clinical data to hospital or emergency patient receiving facility medical personnel before arrival.~~
- ~~_____ (2) An air ambulance provider shall start the process for transferring responsibility of patient care during patient transport to reduce the communication load on patient arrival to the facility as~~

early as possible. Transfer of care documentation shall be part of the EMS record.

- ~~_____ (3) Information sent to the hospital or the emergency patient receiving facility before arrival shall include:~~
 - ~~_____ (a) patient information;~~
 - ~~_____ (b) chief complaint;~~
 - ~~_____ (c) brief patient history;~~
 - ~~_____ (d) condition of the patient;~~
 - ~~_____ (e) treatment provided; and~~
 - ~~_____ (f) estimated time of arrival.~~
- ~~_____ (4) Information provided to the hospital or emergency patient receiving facility during patient hand-off shall include either:~~
 - ~~_____ (a) a copy of the full patient care report; or~~
 - ~~_____ (b) an abbreviated patient encounter form containing information essential to continued patient care, including:~~
 - ~~_____ (i) patient information;~~
 - ~~_____ (ii) chief complaint;~~
 - ~~_____ (iii) brief patient history;~~
 - ~~_____ (iv) allergies, if known;~~
 - ~~_____ (v) time and date of onset of symptoms;~~
 - ~~_____ (vi) pertinent physical findings;~~
 - ~~_____ (vii) patient medications, if known;~~
 - ~~_____ (viii) vital signs;~~
 - ~~_____ (ix) air medical treatment, including medications administered, IV fluids, procedures performed, and oxygen delivery; and~~
 - ~~_____ (x) transfer of care documentation, including the legibly written name of the air medical crew member.~~
- ~~_____ (5) An air ambulance provider shall provide a copy of the full patient care report to the hospital or emergency patient receiving facility within 24 hours after the end of the patient transport.~~

R426-10-14. Data Collection, Submission, and Call Volume.

- ~~_____ (1) An air ambulance provider shall have a system in place to collect, submit, monitor, and track flight requests. The provider shall submit this information to the department.~~
- ~~_____ (2) An air ambulance provider shall:~~
 - ~~_____ (a) report the specified state minimum data set, as required by the department, for every request that results in the dispatch of an air ambulance, whether emergency prehospital, inter-hospital transport, aborted flight, cancellation of requested service, death on scene, or refusal of care as requested by the department; and~~
 - ~~_____ (b) provide a yearly call volume report or EMS agency status report documenting the number of flights made within that calendar year.~~
- ~~_____ (3) The yearly call volume report or EMS agency status report identified in Subsection (2)(b) shall contain the following totals:~~
 - ~~_____ (a) flights organized by emergency prehospital;~~
 - ~~_____ (b) inter-hospital transports;~~
 - ~~_____ (c) aborted flights;~~
 - ~~_____ (d) cancellation of requested services;~~
 - ~~_____ (e) death on scene;~~
 - ~~_____ (f) non-transport; and~~
 - ~~_____ (g) the refusal of care to assist efforts related to evaluating patient care and the improvement of the EMS system.~~

R426-10-15. Temporary Air Ambulance Use.

- ~~_____ (1) An air ambulance provider shall notify the department when a permitted air ambulance is removed from service or is replaced with a substitute air ambulance.~~

~~(2) Upon receipt of notification, the department may issue a temporary permit for the operation of the air ambulance.~~

R426-10-16. Medical Operations Policies and Procedures.

~~(1) An air ambulance provider shall have a detailed manual of policies and procedures available for reference in the flight coordination office and available for department inspection to assist with EMS system planning and resource coordination efforts.~~

~~(2) An air ambulance provider's personnel shall be familiar and comply with policies contained within the manual, which shall include:~~

~~(a) procedures for acceptance of requests, referrals, and denial of service for medically related reasons;~~

~~(b) a written description of the geographical boundaries and features for the service area;~~

~~(c) a copy of the service area map;~~

~~(d) scheduled hours of operation;~~

~~(e) criteria for the medical conditions and indications or medical contraindications for flight;~~

~~(f) medical communication procedures, including:~~

~~(i) medically related dispatch protocol;~~

~~(ii) call verification; and~~

~~(iii) advisories to the requesting entity to include procedures for informing the requesting entity of flight procedures, anticipated time of aircraft patient arrival, or cancelation of flight;~~

~~(g) criteria regarding acceptable destinations based upon medical needs of the patient;~~

~~(h) non aviation safety procedures for medical crew assignments and notification, including rosters of medical personnel;~~

~~(i) written policy that ensures air medical personnel may not be assigned or assume cockpit duties concurrent with patient care duties and responsibilities;~~

~~(j) written policy that directs air ambulance personnel to honor a patient request for a specific service or destination when the circumstances will not jeopardize patient safety;~~

~~(k) medical communications procedures;~~

~~(l) flight cancelation and referral procedures;~~

~~(m) mutual aid procedures;~~

~~(n) a written plan that addresses the actions to be taken in the event of an emergency, diversion, or patient crisis during transport operations;~~

~~(o) patient tracking procedures that shall ensure air and ground position reports at intervals not to exceed 15 minutes in flight and 45 minutes after landing;~~

~~(p) policy for delineating methods of maintaining medical communications during power outages and in disaster situations; and~~

~~(q) written procedures governing the air ambulance provider's medical complaint resolution process and protocols.~~

~~(3)(a) At a minimum, the air ambulance provider shall designate personnel responsible for its dispute resolution process and provide protocols it shall follow when investigating, tracking, documenting, reviewing, and resolving the complaint.~~

~~(b) The air ambulance provider's complaint resolution procedures shall emphasize resolution of complaints and problems within a specified period.~~

R426-10-17. Medical Transport Plans.

~~To ensure proper patient care and the effective coordination of statewide emergency medical and trauma services, an air ambulance provider shall have an integrated medical transport plan for each air ambulance permitted by the department that describes:~~

~~(1) base location;~~

~~(2) hours of operation;~~

~~(3) emergency dispatch contact information;~~

~~(4) non-emergency business contact information;~~

~~(5) description of primary and secondary service areas;~~

~~(6) medical criteria for utilization;~~

~~(7) description of medical capabilities, including availability of specialized medical transport equipment;~~

~~(8) communications capabilities including radio frequencies and talk groups;~~

~~(9) procedures for communicating with the air medical crew; and~~

~~(10) mutual aid or backup procedures when the service is not available.~~

R426-10-18. Coordination with Regional and State Disaster Preparedness Plans.

~~To ensure coordinated response to local, regional, or statewide disaster, an air ambulance provider shall participate in regional and state disaster preparedness advisory groups, including preparedness planning meetings and scheduled exercises.~~

R426-10-19. Medically Related Dispatch Protocols.

~~When air ambulance transport is indicated, requests shall be coordinated through the local PSAP or 911 call center as part of an integrated response, when possible, for the PSAP to be able to coordinate communications among entities involved in the response.~~

R426-10-20. Ethical Practices and Conduct.

~~(1) An air ambulance provider shall have and follow a written code of conduct that demonstrates ethical practices including business, clinical operations, marketing, and professional conduct.~~

~~(2) An air ambulance provider is subject to disciplinary action and may be denied licensure for unethical practices or conduct which includes:~~

~~(a) misrepresentation of the availability or level of medical or patient related services offered or provided; and~~

~~(b) failing to take appropriate action in safeguarding the patient from incompetent or inappropriate health care practices of EMS personnel.~~

R426-10-21. Continuous Quality Improvement Program.

~~(1) An air ambulance provider shall establish a quality management team and a program that shall assess and improve patient care provided by the air ambulance provider.~~

~~(2) The quality management program shall include:~~

~~(a) a development of protocols, standing orders, training, policies, and procedures;~~

~~(b) approval of medications and techniques for field use by service personnel;~~

~~(c) direct observation, field instruction, in-service training, or other means available to assess the quality of field performance; and~~

~~(d) participation in local and regional performance improvement activities.~~

~~(3) An air ambulance provider shall have a written policy that outlines a process to identify, document, and analyze sentinel events, adverse medical events, or potentially adverse events with specific goals to improve patient medical safety and the quality of patient care.~~

~~(4) Policies and procedures shall include:~~

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- ~~_____ (a) a review of events for the effectiveness and efficiency of the organization, its support systems, and individuals within the organization;~~
- ~~_____ (b) a method of information gathering developed for when a sentinel event is identified, including outcome studies, chart review, case discussion, or other methodology;~~
- ~~_____ (c) a utilization review process;~~
- ~~_____ (d) findings, conclusions, recommendations, actions, and follow up made and recorded; and~~
- ~~_____ (e) training and education needs, individual performance evaluations, equipment or resource acquisition, patient medical safety, and risk management issues.~~
- ~~_____ (5) An air ambulance provider shall notify the department within 72 hours of the identification of any sentinel event, a change in accreditation status, an incident, an accident, or an outside investigation for patient care, patient safety, or provider safety.~~

R426-10-22. Staffing and Medical Personnel Requirements.

- ~~_____ (1) Acceptable medical personnel include:~~
 - ~~_____ (a) physicians (MD/DO);~~
 - ~~_____ (b) paramedics;~~
 - ~~_____ (c) registered nurses (RN);~~
 - ~~_____ (d) registered nurse practitioners;~~
 - ~~_____ (e) advanced practice nurses;~~
 - ~~_____ (f) physician assistants (PA);~~
 - ~~_____ (g) respiratory therapists (RRT); or~~
 - ~~_____ (h) other allied health professionals;~~
- ~~_____ (2) At a minimum, an air ambulance provider shall have the following medical personnel:~~
 - ~~_____ (a) one primary medical attendant who is a licensed PA, RN, or MD/DO;~~
 - ~~_____ (b) a second medical attendant who is a paramedic, PA, respiratory therapist, RN, or MD/DO; and~~
 - ~~_____ (c) medically qualified Utah licensed or certified individuals appropriate to the scope and mission of the air ambulance provider, or EMS personnel recognized under an interstate compact of which Utah is a member.~~

R426-10-23. Air Ambulance Staffing and Personnel Qualifications.

- ~~_____ (1) The air ambulance provider may modify composition of the medical team for specialty missions upon credentialing and approval by the air ambulance provider's medical director.~~
- ~~_____ (2) The licensed nurse shall have appropriate specialty certification within two years of hire and must have pre hire experience in the medications and interventions necessary for the air ambulance provider's scope of care. The licensed nurse also shall have three years critical care experience, which is no less than 4,000 hours experience in an ICU or emergency department.~~
- ~~_____ (3) The paramedic shall have a FP-C or CCP-C within two years of hire in addition to at least three years, a minimum of 4,000 hours, of advanced life support experience.~~
- ~~_____ (4) The RRT shall have a minimum of 4,000 hours of emergency department or ICU experience and appropriate specialty certification within two years of hire.~~
- ~~_____ (5) Medical personnel shall have cognitive, affective, and psychomotor abilities sufficient to meet the clinical needs for the type of patient missions served.~~
- ~~_____ (6) An air ambulance provider shall have a plan to assess and document the competency and proficiency of the personnel who provide medical services.~~

R426-10-24. Air Ambulance Personnel Training Requirements.

- ~~_____ (1) An air ambulance provider shall have a documented, structured educational program which is required for air ambulance personnel, including the medical director.~~
- ~~_____ (2) The educational program under Subsection (1) shall at a minimum contain program orientation and initial and recurrent training that adheres to the services scope of care, patient population, mission statement and medical direction.~~
- ~~_____ (3) Each medical crew member shall complete and document training in mission specific procedures related to patient care as established by the air ambulance provider's medical director and such federal, state, or local agencies with authority to regulate air ambulance providers. For license renewal, the department may require documentation showing completion of initial and recurrent training.~~
 - ~~_____ (4) Clinical experiences shall include:~~
 - ~~_____ (a) experiences specific to the mission statement and scope of care of the medical transport service;~~
 - ~~_____ (b) measurable objectives developed and documented reflecting hands on experience versus observation only;~~
 - ~~_____ (c) care of patients in the air medical environment including the impact of altitude and other stressors;~~
 - ~~_____ (d) advanced airway management;~~
 - ~~_____ (e) applicable medical device specific training, this includes:~~
 - ~~_____ (i) Automatic Implantable Cardioverter Defibrillator;~~
 - ~~_____ (ii) Extracorporeal Membrane Oxygenation;~~
 - ~~_____ (iii) Intra-Aortic Balloon Pump;~~
 - ~~_____ (iv) Left Ventricular Assist Device;~~
 - ~~_____ (v) medication pumps; and~~
 - ~~_____ (vi) ventilators;~~
 - ~~_____ (f) cardiology;~~
 - ~~_____ (g) mechanical ventilation and respiratory physiology for adult, pediatric, and neonatal patients as it relates to the mission statement and scope of care of the medical transport service specific to the equipment;~~
 - ~~_____ (h) high risk obstetric emergencies;~~
 - ~~_____ (i) basic care for pediatrics, neonatal, and obstetrics;~~
 - ~~_____ (j) emergency and critical care for patient populations to include special needs population;~~
 - ~~_____ (k) hazardous materials recognition and response;~~
 - ~~_____ (l) management of disaster and mass casualty events;~~
 - ~~_____ (m) infection control and prevention; and~~
 - ~~_____ (n) ethical and legal issues.~~

R426-10-25. Medical Staff and Patient Safety Welfare.

- ~~_____ (1) Medical personnel scheduling and individual work schedules shall demonstrate strategies to minimize duty time fatigue, length of shift, number of shifts per week, and day to night rotation.~~
- ~~_____ (2) On-site scheduled shifts for a period to exceed 24 hours are not acceptable under most circumstances.~~
- ~~_____ (3) The following criteria shall be met for shifts scheduled more than 12 hours:~~
 - ~~_____ (a) medical personnel are not required to routinely perform any duties beyond those associated with the transport services;~~
 - ~~_____ (b) medical personnel are provided with access to and permission for uninterrupted rest after daily medical personnel duties are met;~~
 - ~~_____ (c) the physical base of operations includes an appropriate place for uninterrupted rest;~~

~~_____ (d) medical personnel shall have the right to call "time out" and be granted a reasonable rest period if the team member, or fellow team member, determines that the team member is unfit or unsafe to continue duty, no matter the shift length;~~

~~_____ (e) there shall be no adverse personnel action or undue pressure to continue in a "time out" circumstance;~~

~~_____ (f) licensed air ambulance management shall monitor transport volumes and personnel's use of a "time out" policy; and~~

~~_____ (g) shifts extended over several days may be scheduled to address long commutes at programs with low volumes.~~

~~_____ (4) An air ambulance provider shall clearly demonstrate and document it meets criteria listed in Subsection R426-10-26(3) for shifts over 12 hours.~~

~~_____ (5) An air ambulance provider shall ensure medical staff have at least ten hours of rest in each 24 hour period.~~

~~_____ (6) If the base location is remote and one way commutes are more than two hours, transportation time shall be considered.~~

~~_____ (7) An air ambulance provider shall utilize a fatigue risk management tool that is widely recognized in the industry.~~

~~_____ (8) An air ambulance provider shall evaluate the scheduling of on-call shifts to address fatigue in a written policy based on monitoring of duty times by managers, quality management tracking, and fatigue risk management.~~

~~_____ (9) An air ambulance provider shall establish safety and infection control protocols that comply with the Occupational Safety and Health Administration (OSHA).~~

~~_____ (10) An air ambulance provider shall have an appropriate dress code that addresses mission specific hazards as well as jewelry, hair, and other personal items that medical personnel may possibly use that may interfere with patient care.~~

~~R426-10-26. Air Ambulance Provider Medical Director Qualifications.~~

~~_____ (1) An air ambulance provider's medical director who oversees the practice of the EMS during patient transport shall be familiar with Utah medical practices and licensing requirements.~~

~~_____ (2) An air ambulance provider's medical director shall be a Utah licensed physician in good standing to supervise the medical care provided in an air medical environment.~~

~~_____ (3) A medical director shall:~~

~~_____ (a) be board certified or board eligible in EMS, emergency medicine, or other appropriate critical care specialty that services the patient population involved;~~

~~_____ (b) have experience in the care of patients consistent with the licensing and mission profile of the air ambulance provider's service;~~

~~_____ (c) designate other medical physician specialists for direction outside medical director's area of practice as appropriate to the air ambulance provider's service mission profile;~~

~~_____ (d) have access to medical specialists for consultation regarding patients whose illness and care needs are outside the medical director's area of practice;~~

~~_____ (e) have a current DEA registration; and~~

~~_____ (f) have current credentials achieved through active participation in patient care and continuing medical education activities appropriate for the role of an air ambulance provider's medical director.~~

~~_____ (4) An air ambulance provider's medical director shall have familiarity in the following areas:~~

~~_____ (a) care of patients in the air medical environment, including the impact of altitude and other patient stressors, in flight~~

~~assessment and care, monitoring capabilities, and limitations of the flight environment;~~

~~_____ (b) hazardous materials recognition and response;~~

~~_____ (c) management of disaster and mass casualty events;~~

~~_____ (d) infection control and prevention;~~

~~_____ (e) advanced resuscitation and care of adult, pediatric, and neonatal patients with both traumatic and non-traumatic diagnoses;~~

~~_____ (f) quality improvement theories and applications;~~

~~_____ (g) principles of adult learning;~~

~~_____ (h) capabilities and limitations of care in air ambulance;~~

~~_____ (i) applicable federal, state, and local law, rules, and protocols related to air ambulance providers and state trauma rule guidelines;~~

~~_____ (j) air ambulance dispatch and communications; and~~

~~_____ (k) ethical and legal issues related to air medical transport.~~

~~_____ (5) An air ambulance provider's medical director roles and responsibilities shall include:~~

~~_____ (a) oversight of medical care provided by the air medical service provider;~~

~~_____ (b) ensure competency and currency of medical personnel;~~

~~_____ (c) active engagement in the evaluation, credentialing, initial training, and continuing education of personnel who provide patient care;~~

~~_____ (d) development and approval of written patient care guidelines, policies and protocols, including those addressing the adverse impact of altitude on patient physiology and stressors of transport; and~~

~~_____ (e) active engagement in quality management, utilization review, and safety reviews.~~

~~R426-10-27. Patient Compartment General Standards.~~

~~_____ (1) An air ambulance provider shall ensure that a permitted air ambulance has the following:~~

~~_____ (a) a climate control system to prevent temperature variations that would adversely affect patient care;~~

~~_____ (b) the air ambulance shall have an adequate interior lighting system so that patient care can be given and the patient's status monitored;~~

~~_____ (c) for each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating electrically powered medical equipment without compromising the operation of any electrical air ambulance equipment;~~

~~_____ (d) a back up source of electrical power or batteries capable of operating electrically powered life support equipment for at least one hour;~~

~~_____ (e) an appropriate power source which is sufficient to meet the requirements of the complete specialized equipment package without compromising the operation of any electrical air ambulance equipment;~~

~~_____ (f) an entry that allows for patient loading and unloading without excessive maneuvering and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;~~

~~_____ (g) if an isolette is used during patient transport, the operator shall ensure that the isolette can be opened from its secured in-flight position to provide full access to the patient;~~

~~_____ (h) adequate access and necessary space to maintain the patient's airway and to provide adequate ventilatory support by an attendant from the secured, seat belted position within the air ambulance;~~

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- ~~(i) a configuration that allows for rapid exit of personnel and patients that will not allow obstruction from stretchers and medical equipment;~~
- ~~(j) an interior of the air ambulance that is sanitary and in good working order during use;~~
- ~~(k) secure positioning of cardiac monitors, defibrillators, and external pacers so that displays are visible to medical personnel; and~~
- ~~(l) procedures for medications to maintain temperatures within manufacturer recommendations.~~
- ~~(2) An air ambulance provider may not use glass containers unless required by medication specifications and be properly vented.~~
- ~~(3) Each air ambulance operator shall ensure that medical equipment is appropriate to the air medical service's scope and mission and maintained in working order according to the manufacturer's recommendations.~~
- ~~(4) Each permitted air ambulance shall be equipped to provide patient care according to approved medical protocols.~~

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NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R477-1	Filing ID: 56473

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:
Timothy Evans	801-641-0391	tevans@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R477-1. Definitions

3. Purpose of the new rule or reason for the change:
The Division of Human Resource Management (DHRM) desires to eliminate superfluous term definitions.
4. Summary of the new rule or change:
The proposed amendments eliminate one unused term definition and another term definition that is unnecessary. The amendments also renumber definitions following the eliminated definitions.

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	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 Government Operations, Marvin Dodge, 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 63A-17-106	Section 63A-17-301	Section 63A-17-306
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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: 06/14/2024

9. This rule change MAY become effective on: 07/01/2024

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, DHRM Director	Date:	04/25/2024
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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.

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(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~~

NOTICES OF PROPOSED RULES

~~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.~~

~~_____](7[6]4) "Performance Evaluation" means a formal, periodic evaluation of an employee's work performance.~~

(7[7]5) "Performance Improvement Plan" means a documented administrative action to address substandard performance of an employee under Section R477-10-2.

(7[8]6) "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.

(7[9]7) "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]78) "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]79) "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]80) "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]81) "Position" means a unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

([84]82) "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]83) "Position Identification Number" means a unique number assigned to a position for FTE management.

([86]84) "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]85) "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]86) "Probationary Employee" means an employee hired into a career service position who has not completed the required probationary period for that position.

([89]87) "Probationary Period" means a period 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]88) "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]89) "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]90) "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]91) "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]92) "Reappointment" means return to work of an individual from the reappointment register after separation from employment.

([95]93) "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]94) "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]95) "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]96) "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]97) "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]98) "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]99) "Salary Range" means established minimum and maximum wage rates assigned to a job.

([102]100) "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]101) "Separation" means an employee's voluntary or involuntary departure from state employment.

([104]102) "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]103) "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]104) "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]105) "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]106) "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 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]107) "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]108) "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]109) "Veteran" means the same as that term is defined in Section 68-3-12.5.

([112]110) "Veteran Employment Opportunity Program (VEOP)" means a program designed to appoint a qualified veteran through an on the job examination period.

([113]111) "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]112) "Wage" means the fixed hourly rate paid to an employee.

([115]113) "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: 2024[July 1, 2023]
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 FILING: Amendment		
Rule or Section Number:	R477-6	Filing ID: 56474

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:
Timothy Evans	801-641-0391	tevans@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R477-6. Compensation
3. Purpose of the new rule or reason for the change:
The Division of Human Resource Management (DHRM) aims to clarify eligibility for retirement and non-retirement benefits.

4. Summary of the new rule or change:
 The proposed amendments clarify the circumstances under which an employee is eligible for retirement and non-retirement benefits.

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 merely clarify present practices.

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	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 Government Operations, Marvin Dodge, 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 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:	06/14/2024
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9. This rule change MAY become effective on:	07/01/2024
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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, DHRM Director	Date:	04/25/2024
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**R477. Government Operations, Human Resource Management.
R477-6. Compensation.
R477-6-8. Employee Benefits.**

(1) An employee shall be eligible for ~~[benefits when]~~:
 (a) ~~retirement benefits according to Title 49, Utah Retirement and Insurance Benefit Act;~~
 (i) ~~DHRM shall provide eligible employees with information regarding available options for Utah Retirement Systems (URS) retirement programs; and~~
 (ii) ~~An employee shall communicate directly with URS regarding retirement system options, changes in employee contributions, beneficiaries, and investment strategies;~~
 (b) ~~non-retirement benefits when:~~
 (i) ~~in a position designated by management as eligible for benefits; and~~
 (ii) ~~in a position which normally requires working a minimum of 40 hours per pay period.~~
 (2) An eligible employee shall enroll in or decline one of the traditional medical insurance plans within 30 days of the hire date and enroll in or decline one of the HSA-qualified medical insurance plans or other tax-advantaged arrangement offered by PEHP and authorized under the Internal Revenue Code for the benefit of the employee within 60 days of the hire date.
~~(a)-] An employee may change medical plans only during the annual open enrollment period for state employees or following a qualifying life event.~~
 (3) An eligible employee may enroll in dental, vision, and a flexible spending account within 60 days of the hire date.
 (4) An employee shall enroll in guaranteed issue life insurance within 60 days of the hire date to avoid having to provide proof of insurability. An employee may enroll in additional life insurance and accidental death and dismemberment insurance at any time and may be required to provide proof of insurability.
 (5) ~~[Utah Retirement Systems (URS) administers retirement benefits for eligible employees according to Title 49, Utah State Retirement and Insurance Benefit Act.~~
~~(a) DHRM shall provide eligible employees with information regarding available options for URS retirement programs.~~
~~(b) An employee shall communicate directly with URS through their website regarding retirement system options, changes in employee contributions, beneficiaries, and investment strategies.~~
~~(6)-] A reemployed veteran under USERRA is entitled to the same employee benefits given to other continuously employed eligible employees to include seniority based increased pension and leave accrual.~~

(~~7~~) Any insurance coverage, excluding COBRA, shall end:
 (a) at midnight on the last day of the pay period in which the employee receives a paycheck for employees hired before February 15, 2003; or
 (b) at midnight on the last day of the pay period in which the employment termination date became effective for employees hired on February 15, 2003, or later.
 (~~8~~) An employee who is not eligible for benefits under Subsection R477-6-8(1) but does meet the minimum qualifications under the Affordable Care Act shall be eligible for medical insurance only.

KEY: wages, employee benefit plans, insurance, personnel management
Date of Last Change: ~~2024~~[October 25, 2023]
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 FILING: Amendment		
Rule or Section Number:	R477-7	Filing ID: 56475

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:
Timothy Evans	801-641-0391	tevans@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R477-7. Leave
3. Purpose of the new rule or reason for the change:
The Division of Human Resource Management (DHRM) aims to conform this rule to recent statutory changes, make stylistic changes for clarity, and update a statutory citation.

4. Summary of the new rule or change:
 The proposed amendments:
 1) add a provision to implement HB255 (2024) that addresses leave for employees who serve in the legislature;
 2) make minor stylistic and editorial changes to the annual leave and Workers' Comp provisions;
 3) update a statutory citation in the military leave provisions; and
 4) implement H.B. 75 (passed in the 2024 General Session) which enacted various changes impacting Parental and Postpartum Recovery Leave.

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 accounted for in relevant Legislation and attendant fiscal notes.

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	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 Government Operations, Marvin Dodge, 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 34-43-103	Section 63G-1-301	Section 63A-17-106
Section 63A-17-504	Section 63A-17-505	Section 71A-8-102

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:	06/14/2024
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9. This rule change MAY become effective on:	07/01/2024
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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, DHRM Director	Date:	04/25/2024
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**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.

(14) Management may not deny a leave request from a member of the State Legislature who requests leave under Section 63A-17-513.

R477-7-3. Annual Leave.

- (1) An eligible employee[~~shall~~] accrues leave based on the following years of benefits eligible state service:
 - (a) less than five years -- four hours per pay period;
 - (b) at least five and less than ten years -- five hours per pay period;
 - (c) at least ten and less than 20 years -- six hours per pay period; or
 - (d) 20 years or more -- seven hours per pay period.
- (2) The following employees shall accrue seven hours of annual leave per pay period, effective from the day the employee is appointed through the duration of the appointment:
 - (a) schedule AB employees;
 - (b) agency deputy directors;
 - (c) division directors appointed to career service exempt positions; and
 - (d) an employee who is schedule A, FLSA exempt, and who has a direct reporting relationship to an executive director, deputy director, commissioner, or board.
- (3) The accrual rate for an employee rehired to a position which receives leave benefits shall be based on any eligible employment in which the employee accrued leave.
- (4) The first eight hours of annual leave used by an employee in the calendar leave year shall be the employee's personal preference day.
- (5) Management may not restrict the use of annual leave used in a calendar year to less than the amount the employee accrues in the year.
- (6) An employee forfeits unused accrued annual leave time exceeding 320 hours during year end processing for each calendar year unless the DHRM Division Director authorizes an extension to this timeframe for a specific number of hours.
- (7) An agency may payout an employee's annual leave hours under conditions not connected with separation from employment with authorization from the DHRM Division Director and GOPB.

R477-7-10. Military Leave.

Under Section [~~39-3-2~~]71A-8-102, management shall grant up to 120 hours of paid military leave each calendar year to a benefited or non-benefited employee who is a member of the National Guard or Military Reserves and is on official military

NOTICES OF PROPOSED RULES

orders. Military leave for part-time employees is prorated to be no more than the average hours worked in the last 12 months, or if employed less than 12 months, the average hours worked since the date of hire.

(1) An eligible employee may use any combination of military leave, accrued leave, or leave without pay under Section R477-7-13.

(2) An eligible employee may only use accrued sick leave if the reason for leave meets the conditions in Section R477-7-4.

(3) An employee on military leave is eligible for any service awards or non-performance administrative leave the employee would otherwise be eligible to receive.

(4) An employee shall notify management of official military orders as soon as possible.

(5) Upon an employee's release from official military orders under honorable conditions, management shall place the employee in a position in the following order of priority.

(a) If the period of service was for less than 91 days, management shall place the employee:

(i) in the same position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in the same position the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(b) If the period of service was for more than 90 days, management shall place the employee:

(i) in a position of like seniority, status, and salary, of the position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in a position of like seniority, status, and salary the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(c) When a disability is incurred or aggravated while on official military orders, the employing agency shall adhere to the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301, et seq.

(d) An employee is entitled to reemployment rights and benefits including increased pension and leave accrual to which the employee would have been entitled had the employee not been absent due to military service. An employee entering military leave may elect to have payment for annual leave deferred.

(6) To be reemployed, an employee shall present evidence of military service, and:

(a) for service less than 31 days, return at the beginning of the next regularly scheduled work period on the first full day after release from service unless impossible or unreasonable through no fault of the employee;

(b) for service of more than 30 days but less than 181 days, submit a request for reemployment within 14 days of release from service, unless impossible or unreasonable through no fault of the employee; or

(c) for service of more than 180 days, submit a request for reemployment within 90 days of release from service.

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, wages, and workers' compensation time-loss benefit may not exceed the gross 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 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.

R477-7-20. Parental and Postpartum Recovery Leave.

(1) An employee is eligible for parental or postpartum recovery leave when the employee:

(a) is eligible for benefits under Subsections R477-6-8(1) and R477-7-1(1);

(b) is not reemployed post retirement as defined in Section 49-11-1202; and

(c) is not an employee of:
~~_____ (i) the State Board of Education; or~~
~~_____ (ii) an independent entity as defined in Section 63E-1-102.~~

(2) An employee or a spokesperson shall notify management of their plan to use parental or postpartum recovery leave:

(a) thirty days in advance; or
(b) as soon as practicable in emergencies.

(3) Management may not charge parental or postpartum recovery leave against any accrued leave balance on the employee's record.

(4) Excess leave may be paid out as necessary to comply with this section.

~~([4]5)~~ No person may interfere with an employee's intent to use parental or postpartum recovery leave or retaliate against an employee who receives parental or postpartum recovery leave.

~~([5]6)~~ Parental leave is administered as follows:

(a) An employee is qualified for parental leave when the employee is assuming a parental role for a child or incapacitated adult and:

(i) is ~~[a birth]~~ the child's biological parent ~~[as defined in Section 78B-6-103];~~

(ii) is the spouse of the person who gave birth to the child;

(iii) is the adoptive parent of the ~~legally adopts a minor~~ child, unless the employee is the spouse of the pre-existing parent;

~~(iii)~~ (iv) is the intended parent of a child born under a validated gestational agreement; ~~[or]~~

~~(i)~~ (v) is appointed the legal guardian of a ~~minor~~ child or incapacitated adult ~~[-]; or~~

(vi) is the foster parent of the child;

(b) Management shall grant up to three weeks of paid parental leave to an employee who gives notice that they intend to use paid parental leave ~~[-];~~

(c) Management calculates the amount of leave for each employee based on the number of hours the employee would have worked per week if they had not taken parental leave.

(d) An employee may use parental leave within the six months immediately following the qualifying event from Subsection ~~([5]6)~~ (a); ~~and~~ ~~[-]~~

(e) An employee may use parental leave intermittently when:

(i) the employee and management have written mutual consent for intermittent use; or

(ii) a health care provider certifies the need for intermittent leave due to the child's serious health condition.

(f) Parental leave:

(i) runs concurrently with leave under the FMLA;

(ii) runs consecutively with postpartum recovery leave pursuant to Subsection (6)(f)(ii);

(iii) is limited to three weeks within any 12-month period;

(iv) does not increase when:

(A) more than one child is born from the same pregnancy;

(B) more than one child is adopted;

(C) the employee is appointed legal guardian of more than one minor child or incapacitated adult ~~[-]; or~~

~~(D) more than one foster child is placed in the employee's care.~~

~~([6]7)~~ Postpartum recovery leave is administered as follows:

(a) An employee is qualified for postpartum recovery leave when the employee gives birth at 20 weeks or greater gestation; ~~[-]~~

(b) Management shall grant up to three weeks of paid postpartum recovery leave to an employee who gives notice that they intend to use paid postpartum recovery leave ~~[-];~~

(c) Management calculates the amount of leave for each employee based on the number of hours the employee would have worked per week if they had not taken postpartum recovery leave ~~[-];~~

(d) Postpartum recovery leave begins on the date the employee gives birth unless a health care provider certifies the medical necessity of an earlier start date ~~[-];~~

(e) An employee shall use postpartum recovery leave in a single continuous period, unless otherwise authorized in writing by the director of the division; and ~~[-]~~

(f) Postpartum recovery leave:

(i) runs concurrently with leave under the FMLA;

(ii) runs consecutively with parental leave under Subsection ~~([5]6)~~ with postpartum recovery leave used first pursuant to restrictions in Subsection (d); and

(iii) does not increase when more than one child is born from the same pregnancy.

KEY: holidays, leave benefits, vacations

Date of Last Change: 2024~~[July 1, 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 FILING: Amendment		
Rule or Section Number:	R477-8	Filing ID: 56476

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:
Timothy Evans	801-641-0391	tevans@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R477-8. Working Conditions
3. Purpose of the new rule or reason for the change:
The Division of Human Resource Management (DHRM) desires to add a training requirement, clarify rules concerning transferability of comp time, and implement a recent legislative enactment.
4. Summary of the new rule or change:
The proposed amendments: 1) add a telework training requirement; 2) clarify that comp time cannot move with an employee who changes from benefited to non-benefited status; and 3) implement H.B. 271 (passed in the 2024 General Session), which makes changes to overtime payout for law enforcement employees.

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 accounted for in relevant Legislation and attendant fiscal notes.

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	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 Government Operations, Marvin Dodge, 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 34A-2-114	Section 63A-17-106	Subsection 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: 06/14/2024

9. This rule change MAY become effective on: 07/01/2024

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, DHRM Director	Date:	04/25/2024
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R477. Government Operations, Human Resource Management.

R477-8. Working Conditions.

R477-8-2. Telework.

Telework is a management option, not a universal employee benefit. Management utilizing a telework program shall:

- (1) establish a written policy governing telework;
- (2) enter into a written agreement with each participating employee to specify conditions, such as use of state or personal equipment, protecting confidential information, and results such as identifiable benefits to the state and how customer needs are being met;
- (3) require participating employees to comply with overtime ~~rules~~ standards;
- (4) prohibit compensation for normal commute time; ~~and~~
- (5) require participating employees and their managers to complete telework training provided or approved by DHRM; and
- (~~5~~) document telework authorization.

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~~)² 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 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 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~~)^a The limit on compensatory time accrued by an FLSA exempt employee may not be less than 80 hours.

(~~i~~)^b 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) change from a benefited to a non-benefited position;

or

(v) 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) meet the requirements of 29 CFR 553.211(a) or (f); ~~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~~)^c perform over 80% law enforcement duties.

(2) For employees of the Department of Natural Resources, ~~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 law enforcement of correctional officers designated FLSA non-exempt and covered under this rule:

- ~~(a) 160 hours in a work period of 28 consecutive days; or~~
- ~~(b) 80 hours in a work period of 14 consecutive days.~~

(~~3~~)⁴ 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~~)⁵ 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.

KEY: breaks, telecommuting, overtime, dual employment

Date of Last Change: ~~2024 July 1, 2023~~

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 FILING: Amendment		
Rule or Section Number:	R477-9	Filing ID: 56478

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management

NOTICES OF PROPOSED RULES

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:
Timothy Evans	801-641-0391	tevans@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R477-9. Employee Conduct
3. Purpose of the new rule or reason for the change:
The Division of Human Resource Management (DHRM) aims to add language implementing a statutory enactment.
4. Summary of the new rule or change:
The proposed amendments implement H.B. 460 (passed in the 2024 General Session) which requires employers to consider an employee request to be relieved from performing a certain task.

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 accounted for in relevant legislation and attendant fiscal notes.
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	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 Government Operations, Marvin Dodge, 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 63G-7-2	Section 63A-17-106	Section 63A-17-904
5 U.S.C. 1502(a)(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:	06/14/2024

9. This rule change MAY become effective on:	07/01/2024
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, DHRM Director	Date:	04/25/2024
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R477. Government Operations, Human Resource Management. R477-9. Employee Conduct. R477-9-1. Standards of Conduct.

An employee shall comply with the standards of conduct established in Title R477 and the policies and rules established by management.

(1) Employees shall apply themselves to and shall fulfill their assigned duties during the full time for which they are compensated. An employee shall:

(a) comply with the standards established in the individual performance plans;

(b) maintain an acceptable level of performance and conduct on any other verbal and written job expectations;

(c) report conditions and circumstances, including impairment caused by an employee's use of illicit drugs, controlled substances, alcohol, or other intoxicant, that may prevent the employee from performing their job effectively and safely; ~~and~~

(d) inform their direct supervisor of any unclear instructions or procedures ~~[-]; and~~

(e) comply with agency policy governing a request to be relieved of a task under Section 67-27-105.

(2) An employee shall make prudent and frugal use of state funds, equipment, buildings, time, and supplies.

(3) Management shall take administrative action in accordance with Section R477-10-2, Rule R477-11, and Rule R477-14 when an employee reports for duty, attempts to perform the duties of the position, or drives a state vehicle while under the influence of alcohol or another intoxicant, including use of illicit drugs, non-prescribed controlled substances, and misuse of volatile substances.

(4) Management may decline to defend and indemnify an employee found violating this rule, under Title 63G, Chapter 7, Utah Governmental Immunity Act.

(5) An employee shall provide management with a current personal mailing address.

(a) The employee shall notify management in writing of any change in address.

(b) Mail sent to the current address on record is considered to be delivered for purposes of Title R477 ~~[these rules]~~.

KEY: conflict of interest, government ethics, Hatch Act, personnel management
Date of Last Change: 2024 ~~[July 1, 2022]~~
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63G-7-2; 63A-17-106; 63A-17-904; 5 U.S.C. 1502(a)(3)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R477-10	Filing ID: 56479

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:
Timothy Evans	801-641-0391	tevans@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R477-10. Employee Development
3. Purpose of the new rule or reason for the change:
The Division of Human Resource Management (DHRM) aims to add language implementing a statutory enactment impacting performance evaluation rules.
4. Summary of the new rule or change:
The proposed amendments implement H.B. 77 (passed in the 2024 General Session) which modifies pay for performance elements applicable to performance evaluation provisions.

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 accounted for in relevant legislation and attendant fiscal notes.
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	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 Government Operations, Marvin Dodge, 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 63A-17-106	Section 63A-17-112	
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Notice of Continuation: March 9, 2022
 Authorizing, and Implemented or Interpreted Law: 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: 06/14/2024

9. This rule change MAY become effective on: 07/01/2024

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, DHRM Director	Date:	04/25/2024
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**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) ~~implements a well-defined plan[defines incentives for meeting or exceeding expectations,] before work begins[;] that includes:~~

- (i) ~~incentives to meet[eligible employees] or exceed expectations[groups];~~
- (ii) specific standards, goals, or expectations; and
- (iii) 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.

KEY: educational tuition, employee performance evaluations, employee productivity, training programs

Date of Last Change: 2024[July 1, 2023]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R477-11	Filing ID: 56480

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:
Timothy Evans	801-641-0391	tevans@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R477-11. Discipline
3. Purpose of the new rule or reason for the change:
The Division of Human Resource Management (DHRM) aims to implement the provisions of H.B. 77 (passed in the 2024 General Session) related to aspects of the disciplinary process.
4. Summary of the new rule or change:
The proposed amendments implement H.B. 77 (2024) which clarifies the process by which a career service employee may be dismissed or demoted.

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 accounted for in relevant legislation and attendant fiscal notes.

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	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 Government Operations, Marvin Dodge, 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 63A-17-106	Section 63A-17-306	Section 63G-2-3

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:	06/14/2024

9. This rule change MAY become effective on:	07/01/2024
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, DHRM Director	Date:	04/25/2024
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**R477. Government Operations, Human Resource Management.
R477-11. Discipline.
R477-11-2. Dismissal or Demotion.**

Management may dismiss or demote an employee for cause under Subsection R477-10-2(2)(c) and Section R477-11-1, and through the process outlined in this rule.

(1) Management may dismiss or demote a probationary employee or career service exempt employee for any or for no reason without right of appeal, except under Sections 67-21-3.5 and 67-19a-402.5.

(2) An agency head may initiate a dismissal~~[not dismiss]~~ or demotion of~~[demote]~~ a career service employee from a career service position as follows~~[unless]~~:

(a) the agency head or designee notifies the employee in writing of the ~~[specific]~~ reason[s] for the proposed dismissal or demotion;

(b) the agency head or designee grants the employee ~~[up to]~~ five working days to submit a written reply;

(c) the agency head considers any timely reply submitted by the employee before imposing discipline; and

(d) the agency head provides the employee an opportunity to be heard by the agency head or designee;

(i) This meeting is limited to the specific reasons raised in the notice of intent to demote or dismiss.

(ii) At the meeting, the employee may present, either in person, in writing, or with a representative, comments or reasons as to why the proposed disciplinary action should not be taken. The agency head or designee is not required to receive or allow other witnesses on behalf of the employee.

(iii) The employee may present documents, affidavits, or other written materials at the meeting. However, the employee is not entitled to present or discover documents within the possession or control of the department or agency that are private, protected, or controlled under Section 63G-2-3.

(3) After complying with Subsection (2), the agency head may dismiss or demote the employee upon a finding of adequate cause or reason. The agency head notifies the employee in writing of the decision and the reasons for the decision.

KEY: discipline of employees, dismissal of employees, grievances, government hearings
Date of Last Change: ~~2022~~ 2024 ~~July 1, 2022~~
Notice of Continuation: March 9, 2022
Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-306; 63G-2-3

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R590-102	Filing ID: 56471

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W

City, state and zip:	Taylorville, 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 persons listed above.		

General Information

2. Rule or section catchline:
R590-102. Insurance Department Fee Payment Rule
3. Purpose of the new rule or reason for the change:
The Department of Insurance (Department) is repealing this rule to comply with Section 63J-1-504, which prohibits state agencies from setting fees by rule. The Legislature approved the Department's fees in H.B. 8 during the 2024 General Session; they will be in effect from 07/01/2024 to 06/30/2025. The Department publicly posts its fees at https://insurance.utah.gov/about-us/#fees .
4. Summary of the new rule or change:
This filing repeals this rule in its entirety.

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 Department's fees remain in effect, but they will now be codified in the Utah Code.
B) Local governments:
There is no anticipated cost or savings to local governments. The Department's fees remain in effect, but they will now be codified in the Utah Code.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The Department's fees remain in effect, but they will now be codified in the Utah Code.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

NOTICES OF PROPOSED RULES

There is no anticipated cost or savings to non-small businesses. The Department's fees remain in effect, but they will now be codified in the Utah Code.

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 Department's fees remain in effect, but they will now be codified in the Utah Code.

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 Department's fees remain in effect, but they will now be codified in the Utah Code.

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	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 Benefits	Fiscal \$0	\$0	\$0
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H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner 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	
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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:	06/14/2024
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9. This rule change MAY become effective on:	06/21/2024
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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:	05/01/2024
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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

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~~(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;~~

~~(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;~~

~~(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's 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;~~

NOTICES OF PROPOSED RULES

- ~~_____ (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: June 21, 2023

Notice of Continuation: December 8, 2021

Authorizing, and Implemented or Interpreted Law: 31A-3-103]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R614-1-4	Filing ID: 56435

Agency Information

1. Department:	Labor Commission	
Agency:	Occupational Safety and Health	
Room number:	3rd Floor	
Building:	Heber M Wells	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact persons:		
Name:	Phone:	Email:
Holly Lawrence	801-530-6901	hlawrence@utah.gov

Floyd Johnson	801-530-6901	Fjohnson@utah.gov
Chris Hill	801-530-6113	chill@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R614-1-4. Incorporation of Federal Standards
3. Purpose of the new rule or reason for the change:
The purpose of this amendment to Utah's Occupational Safety and Health (UOSH) rule is to update this rule to ensure UOSH is enforcing the most current 29 CFR 1904 standard.
4. Summary of the new rule or change:
The proposed amendment: 1. Federal Register Vol. 88, No. 139, Friday, July 21, 2023, Rules and Regulations, pages 47254 to and including 47349, "Improve Tracking of Workplace Injuries and Illnesses; Final Rule" is incorporated by reference. a. Requires establishments with 100 or more employees in certain designated industries (i.e., those on appendix B in subpart E of part 1904) to electronically submit information from their Occupational Safety and Health Administration (OSHA) Injury and Illness Recordkeeping Forms 300 and 301 (Form 300 and Form 301) to OSHA once a year; b. Updates the North American Industry Classification System (NAICS) codes used in appendix A in subpart E of part 1904, which designates the industries required to submit their OSHA Injury and Illness Recordkeeping Form 300A (Form 300A) data; c. Adds appendix B in subpart E of part 1904, which designates the industries required to submit Form 300 and Form 301 data; and d. Requires establishments to include their company name when making electronic submissions to OSHA.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
UOSH's enforcement of the proposed amendment will not result in additional costs or savings to the state budget.

The amended rule requires certain establishments to electronically submit Form 300 and Form 301 data using OSHA's ITA web application and has no impact on UOSH's enforcement.

OSHA created, modifies, and updates the ITA as needed with no cost to the state.

B) Local governments:

There should be no cost or savings to local governments because the amendment requires certain establishments to electronically submit Form 300 and Form 301 data using OSHA's ITA web application.

OSHA maintains the application and it is free to use.

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

There should be no cost of saving to small businesses because the amendment requires certain establishments to electronically submit Form 300 and Form 301 data using OSHA's ITA web application.

OSHA maintains the application and it is free to use.

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

The proposed amendment will have no anticipated cost or savings to non-small businesses with establishments that have less than 100 employees.

The proposed amendment will have no anticipated cost or savings to non-small businesses with establishments that have 100 or more employees and are not classified in an industry listed in appendix B to subpart E of 29 CFR 1904.

The proposed amendment will result in an approximate cost of \$136.62 per establishment that has 100 or more employees and is classified in an industry listed in appendix B to subpart E of 29 CFR 1904. The cost of electronic data submission per establishment was estimated by multiplying the hourly compensation (in dollars) of the person expected to submit the records electronically by the time required for the submission.

The Bureau of Labor Statistics' (BLS's) Occupational Employment and Wage Statistics (OEWS) data were used to determine that the mean hourly wage for an Occupational Health and Safety Specialist was \$37.86 per hour.

Then, June 2021 data from the BLS National Compensation Survey were used to derive a mean fringe benefit factor of 1.45 for civilian workers in general. Then, the mean hourly wage (\$37.86) was multiplied by the mean fringe benefit factor (1.45) to obtain an estimated total compensation (wages and benefits) for Occupational Health and Safety Specialists of \$54.90 per hour $(\$37.86 \text{ per hour} \times 1.45)$.

A 17% overhead rate was then applied to the base wage $(\$37.86 \text{ per hour} \times 0.17)$, totaling \$6.44 per hour. The \$6.44 was added to the total compensation (\$54.90), yielding a fully loaded wage rate of \$61.34 $[\$54.90 + \$6.44]$ per hour.

It is estimated that establishments will take 0.1667 hours (10 minutes), on average, to familiarize themselves with changes to the recordkeeping requirements in the proposed rule.

Based on this, a one-time cost for familiarization is calculated at \$10.23 $(0.1667 \text{ hour/establishment} \times \$61.34)$ per establishment.

In addition, it is estimated that it will take 15 minutes to manually submit information about each injury and illness case manually into OSHA's Injury Tracking Application (ITA), the electronic reporting website. OSHA estimated there will be 15.82 cases per establishment, on average. Using the mean of 15.82 cases per establishment and an estimated time of 15 minutes per case, OSHA estimated 237.3 minutes (3.96 hours) per establishment to submit records electronically.

At a wage rate of \$61.34 per hour, the estimated cost per establishment to manually submit records electronically is \$242.91 $(3.96 \text{ hours} \times \$61.34/\text{hour})$. Establishments have the option to submit data to the ITA by uploading a batch file, and not enter cases manually. It is estimated that it will take 10 minutes (0.17 hours) to submit data by uploading a batch file.

At a wage rate of \$61.34 per hour, the estimated cost per establishment for batch file submission is \$10.43 $(0.17 \text{ hours} \times \$61.34/\text{hour})$. OSHA estimated that 47 percent of all reporting establishments will submit data via batch file and the remaining 53 percent will manually submit each case. At \$10.43 per establishment that submits data via batch file and \$242.91 per establishment that manually enters the cases, the estimated average cost for establishments covered by the rule is \$133.64 $[(0.47 \times \$10.43) + (0.53 \times \$242.91)]$ per establishment.

Annualized over 10 years with a discount rate of 7%, it is estimated that this rule will have an average overall cost of \$136.62 per year for affected establishments with 100 or more employees.

Using data from Utah's Department of Workforce Services, it was determined that approximately 665 of establishments in Utah will be affected by the proposed amendment. The amended rule will affect approximately 498 employers with an establishment size of 100 – 249 employees; 95 establishments with an establishment size of 250 – 499 employees; 50 establishments with an establishment size of 500 – 999; 10 establishments with an establishment size of 1,000 – 1,999; 5 establishments with an establishment size of 2,000 – 2,999; 4 establishments with an establishment size of 3,000 – 3,999; 1 establishment with an establishment size of 4,000 – 4,999; 1 establishment with an establishment size of

5,000 – 6,999; and 1 establishment with an establishment size of 7,000 – 9,999.

The proposed amendment, which affects approximately 665 establishments in Utah, will have an approximate total cost of \$90,852.30 (665 establishments x \$136.62 per establishment).

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 should be no cost or savings to persons other than small businesses, non small businesses, state of local government entities as this rule change requires only certain entities to file electronically.

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

There should be no compliance costs for affected persons since Federal OSHA maintains the web application and it is free to use.

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	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 Commissioner of the Utah Labor Commission, Jaceson R. Maughan, 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:

Title 34A, Chapter 6		
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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)	FR Vol 88, No. 139I.
Issue Date	July 21, 2023

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:	06/15/2024
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9. This rule change MAY become effective on: 06/22/2024

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:	Jaceson R. Maughan, Commissioner	Date:	04/16/2024
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R614. Labor Commission, Occupational Safety and Health.

R614-1. General Provisions.

R614-1-4. Incorporation of Federal Standards.

A. The following federal occupational safety and health standards are incorporated:

NOTICES OF PROPOSED RULES

1. 29 CFR 1904, July 1, 2021, is incorporated by reference, except 29 CFR 1904.36 and the workplace fatality, injury and illness reporting requirements found in 29 CFR 1904.1, 1904.2, 1904.7 and 1904.39. Workplace fatalities, injuries and illnesses shall be reported pursuant to the more specific Utah standards in Subsection 34A-6-301(3)(b)(ii) of the Utah OSH Act and Subsection R614-1-5(B)(1).
2. 29 CFR 1908, July 1, 2015, is incorporated by reference.
3. 29 CFR 1910.6 and 1910.21 through the end of part 1910, of the July 1, 2021, edition are incorporated by reference.
4. 29 CFR 1926.6 and 1926.20 through the end of part 1926, of the July 1, 2021, edition are incorporated by reference.
5. Federal Register Vol. 88, No. 139, Friday, July 21, 2023, Rules and Regulations, pages 47254 to and including 47349, "Improve Tracking of workplace Injuries and Illnesses: Final Rule" is incorporated by reference.

KEY: safety
Date of Last Change: ~~2024~~**[September 27, 2022]**
Notice of Continuation: June 24, 2022
Authorizing, and Implemented or Interpreted Law: 34A-6

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R628-23	Filing ID: 56450

Agency Information

1. Department:	Money Management Council	
Agency:	Administration	
Room number:	180	
Building:	State Capitol	
Street address:	350 N. State Street	
City, state and zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 140510	
City, state and zip:	Salt Lake City, UT 84114-2314	
Contact persons:		
Name:	Phone:	Email:
Ann Pedroza	801-538-1883	apedroza@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R628-23. Requirements for the Use of Investment Advisers by Public Treasurers
3. Purpose of the new rule or reason for the change:
The purpose of this rule is to outline basic requirements for the use of investment advisers for public treasurers who contract with investment advisers to invest public funds.

This rule is required under Subsection 51-7-18(2) and was in place as Rule R628-19. Due to an oversight, Rule R628-19 expired.

4. Summary of the new rule or change:

This rule describes the basic requirements for public treasurers to be aware of when they consider using an investment adviser to invest public funds.

It describes the minimum standards that the treasurer needs to assure are in place with the investment adviser, such as certification of an adviser by the Council as described in Rule R628-15, a written advisory services agreement and the review of SEC for ADV Part II by the treasurer.

The Council reviewed this rule in their March meeting and found it current and noted that this rule needs to be in place as use of advisory services has grown substantially. This rule was in place as Rule R628-19, but due to oversight it expired. There are no substantive changes between this rule and the original Rule R628-19.

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, there are no fees associated with this rule.

B) Local governments:

There will be no cost or savings impact on local governments as this rule has been in place and there are no fees associated with this rule.

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

This rule has no fiscal impact on small businesses, it applies only to Utah public treasurers.

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

This rule has no fiscal impact on non-small businesses, it applies only to Utah public treasurers.

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**):

This rule has no fiscal impact on other persons, it applies only to Utah public treasurers.

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

There will be no compliance costs for affected persons as this rule has been in place and there are no 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	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 Chairman of the Money Management Council, K. Wayne Cushing, 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 51-7-18(2)(b)	Section 61-1-13	
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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: 06/14/2024

9. This rule change MAY become effective on: 06/21/2024

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:	K. Wayne Cushing, Chairman	Date:	04/30/2024
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R628. Money Management Council, Administration.

R628-23. Requirements for the Use of Investment Advisers by Public Treasurers.

R628-23-1. Authority.

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

R628-23-2. Scope.

This rule establishes basic requirements for public treasurers when using investment advisers.

R628-23-3. Purpose.

The purpose of this rule is to outline requirements for public treasurers who are considering utilizing investment advisers to invest public funds.

R628-23-4. Definitions.

(1) The following terms are defined in Section 51-7-3 of Title 51, Chapter 7, Utah Money Management Act (the Act), and when used in this rule, have the same meaning as in the Act:

- (a) "Certified investment adviser";
- (b) "Council";
- (c) "Director"; and
- (d) "Investment adviser representative".

(2) For purposes of this rule:

"Investment adviser" means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.

R628-23-5. General Rule.

(1) A public treasurer may use an investment adviser to conduct investment transactions on behalf of the public treasurer as permitted by statute, rules of the Council, and local ordinance or policy.

(2) A public treasurer using an investment adviser to conduct investment transactions on behalf of the public treasurer is responsible for full compliance with the Act and rules of the Council.

(3) Due diligence in the selection of an investment adviser and in monitoring compliance with the Act and Rules of the Council and the performance of investment advisers is the responsibility of the public treasurer. The Council advises public treasurers that reliance on certification by the Director may not be sufficient to fully satisfy prudent and reasonable due diligence.

(4) The public treasurer shall assure compliance with the following minimum standards:

(a) A public treasurer may use a Certified investment adviser properly designated pursuant to Rule R628-15.

(b) A public treasurer's use of a Certified investment adviser shall be governed by a written investment advisory services agreement between the public treasurer and the Certified investment adviser. Terms of the agreement shall conform to the requirements of Rule R628-15, and shall be adopted pursuant to all procurement requirements of statute and local ordinance or policy.

(c) Before entering into an investment advisory services agreement with a Certified investment adviser, the public treasurer shall request, and the investment adviser shall furnish, the SEC Form ADV Part II for review and consideration by the public treasurer.

(d) Every investment transaction and activity of the public treasurer and the Certified investment adviser must be in full compliance with the Money Management Act and Rules of the Council particularly those requirements governing criteria for investments, safekeeping, and purchasing only the types of securities listed in Sections 51-7-11., 51-7-12. and 51-7-13. as applicable.

(e) Before entering into an investment advisory services agreement with a Certified investment adviser, the public treasurer shall request, and the investment adviser shall furnish, a clear and concise explanation of the investment adviser's program, objectives, management approach and strategies used to add value to the portfolio and return, including the methods and securities to be employed.

(5) If selection of a Certified investment adviser to provide investment advisory services to a public treasurer is based upon the investment adviser's representation of special skills or expertise, the investment advisory services agreement shall require the Certified investment adviser to act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(6) The public treasurer is advised to review and consider standards of practice recommended by other sources, such as the Government Finance Officers Association, in the selection and management of investment adviser services.

R628-23-6. Reporting to the Council.

When a public treasurer has contracted with an investment adviser for the management of public funds, the public treasurer shall provide the detail of those investments to the Council, pursuant to Section 51-7-18.2.

KEY: securities, investment advisers, public funds

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 51-7-18(2)(b); 61-1-13

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R628-24	Filing ID: 56451

Agency Information

1. Department:	Money Management Council	
Agency:	Administration	
Room number:	180	
Building:	State Capitol	
Street address:	350 N State Street	
City, state and zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 142315	
City, state and zip:	Salt Lake City, UT 84114-2315	
Contact persons:		
Name:	Phone:	Email:
Ann Pedroza	801-538-1883	apedroza@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R628-24. Foreign Deposits for Higher Education Institutions
3. Purpose of the new rule or reason for the change:
Subsection 51-7-11(1)(c) says that a higher education institution may make a deposit in a foreign depository as defined in Section 7-1-103, in accordance with Section 53B-7-601.
Section 53B-7-601 states that the funds deposited under this section shall meet the requirements of rules made by the State Money Management Council under Section 51-7-18.
The Council reviewed this rule in their March meeting and found it current and noted that this rule needs to be in place as use of foreign depositories by higher education institutions is ongoing.
This rule has been in effect previously as Rule R628-20, but due to an oversight, the five-year review was not filed in time and the rule expired.
4. Summary of the new rule or change:
This rule replaces Rule R628-20 that expired due to an oversight on filing the five-year review.

This rule provides guidelines to higher education institutions when depositing funds in foreign countries as allowed in Section 53B-7-601.

It provides requirements for ratings on the foreign depository institutions (FDI), notes which foreign depositories are prohibited for use and requires the Council to approve the foreign depository, and requires the higher education institution to report on the status of the funds in these FDI's semiannually to the Money Management Council.

There are no substantive differences between this rule and the original Rule R628-20.

Fiscal Information

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

A) State budget:

There is no anticipated state cost or savings as this rule does not cover state funds as it allows higher education institutions the ability to deposit funds in foreign depositories.

B) Local governments:

This rule has no impact on local governments, it is for higher education institutions.

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

There is no fiscal impact on small businesses as this rule only covers funds for higher education institutions.

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

This rule does not affect any non-small business as it only applies to higher education institutions.

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**):

This rule only applies to higher education institutions and does 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?):

This rule just provides rating requirements on foreign depositories for higher education institutions that need to use foreign depositories.

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	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 Chairman of the Money Management Council, K. Wayne Cushing, 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 51-7-4(1)(b)(iii)	Subsection 51-7-17(4)(a)	Section 53B-7-601
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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:	06/14/2024
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9. This rule change MAY become effective on:	06/21/2024
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:	K Wayne Cushing, Chairman	Date:	04/30/2024
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R628. Money Management Council, Administration.
R628-24. Foreign Deposits for Higher Education Institutions.
R628-24-1. Purpose.

To provide guidelines to higher education institutions when depositing funds in foreign countries.

R628-24-2. Authority.

This rule is issued pursuant to Subsection 51-7-17(4)(a) and Section 53B-7-601.

R628-24-3. Scope.

This rule relates to funds of higher education institutions that are either required by law of a foreign country to be deposited in the foreign country or are required by the terms of a grant, gift, or contract to be deposited in the foreign country.

R628-24-4. Definitions.

(1) The following terms are defined in Section 51-7-3 of Title 51, Chapter 7, Utah Money Management Act (the Act), and when used in this rule have the same meaning :

(a) "Council";

(b) "Nationally Recognized Statistical Rating Organization" or "NRSRO".

(2) For purposes of this rule "FDI" means foreign depository institution as defined in Section 7-1-103.

R628-24-5. Requirements for Deposits.

To be qualified for deposit under Section 53B-7-60 the FDI shall:

(1) be insured or otherwise have a similar protection if that country does not technically provide insurance;

(2) be rated "A" or better by one NRSRO; and

(3) be domiciled in a country in which the sovereign debt rating is "A" or better by the NRSRO.

R628-24-6. Prohibited Deposits.

(1) Use of FDIs in any country or territory described in this section is prohibited:

(a) Countries subject to sanctions by the Office of Foreign Assets Control (OFAC); and

(b) Countries and territories on the Financial Action Task Force's (FATF) list of high risk and non-cooperative jurisdictions.

(2) Financial Crimes Enforcement Network (FinCEN) advisories must be reviewed by the higher education institution to ensure that potential anti-money laundering and counter-terrorist

financing risks associated with any country are assessed, identified, and avoided before establishing deposits in the FDI.

(3) The FDI may not be listed on the U.S. Treasury's Specially Designated Nationals (SDN) list.

R628-24-7. Approval by the Council.

(1) The Council must approve the FDI.

(2) Before approval by the Council, the higher education institution must present to the Council the reasoning and purpose for the use of an FDI.

(3) Upon review of such reasoning and purpose, the Council will decide whether to give final approval to allow funds to be deposited in the FDI.

(4) The Council may approve an FDI that does not otherwise fall within the requirement of Section R628-24-5, when other facts make it reasonably prudent to do so.

(5) In approving an FDI, the Council may place restrictions on the use of the FDI when the Council determines it would be reasonably prudent to do so. It is the responsibility of the higher education institution to monitor any restriction placed on the FDI and if violated, to notify the Council of the issue within 30 days of the violation and provide a plan of action in regard to the violation.

R628-24-8. Reporting by Higher Education Institutions of Foreign Deposits.

The higher education institution shall file a written report with the Council on or before July 31 and January 31 of each year containing the following information for deposits held on June 30 and December 31 respectively:

(1) Total market value of the deposit account which will include previous historical ending balances up to 3 years;

(2) Total market value of uninsured deposits in the deposit account, which will include previous historical ending balances up to 3 years;

(3) Debt rating of the FDI; and

(4) Debt rating of the country in which the FDI is located.

KEY: foreign deposits, higher education, public funds

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 51-7-4(1)(b)(iii); 51-7-17(4)(a); 53B-7-601

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R628-25	Filing ID: 56452

Agency Information

1. Department:	Money Management Council
Agency:	Administration
Room number:	180
Building:	State Capitol
Street address:	350 N State Street
City, state and zip:	Salt Lake City, UT 84114

Mailing address: PO Box 142315		
City, state and zip: Salt Lake City, UT 84114-2315		
Contact persons:		
Name:	Phone:	Email:
Ann Pedroza	801-538-1883	apedroza@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R628-25. Conditions and Procedures for the Use of Reciprocal Deposits
3. Purpose of the new rule or reason for the change:
This filing reenacts Rule R628-21 as Rule R628-25 after Rule R628-21 expired due to an oversight on filing the five-year review.
This rule is required by Subsections 51-7-17(4)(b) and 51-7-29(2)(b). These sections of the Money Management Act require that a rule be in place for public entities to be able to use these types of investments.
4. Summary of the new rule or change:
This rule reenacts Rule R628-21 as Rule R628-25 after Rule R628-21 expired.
This rule provides the conditions under which a public entity may utilize reciprocal deposits. It provides limits on how much of a public entity's funds may be invested in these types of deposits and requires that these types of deposits be reported semi-annually to the Council.
This rule requires deposit account registry services that hold Utah public funds to maintain errors and omission coverage, and to also report the amount of Utah public funds held as reciprocal deposits to the Department of Financial Institutions monthly.
There are no substantive differences between this rule and the original Rule R628-21.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated state cost or savings as the rule does not cover state funds.

B) Local governments:			
This rule has no cost or savings impact on local governments as it is allowing a type of investment for local governments to use.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no fiscal impact on small businesses as this rule affects public entities and reciprocal deposit providers. Most reciprocal deposit providers are non-small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
This rule does not affect any non-small business as reciprocal depository providers will have no additional cost or savings as they already provide services to non-public entities in Utah.			
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 <i>agency</i>):			
This rule does not affect any other person as reciprocal depository providers will have no additional cost or savings as they already provide services to non-public entities in Utah.			
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 costs for the reciprocal depository provider as these reports are already generated for other reporting purposes.			
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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

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 Chairman of the Money Management Council, K. Wayne Cushing, 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 51-7-17(4)(b)	Subsection 51-7-18(2)(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:	06/14/2024

9. This rule change MAY become effective on:	06/21/2024
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:	K Wayne Cushing, Chairman	Date:	04/30/2024
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R628. Money Management Council, Administration.
R628-25. Conditions and Procedures for the Use of Reciprocal Deposits.

R628-25-1. Authority.
This rule is issued pursuant to Subsections 51-7-17(4)(b) and 51-7-18(2)(b).

R628-25-2. Scope.
This rule applies to public treasurers who purchase reciprocal deposits and to qualified depositories providing reciprocal deposits.

R628-25-3. Purpose.
The purpose of this rule is to establish requirements for the investing of public funds in reciprocal deposits.

R628-25-4. Definitions.
For purposes of this rule, the following terms are defined in Section 51-7-3 of the Act and when used in this rule have the same meaning as in the Act:

- (1) Council;
- (2) Commissioner;
- (3) Public funds;
- (4) Public treasurer;
- (5) Qualified depository, and;
- (6) Reciprocal deposits.

R628-25-5. General Rule.
(1) A public treasurer may invest public funds in reciprocal deposits only through qualified depositories that use a deposit account registry service. The public funds placed with a qualified depository into reciprocal deposits does not apply toward the maximum public funds allotment for that qualified depository as described in Rule R628-11.

(2) Reciprocal deposits may only be initiated by qualified depository institutions and then re-deposited through a deposit account registry service as follows:
(a) in one or more FDIC insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and
(b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

R628-25-6. Insurance Requirements for a Deposit Account Registry Service.
A deposit account registry service shall provide the public entity with proof of errors and omissions coverage equal to 5% of Utah public funds under management but not less than \$1,000,000 nor more than \$10,000,000 per occurrence.

R628-25-7. Reporting Requirements.
(1) A public entity shall file a written report with the Council of reciprocal deposits on or before July 31 and January 31 of each year for deposits held on June 30 and December 31 respectively.
(2) Within 10 days of the end of each month, each qualified depository institution holding reciprocal deposits on behalf of public treasurers shall file a report with the Commissioner of the total month-end amount of Utah public funds in reciprocal deposits initially deposited into the qualified depository institution and currently re-deposited in one or more FDIC insured depository institutions.

KEY: public funds, qualified depository, reciprocal deposits
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 51-7-17(4)(b); 51-7-18(2)(b)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R650-414	Filing ID: 56439

Agency Information

1. Department:	Natural Resources	
Agency:	Outdoor Recreation	
Room number:	100	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
Shane Stroud		Sstroud@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R650-414. Nonresident OHV User Decals and Fees
3. Purpose of the new rule or reason for the change:
Per H.B. 346 (passed in the 2021 General Session), the Division of Outdoor Recreation (Division) was created from State Parks and this new rule replaces the State Parks Rule R651-634.
4. Summary of the new rule or change:
This rule clarifies the fees, purchase, and display of non-resident OHV permits.

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, as this rule is instructional in nature and will have no impact on how the Division functions or the parties this

applies to as the OHV fee is required by Law, Subsection 41-22-35(1)(2).

B) Local governments:

This rule change is not expected to have a fiscal impact on local governments' revenues or expenditures.

This rule only clarifies the purchasing of a nonresident Off-Highway Vehicle decal and fees.

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

This rule change is not expected to have a fiscal impact on small businesses' revenues or expenditures.

This rule only clarifies the purchasing of a nonresident Off-Highway Vehicle decal and fees.

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

This rule change is not expected to have a fiscal impact on non-small businesses' revenues or expenditures.

This rule only clarifies the purchasing of a nonresident Off-Highway Vehicle decal and fees.

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**):

This rule change is not expected to have a fiscal impact on persons other than small businesses', non-small businesses', state, or local government entities' revenues or expenditures.

This rule only clarifies the purchasing of a nonresident Off-Highway Vehicle decal and fees.

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.

This rule only clarifies the purchasing of a nonresident Off-Highway Vehicle decal and fees.

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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

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 Natural Resources, Joel Ferry, 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 41-22-35	Subsection 41-6a-102(74)	Section 41-22-3
Subsection 41-1a-102(45)	Subsection 41-22-35(1)(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:	06/14/2024
9. This rule change MAY become effective on:	06/21/2024

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:	Jason Curry, Director	Date:	04/12/2024
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R650. Natural Resources, Outdoor Recreation.

R650-414. Nonresident OHV User Decals and Fees.

R650-414-1. Definitions.

As used in this rule, the term:

"Nonresident" means the same as that term is defined in Subsection 41-1a-102(45).

R650-414-2. Nonresident Off-Highway Vehicle Decals and Fees.

(1) Except as provided in this rule, a nonresident owner of an off-highway vehicle who operates or gives another person permission to operate that off-highway vehicle on any public land, trail, street, or highway in this state shall before operating the off-highway vehicle:

(a) obtain from the division a nonresident off-highway vehicle decal for the off-highway vehicle; and

(b) pay to the division a nonresident off-highway vehicle user fee.

(2) The division shall issue a receipt to a nonresident who obtains a decal and pays a fee to the division pursuant to Subsection (1) that shows:

(a) the fee amount paid;

(b) the vehicle identification number (VIN) of the off-highway vehicle for which the decal was issued and the fee was paid; and

(c) the name and address of the owner of the off-highway vehicle for which the decal was issued and fee was paid.

(3) An owner or operator of an off-highway vehicle shall always keep the receipt issued pursuant to Subsection (2) with the off-highway vehicle for which it was issued.

(4) A decal issued pursuant to Subsection (1) shall be valid for a period of 12 months beginning with the first day of the calendar month of purchase.

(5) An owner or operator shall display a non-resident decal pursuant to the procedures set out in Rule R650-401.

R650-414-3. Proof of Nonresident Status.

(1) Nonresident off-highway vehicle decal applicants shall provide to the division evidence that the off-highway vehicle is not subject to the resident registration requirements set out in Section 41-22-3.

(2) The evidence required by Subsection (1) shall include:

(a) a government-issued identification card showing the off-highway vehicle owner resides in a state other than Utah;

(b) a title or certificate of registration for the off-highway vehicle from a state other than Utah; or an original bill of sale for the off-highway vehicle from a state other than Utah; and

(c) an unsworn statement, in a form acceptable to the division, declaring that the home station of the off-highway vehicle is in a state other than Utah.

R650-414-4. Exceptions.

(1) This rule does not apply to:

(a) an off-highway vehicle participating in a scheduled competitive event sponsored by a public or private entity;

(b) an off-highway vehicle participating in a noncompetitive event sponsored in whole or in part by any governmental entity;

(c) a street legal all-terrain vehicle, as that term is defined in Subsection 41-6a-102(74), if the vehicle is registered for highway use in a state other than Utah and if that state offers reciprocal highway-operating privileges to Utah residents operating street legal all-terrain vehicles within the boundaries of that state;

(d) an off-highway vehicle that is subject to Subsection 41-22-35(1)(b); and

(e) an off-highway vehicle owned by an off-highway vehicle manufacturer that is being operated exclusively for an off-highway vehicle manufacturer-sponsored event, provided that the operator of the vehicle has in the operator's possession a letter or certificate issued by the manufacturer and signed by the manufacturer's authorized representative that contains:

(i) the name, address and contact information of the off-highway vehicle manufacturer;

(ii) a physical description of the off-highway vehicle, including the VIN or another number assigned by the manufacturer for identification purposes;

(iii) a brief description of the manufacturer-sponsored event, including the dates of the event; and

(iv) the name of the individual authorized to operate the off-highway vehicle at the event.

KEY: outdoor recreation, off-highway vehicles

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 41-22-35

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R651-101	Filing ID: 56448

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple	
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 persons listed above.		

General Information

2. Rule or section catchline:
R651-101. Adjudicative Proceedings
3. Purpose of the new rule or reason for the change:
This repeal and reenact change simplifies the process and procedure for initiating and conducting adjudicatory proceedings before the Division of State Parks (Division).
4. Summary of the new rule or change:
This rule provides the process for initiating adjudicatory proceedings before the Division and sets out procedures for conducting Division adjudicatory proceedings. The new language simplifies the process for all Division adjudicatory proceedings and further clarifies how an individual may initiate declaratory adjudicatory proceedings. This new rule also clarifies the adjudicatory proceedings for which an individual may request a hearing.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This proposed rule change is not expected to have a fiscal impact on state government revenues or expenditures. This rule pertains only to initiating and conducting adjudicatory proceedings before the Division and does not directly require the commitment or expenditure of revenues. Accordingly, it is not anticipated that this rule would impact state government revenues, or require state government expenditures, that are not otherwise required by the Utah Administrative Procedures Act.
B) Local governments:
This proposed rule change is not expected to have a fiscal impact on local governments' revenues or expenditures. This rule pertains only to initiating and conducting adjudicatory proceedings before the Division and does not directly require the commitment or expenditure of revenues. Accordingly, it is not anticipated that this rule would impact legal government revenues, or require local government expenditures, that are not otherwise required by the Utah Administrative Procedures Act.

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

This proposed rule amendment is not expected to have a fiscal impact on small businesses' revenues or expenditures, nor will a service be required of them for the implementation of this rule.

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

This proposed rule amendment is not expected to have a fiscal impact on non-small businesses' revenues or expenditures, nor will a service be required of them for the implementation 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**):

This proposed rule amendment is not expected to have a fiscal impact on persons other than small businesses, non-small business, state, or local government entities revenues or expenditures, nor will a service be required of them for the implementation 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?):

There are no compliance costs for affected persons.

This rule pertains only to initiating and conducting adjudicatory proceedings before the Division and does not directly require the expenditure of any costs.

To the extent this rule does require the expenditure of costs, it is anticipated such costs would otherwise be required to comply with the Utah Administrative Procedures Act and thus would be imposed by the statute as opposed to 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	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 Natural Resources, Joel Ferry, 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 63G-4-202	Section 63G-4-201	Subsection 63G-4-201(3)
Subsection 63G-4-203(1)	Subsection 63G-4-203(1)(i)	

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:	07/01/2024
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9. This rule change MAY become effective on:	07/08/2024
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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:	Scott Strong, Director	Date:	04/16/2024
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R651. Natural Resources, ~~State Parks~~ [and Recreation].

R651-101. Adjudicative Proceedings.

[R651-101-1. Authority and Effective Date.

This rule does not apply to an Agency action that is not governed by the Administrative Procedures Act and the laws of the State of Utah, including:

- (a) Subsection 63G-4-102, Administrative Procedures Act; and
- (b) Title 63G, Chapter 6, Utah Procurement Code.

R651-101-2. Definitions.

These definitions are in addition to definitions in Section 63-46b-2.

- (a) "Adjudicative proceeding" means a Division action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all Division actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend the authority, right, permit or license; and judicial review of all such actions. Any matters not governed by Chapter 63-46b shall not be included within this definition.
 - (b) "Board" means the Board of Parks and Recreation.
 - (c) "Director" means the Director of the Division.
 - (d) "Division" means the Division of Parks and Recreation and (as the context requires) its officers, employees, or agents.
 - (e) "Party" means the Division, Director or other person commencing an adjudicative proceeding, all respondents, and all persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.
 - (f) "Presiding officer" means the Director or an individual or body of individuals designated by the Director, rules or statute to conduct a particular adjudicative proceeding.
 - (g) "Respondent" means any person against whom an adjudicative proceeding is initiated, whether by the Division, Director or any other person.
- The meaning of any other words used shall be as defined in Chapters 41-22, 63-11, 73-18, 73-18a or 73-18b; or any rules subsequently promulgated.

R651-101-3. Designation of Informal Proceedings.

All adjudicative proceedings of the Division or Director are hereby designated as informal proceedings.

R651-101-4. Construction.

- (a) These rules shall be construed in accordance with the Utah Administrative Procedures Act, Chapter 63-46b, and supersede any conflicting provision of procedural rules promulgated by the Board or Division.
- (b) These rules shall be liberally construed to secure a just, speedy and economical determination of all issues presented to the Division or Director.
- (c) Deviation from Rules
For good cause, and where no party will be prejudiced, the Division or Director may permit a deviation from these rules except where precluded by statute.
- (d) Computation of Time

The time within which any act shall be done, as herein provided, shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or State holiday, and then it is excluded and the period runs until the end of the next day which is neither a Saturday, Sunday, or State holiday.

R651-101-5. Commencement of Proceedings.

- (a) Proceedings Commenced by the Division or Director.
All informal adjudicative proceedings commenced by the Division or Director, shall be initiated as provided by applicable statute, Division rules, and Section 63-46b-3(2)(a).
- (b) Proceedings Commenced by Persons Other than the Division or Director.
(1) All informal adjudicative proceedings commenced by persons other than the Division or Director shall be commenced by either completing prepared forms requesting agency action on file at the Division or, if no such forms are required to initiate a particular proceeding, by submitting in writing a request for agency action in accordance with Subsection 63-46b-3(2)(e).

R651-101-6. Pleadings.

- (a) Pleadings before the Presiding Officer for administrative hearings shall consist of a notice of agency action, a request for agency action, responses and motions together with affidavits, briefs, memoranda of law and fact in support thereof.
- (b) Motions may be submitted for the Presiding Officer's consideration on either written or oral argument and the filing of affidavits in support or contravention thereof may be permitted. Any written motion shall be accompanied by a short supporting memorandum of fact and law.
- (c) Amendments to Pleadings
The Presiding Officer may allow pleadings to be amended or corrected, and defects which do not affect substantial rights of the parties may be disregarded; provided, however, that applications and other similar documents which are governed by specific statutory provisions shall be amended only as provided by statute.

R651-101-7. Hearings.

- (a) The Division, Director or a Presiding Officer shall hold a hearing if a hearing is required by statute, or if a hearing is permitted by statute and is requested by a party within 30 days of the commencement of the adjudicative proceeding. The Division, Director or a Presiding Officer may at their discretion initiate a hearing to determine matters within their authority.
- (b) Notice of the hearing will be served on all parties by regular mail at least ten (10) days prior to the hearing.
- (c) If no hearing is held in a particular adjudicative proceeding, the Presiding Officer shall within a reasonable time issue a decision pursuant to Subsection 63-46b-5(1)(i).

R651-101-8. Intervention.

Intervention is prohibited except where a federal statute or rule requires that a state permit intervention.

R651-101-9. Pre-hearing Procedure.

The Presiding Officer may, upon written notice to all parties of record, hold a pre-hearing conference for the purposes of formulating or simplifying the issues, obtaining admissions of fact and of documents which will avoid unnecessary proof, arranging for the exchange of proposed exhibits, and agreeing to such other matters as may expedite the orderly conduct of the proceedings or the settlement thereof.

R651-101-10. Continuance.

_____ If application is made to the Presiding Officer within a reasonable time prior to the date of hearing, upon proper notice to the other parties the Presiding Officer may grant a continuance of the hearing.

R651-101-11. Parties to a Hearing.

_____ (a) All persons defined as a "party" are entitled to participate in hearings before the Division or Director.

_____ (b) All parties shall be entitled to introduce evidence, examine and cross-examine witnesses, make arguments, and fully participate in the proceeding.

R651-101-12. Appearances and Representation.

_____ (a) Taking Appearances

_____ Parties shall enter their appearances at the beginning of a hearing or at such time as may be designated by the Presiding Officer by giving their names and addresses and stating their positions or interests in the proceeding.

_____ (b) Representation of Parties

_____ (1) An individual who is a party to a proceeding, or an officer designated by a partnership, corporation, association or governmental subdivision or agency which is a party to a proceeding, may represent his or its interest in the proceeding.

_____ (2) Any party may be represented by an attorney licensed to practice in the State of Utah.

R651-101-13. Failure to Appeal Default.

_____ When a party or his authorized representative to a proceeding fails to appear at a hearing after due notice has been given, the Presiding Officer may continue the matter or may enter an order of default as provided by Section 63-46b-11 or may proceed to hear the matter in the absence of the defaulting party.

R651-101-14. Discovery, Testimony, Evidence and Argument.

_____ (a) Discovery is prohibited and the Division or Director may not issue subpoenas or other discovery orders.

_____ (b) All parties shall have access to information contained in the Division's files of public record and to all materials and information gathered in any investigation, to the extent permitted by law.

_____ (c) Testimony

_____ At the hearing, the Presiding Officer shall accept oral or written testimony from any party. Further, the Presiding Officer shall have the right to question and examine any witnesses called to present testimony at a hearing. The testimony and statements which are received at hearings may, but need not, be under oath.

_____ (d) Order of Presentation of Evidence

_____ Unless otherwise directed by the Presiding Officer at a hearing, the presentation of evidence shall be as follows:

_____ (1) When agency action is initiated by a person other than the Division or Director:

_____ (i) person initiating the action;

_____ (ii) respondent (if any), then

_____ (iii) Division staff.

_____ (2) When the Division or Director initiates agency action:

_____ (i) Division staff;

_____ (ii) respondent, then

_____ (iii) other interested parties (if any).

_____ During any hearing a party may offer rebuttal evidence.

_____ (e) Rules of Evidence

_____ A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial and unduly repetitious evidence shall be excluded. The weight to be given to evidence shall be determined by the Presiding Officer. Any relevant evidence may be admitted if it is the type of evidence commonly relied upon by prudent man in the conduct of their affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible in a judicial proceeding.

_____ (f) Documentary Evidence

_____ Documentary evidence may be received in the form of copies or excerpts. However, upon request, parties shall be given an opportunity to compare the copy with the original.

_____ (g) Official Notice

_____ The Presiding Officer may take official notice of the following matters:

_____ (1) Rules, regulations, official reports, written decisions, orders or policies of the Board, Division or any other regulatory agency, state or federal;

_____ (2) Official documents introduced into the record by proper reference; provided, however such documents shall be made available so that the parties to the hearing may examine the documents and present rebuttal testimony if they so desire;

_____ (3) Matters of common knowledge and generally recognized technical or scientific facts within the Division's or Director's specialized knowledge and of any factual information which the Presiding Officer may have gathered from a field inspection.

_____ (h) Oral Argument and Memoranda

_____ Upon the conclusion of the taking of evidence, the Presiding Officer may, in his discretion, permit the parties to make oral arguments setting forth their positions and also to submit written memoranda within the time specified by the Presiding Officer.

R651-101-15. Record of Hearing.

_____ (a) A record of any hearing shall be recorded at the Division's expense. When a record is made by the Division, it shall be done by means of an automatic recording device. Any party, at his own expense, may have a reporter approved by the Division prepare a transcript from the record of the hearing.

_____ (b) If a party desires that the testimony be recorded by means of a court reporter, that party may employ a court reporter at his own expense and shall furnish a transcript of the testimony to the Division free of charge. This transcript shall be available at the Division office to any party to the hearing.

R651-101-16. Decisions and Orders.

_____ (a) Report and Order

_____ After the Presiding Officer has reached a final decision upon any adjudicative proceeding, he shall make and enter a signed order in writing that states the decision, the reasons for the decision, a notice of the rights of the parties to request Division or Director review reconsideration or judicial review, as appropriate, and notice of the time limits for filing a request for review, reconsideration or a court appeal. The order shall be based on the facts appearing in any of the Division's files and on the facts presented in evidence at any hearings.

_____ (b) Service of Decisions

_____ A copy of the Presiding Officer's order shall be promptly mailed by regular mail to each of the parties.

R651-101-17. Agency Review.

~~Who may file~~
~~(a) Where the agency action is taken by a Presiding Officer other than the Director, any aggrieved party may seek review of an order or decision, to the Director as the case may be, by following the procedures of Section 63-46b-12 and the following additional rules. Such review shall be considered a prerequisite for judicial review. The requests for review shall be to the Director, as provided by law.~~

~~(b) Filing of Request for Review.~~
~~(1) Requests for review of agency action within the statutory or regulatory purview of the Division shall be filed with the Director within ten days after the issuance of the order.~~

~~(c) Action on the Request for Review~~
~~(1) Where the request for review is to the Director, the request shall be reviewed by the Director.~~

~~(2) Unless otherwise provided by law, all reviews shall be based on the record before the Presiding Officer. In order to assist in review, parties, upon request, may be allowed to file briefs or other documents explaining their position.~~

~~(3) Parties shall not be entitled to a hearing on review, except as allowed by law; provided, however, that the Director may, in his discretion, grant a hearing for their benefit to assist them in the review. Notice of any hearing shall be mailed to all parties at least 10 days prior to the hearing.~~

~~(d) Action on Review~~
~~Within a reasonable time after the filing of any response, other filings, or after any hearing, the Director shall issue a written order on review which shall be signed by the Director and shall be mailed to each party. The order shall contain the items, findings, conclusions and notices more fully set forth in Subsection 63-46b-12(6)(e).~~

R651-101-18. Request for Reconsideration.

~~(a) Who may file~~
~~Within ten days after the date that an order on review is issued, any aggrieved party may file a request for reconsideration by following the procedures of Section 63-46b-13 and the following additional rules. Such a request is not a prerequisite for judicial review.~~

~~(b) Action on the Request~~
~~The Director shall issue a written order granting or denying the request for reconsideration. If such an order is not issued within 20 days after the filing of the request, the request for rehearing shall be considered denied. Any order granting rehearing shall be strictly limited to the matter specified in the order.~~

R651-101-18. Judicial Review.

~~Any party aggrieved by final agency action may obtain judicial review of such action pursuant to sections 63-46b-14 and 15, except where judicial review is expressly prohibited by statute. A petition for judicial review shall be filed within 30 days after the date that the order constituting final agency action is issued.~~

R651-101-20. Declaratory Orders.

~~An interested person may file a request for agency action requesting that the Division or Director issue a declaratory order determining the applicability of any statute, rule, or order within the primary jurisdiction of the Board, Division or Director pursuant to Section 63-46b-21. A request for a declaratory order shall set forth in detail the specific statute, rule, or order which is in question, the specific facts for which the order is requested, the manner in which the person making the request claims the statute, rule, or order may~~

~~affect him, and the specific questions for which a declaratory order is requested.~~

~~The Division or Director may in their discretion decline to issue declaratory orders where they deem the facts presented to be conjectural, or where the public interest would best be served by not issuing such order.~~

R651-101-21. Emergency Orders.

~~The Division or Director may issue an order on an emergency basis without complying with these rules under the circumstances and procedures set forth in Section 63-46b-20.]~~

R651-101-1. Designation and Procedures.

~~(1) Pursuant to Section 63G-4-202 the division designates all adjudicatory proceedings before the division as informal.~~

~~(2) The division shall commence an adjudicatory proceeding as provided by Section 63G-4-201.~~

~~(3) A person other than the division shall commence an adjudicatory proceeding by submitting a written request for agency action to the division director in accordance with Subsection 63G-4-201(3).~~

~~(4) The division shall conduct an informal adjudicatory proceeding according to the procedures set out in Subsection 63G-4-203(1).~~

R651-101-2. Pleadings, Hearings, and Decisions.

~~(1) A person may submit an answer or response to a notice of agency action, or the division may submit an answer or response to a request for agency action, within 14 days of the date the notice of agency action or request for agency action is filed.~~

~~(2) The division shall hold a hearing only if a hearing is required by statute.~~

~~(3) Within a reasonable time after the division or a person files an answer or response pursuant to Subsection (1) or, if no answer or response is filed, within a reasonable time after the notice of agency action or request for agency is filed, the presiding officer shall issue a signed order pursuant to the procedures set out in Subsection 63G-4-203(1)(i).~~

R651-101-3. Presiding Officer.

~~(1) The division director shall be the presiding officer for all adjudicative proceedings before the division.~~

~~(2) The division director may, at the director's discretion, designate another person to serve as the presiding officer in any adjudicatory proceeding before the division.~~

R651-101-4. Declaratory Proceedings.

~~(1) A person may petition the division to issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the division.~~

~~(2) A person shall ensure a petition:~~

~~(a) is clearly designated as a request for an agency declaratory order;~~

~~(b) identifies the statute, rule, or order to be reviewed;~~

~~(c) states the factual issue, situation, or circumstance in which applicability is sought;~~

~~(d) describes the reason or need for the applicability review, including the specific relationship of the requested declaratory order to the legal rights, interests, and objectives of the petitioner;~~

~~(e) includes the petitioner's address and telephone number;~~

NOTICES OF PROPOSED RULES

(f) provides the contact information for other persons or parties the petitioner considers will be directly affected by the issuance of a declaratory order; and

(g) is signed by the petitioner or the petitioner's authorized representative.

(3)(a) Upon receipt of a petition, the director or the director's designee shall review the petition to ensure it complies with the requirements of Subsection (2).

(b) If the director or the director's designee determines the petition does not comply with the requirements of Subsection (2), the director or the director's designee shall return the petition to the petitioner.

(c) If the director or the director's designee determines the petition is complete, the director or the director's designee shall review the petition and, within a reasonable amount of time, issue a written order that:

(i) states the applicability or non-applicability of the statute, rule, or order at issue; and

(ii) provides the reason or reasons the statute, rule, or order is applicable or non-applicable.

KEY: administrative procedures

Date of Last Change: 2024[April 21, 2010]

Notice of Continuation: December 11, 2019

Authorizing, and Implemented or Interpreted Law: 63G-4-102

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R651-634	Filing ID: 56440

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple	
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 persons listed above.		

General Information

2. Rule or section catchline:
R651-634. Nonresident OHV User Permits and Fees

3. Purpose of the new rule or reason for the change:
This rule content is being moved to the Division of Outdoor Recreation.
4. Summary of the new rule or change:
This rule is being repealed in its entirety and is being enacted in the Division of Outdoor Recreation as Rule R650-414.
(EDITOR'S NOTE: The proposed new Rule R650-414 is under ID 56439 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation as Rule R650-414 and will have no effect on the Division of State Parks.
B) Local governments:
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal of this rule does not affect non-small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
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 repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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	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 Natural Resources, Joel Ferry, 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 41-22-35	Section 79-4-304	
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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:	06/14/2024
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9. This rule change MAY become effective on:	06/21/2024
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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:	Scott Strong, Interim Director	Date:	02/08/2024
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R651. Natural Resources, Parks and Recreation.
[R651-634. Nonresident OHV User Permits and Fees.
R651-634 1. User Permits and Fees.

~~Except as provided below, any nonresident owning an off-highway vehicle, who operates or gives another person permission to operate the off-highway vehicle on any public land, trail, street or highway in this state, shall pay an annual off-highway vehicle user fee.~~

~~1. A decal will be issued which proves payment has been made. The decal will then be displayed on the off-highway vehicle as follows: On snowmobiles, the decal shall be mounted on the left side of the hood, pan or tunnel. On motorcycles, the decal shall be mounted on the left fork, or on the left side body plastic. On all-terrain vehicles, the decal shall be mounted on the rear of the vehicle. Vehicle types are defined in 41-22-2 UCA. In all instances, the decal shall be mounted in a visible location. The decal shall be non-transferable.~~

~~2. A receipt will be issued with the decal indicating the fee paid, the Vehicle Identification Number (VIN) of the off-highway vehicle, and the off-highway vehicle owner's name and address. This receipt shall remain with the off-highway vehicle at all times.~~

~~3. Fees charged will be in accordance with S.B. 14 (1999 Utah Laws 1, effective July 1, 1999), and H.B. 51 (2004 Utah Laws, Chapter 314, effective July 1, 2004) which state that the off-highway vehicle user annual fee will be \$30 per year.~~

~~4. Nonresident OHV user permits shall continue in effect for a period of 12 months beginning with the first day of the calendar month of purchase, and shall not expire until the last day of the same month in the following year.~~

NOTICES OF PROPOSED RULES

~~Applicants for a nonresident OHV user permit shall provide evidence that the applicant is the owner of the off highway vehicle, and is not a resident of Utah. Such evidence shall include:~~

~~a. A government issued identification card showing the state of residency of the off highway vehicle owner, and one of the following:~~

~~(1) A title or certificate of registration from a state other than Utah.~~

~~(2) An original bill of sale; or~~

~~b. A sworn affidavit stating that the off highway vehicle is owned by a nonresident of the State of Utah. The affidavit must state the name and address of the vehicle owner, and a description of the off highway vehicle, including the Vehicle Identification Number (VIN).~~

~~Provisions of this rule shall not apply to off highway vehicles exempt under 41-22-35(1)(b)(i), or to off highway vehicles participating in scheduled competitive events sponsored by a public or private entity, or in noncompetitive events sponsored in whole or in part by any governmental entity; or to Street Legal All terrain Vehicles as defined in 41-6a-102(61), and registered for highway use in a state that offers reciprocal highway operating privileges to Utah residents operating Street Legal All Terrain vehicles.~~

~~Provisions of this rule shall not apply to off highway vehicles owned by an off highway vehicle manufacturer and being operated exclusively for the purpose of an off highway vehicle manufacturer sponsored event; provided that the operator of the vehicle has in his or her possession a letter or certificate issued by the manufacturer which contains the following information:~~

~~(1) The name, address and contact information of the off highway vehicle manufacturer; and~~

~~(2) A physical description of the vehicle, including the vehicle identification number or another number assigned by the manufacturer for identification purposes; and~~

~~(3) A brief description of the manufacturer sponsored event, including the dates thereof; and~~

~~(4) The name of the authorized operator(s) and~~

~~(5) An authorized signature of a manufacturer's representative.~~

~~KEY: parks~~

~~Date of Last Change: January 15, 2020~~

~~Notice of Continuation: December 11, 2019~~

~~Authorizing, and Implemented or Interpreted Law: 41-22-35; 79-4-304]~~

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R652-122	Filing ID: 56438
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Agency Information

1. Department:	Natural Resources
Agency:	Forestry, Fire and State Lands
Room number:	3520
Building:	DNR
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84114-5703

Contact persons:		
Name:	Phone:	Email:
Emily Hawley	385-441-6667	ehawley@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R652-122. Cooperative Agreements

3. Purpose of the new rule or reason for the change:
The purpose of this rule change is to address recent changes to Sections 65A-8-203.3; 65A-8-203.4; and Subsection 65A-8-203.2(3) as a result of the passage of H.B. 437, Fire Amendments, during the 2024 General Session.

4. Summary of the new rule or change:
The proposed amendments are necessary to clarify the requirements for a county, city, or town to enter into a cooperative fire protection agreement with the Division of Forestry, Fire and State Lands (Division) and to address recent Utah Code changes to Sections 65A-8-203.3 and 65A-8-203.4 as a result of the passage of H.B. 437 (2024).

Changes to Sections 65A-8-203.3 and 65A-8-203.4 provide clarifying language that a country or municipality that is not covered by a cooperative fire protection agreement with the Division may enter into such an agreement if they:

- (a) file with the Division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;
- (b) meet the eligibility entity's participation commitment by making direct payments to the Division;
- (c) or do a combination of (a) and (b).

In addition, the recent change to Subsection 65A-8-202.3(3) with the passage of H.B. 437 (2024), provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations.

To be in alignment with this code change, the proposed rule changes clarify that the cost of wildfire suppression to a county or municipality that is not covered by a cooperative agreement with the Division shall be calculated by determining the number of acres burned within the borders of a county or municipality, dividing that number by the total number of "nonfederal" acres burned by a wildfire, and multiplying the resulting percentage by the state's total cost of wildfire suppression for that wildfire.

The proposed rule change is needed to reflect the recent change to Subsection 65A-8-202.3(3) which provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations. This distinction needs to

be made because costs associated with federal acres that are burned are already covered by federal agencies and not covered by the state.

Fiscal Information

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

A) State budget:

This rule change should have no impact on the state budget.

Payments will not change for a county, city, or town that are not covered by a cooperative agreement with the Division. The rule change provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations rather than including federal acres. Federal acres burned are already covered by federal agencies.

The proposed amendments make the process clearer in this rule and remove previous ambiguity. It does not provide savings or impact costs, but ensures the costs are calculated accurately.

B) Local governments:

This rule change clarifies how costs of wildland fire suppression specific to some local governments is calculated. While it does not provide savings or impact costs, it ensures the costs are calculated accurately.

Payments will not change for a county, city, or town that are not covered by a cooperative agreement with the Division. This rule change provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations rather than including federal acres. Federal acres burned are already covered by federal agencies and are not duplicated by the state.

The proposed amendments make the process clearer in this rule and eliminate previous ambiguity to ensure costs are calculated accurately.

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

This rule change will not have a fiscal impact on small businesses. This rule pertains only to a county, city, or town and will not aggregate costs or savings.

This rule change provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations rather than including federal acres. Federal acres burned are already covered by federal agencies and are not duplicated by the state.

The proposed amendments make the process clearer in this rule and remove previous ambiguity to ensure costs are calculated accurately.

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

The proposed rule change does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement the amendments.

This rule pertains only to a county, city, or town and will not aggregate costs or savings. This rule change provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations rather than including federal acres. Federal acres burned are already covered by federal agencies.

The proposed amendments make the process clearer in this rule and remove previous ambiguity to ensure costs are calculated accurately.

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 change will not have a fiscal impact on "persons". Payments will not change for a county, city, or town that are not covered by a cooperative agreement with the Division.

The rule change provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations rather than including federal acres. Federal acres burned are already covered by federal agencies.

The proposed amendments make the process clearer in this rule and remove previous ambiguity. It does not provide savings or impact costs, but ensures the costs are calculated accurately.

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 with this proposed rule change.

Payments will not change for a county, city, or town that are not covered by a cooperative agreement with the Division. The rule change provides clarification that "nonfederal" acres burned by a wildfire should be used for calculations rather than including federal acres. Federal acres burned are already covered by federal agencies and not covered by the state.

The proposed amendments makes the process clearer in this rule and take out any previous ambiguity to ensure costs are calculated accurately.

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	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 Natural Resources, Joel Ferry, 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 65A-8-203(5)(b)	Section 65A-8-203.3	Section 65A-8-207
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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: 06/14/2024

9. This rule change MAY become effective on: 06/21/2024

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:	Joel Ferry, Executive Director	Date:	04/24/2024
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R652. Natural Resources; Forestry, Fire and State Lands.

R652-122. Cooperative Agreements.

R652-122-100. Authority.

This rule implements [s]Subsection 65A-8-203(5)(b), which authorizes the [D]division to make rules concerning cooperative agreements; [s]Subsection 65A-8-203(4)(a) and [s]Subsection 65A-8-203(3)(b) which require the [D]division to establish minimum standards for a county wildland fire ordinance and to specify minimum standards for wildland fire training, certification, and wildland fire suppression equipment; [subs]Section 65A-8-203.1, which defines delegation of fire management authority, and Section 65A-8-203.2, which concerns billing for costs of wildland fire suppression for counties or municipalities that do not have a cooperative agreement with the [D]division.

R652-122-200. Cooperative Agreements.

1. The governing body of any eligible entity, as defined in Subsection R652-1-200(13), may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance, as described in Title 65A-8-2, Part 2 Fire Control.

2. The [D]division shall determine the provisions of the cooperative agreement consistent with statutory requirements.

3. A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements.

~~4. An eligible entity may not receive financial cooperation or financial assistance until the cooperative agreement is executed by the eligible entity and the division.~~

(a) the state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with the cooperative agreement with the division.

[5]4. A county or municipality that has not entered into a cooperative agreement with the division, as described in Title R652 ~~herein~~, or whose Cooperative Agreement has been revoked shall be responsible for wildland fire costs within the county or municipality jurisdiction as outlined in Section R652-120-1000.

[6]5. ~~In order to~~ To enter into a cooperative agreement an eligible entity shall:

(a) if the eligible entity is a county, adopt and enforce unincorporated land and wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission.

(b) agree to require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet the minimum standards for wildland fire training, certification and suppression equipment based upon nationally accepted standards as specified by the division;

(c) agree to a participation commitment which requires investment in prevention, preparedness, and mitigation efforts as agreed to with the division intended to reduce the eligible entity's risk of catastrophic wildfire;

(d)(i) agree to file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs.

(ii) meet the eligibility entity's participation commitment by making direct payments to the division; or

(iii) do a combination of Subsections R652-122-200(5)(d)(i) and (ii);

(e) agree to return the financial statement described in Subsection ([6]5), signed by the chief executive officer of the eligible entity, to the division on or before the date set by the division.

(f) if the eligible entity is a county, agree to have a designated fire warden as described in Section 65A-8-209.1.

[7]6. The division shall:

(a) send an Annual Statement to each eligible entity that details the eligible entity's participation commitment for the coming fiscal year, including the preparedness, prevention, and mitigation actions agreed to in Subsection [6](5)(c).

(b) financial statements shall be effective for one calendar year, beginning on the date set by the division.

R652-122-300. Determination of Participation Commitment.

1. The [D]division shall determine a participation commitment for each entity with a cooperative agreement participating in the wildland fire suppression fund.

2. The participation commitment will be calculated by adding the Risk Assessment by Acres to the Historic Fire Cost Average in each jurisdiction.

3. An entity may appeal the participation commitment determination to the State Forester by informing the division in writing of the entity's disagreement with the [D]division's determination and stating the reasons for the disagreement.

4. The State Forester may hold an informal hearing or request additional information. After deliberation, the State Forester shall make a final determination of the participation commitment and communicate it to the entity.

R652-122-400. Determination of Risk Assessment by Acres.

1. The Risk Assessment by Acres is calculated using the [D]division's "Utah Wildfire Risk Assessment Portal" (UWRAP).

(a) county "high risk" (red) acres are assessed at \$0.40[~~f~~] per acre and county "medium risk" (yellow) acres are assessed at \$0.30[~~f~~] per acre.

(b) municipal "high risk" (red) acres are assessed at \$3.50[~~f~~] per acre and municipal "medium risk" (yellow) acres are assessed at \$2[~~.00~~] per acre

2. UWRAP will be updated every two years by FFSL, as data sources and technology allow, to maintain the most current and defensible risk assessment.

R652-122-500. Determination of Historic Fire Cost Average.

1. Only wildfire suppression costs that are accrued and paid by the [S]state on behalf of a participating entity are counted toward that entity's Historic Fire Cost Average, this includes [S]state-

paid costs after a Delegation of Fire Management Authority and Transfer of Fiscal Responsibility has occurred.

2. The historic fire cost average is calculated on a rolling ten-year average, dropping the highest and lowest cost years and adjusting for inflation, [~~f~~]using the CPI[~~);~~]; therefore, each ten-year average will have eight data points.

3. The historic fire cost average includes only suppression costs for which that entity who has fire suppression responsibility and taxation authority.

4. A county's historic fire cost average will only include state-paid suppression costs on all unincorporated land other than federal and state.

5. A municipality's historic fire cost average will only include state-paid suppression costs on all incorporated land other than federal and state.

6. An entity with both county and municipality responsibilities will include state-~~paid~~ suppression costs on all unincorporated land other than federal, within a county and state-~~paid~~ suppression costs on all incorporated land other than federal, within their jurisdiction.

R652-122-600. Annual Participation Commitment Report.

1. An entity may meet its participation commitment requirement either through direct expenditure of funds, or by "in-kind" expenditures in support of prevention, preparedness, or mitigation efforts including:~~[-but not limited to,]~~ prevention material costs, fuels crew labor costs, and other expenditures determined by the [D]division to be eligible toward[s] the participation commitment.

2. The participating entity is responsible to record and account for its participation commitment actions and expenditures and to provide an annual accounting to the [D]division for review and approval.

3. The participating entity shall provide an annual participation commitment report to the [D]division detailing the actual expenditures and activities in compliance with the participation commitment during the fiscal year.

4. The [D]division may request additional information related to participation expenditures and actions.

R652-122-700. Participation Commitment Carry-Over.

1. The value of Participation Commitment actions may, in certain instances, "carry-over" to the next fiscal year with the approval of the respective FFSL Area Manager.

2. It is the responsibility of the Participating Eligible Entity to receive approval from their respective FFSL Area Manager in advance of pursuing a carry-over and account for, track and report the carry-over from year to year.

3. Decisions of the Area Manager may be appealed to the State Forester. The State Forester may hold a hearing or request additional information before making a final decision.

R652-122-800. Annual Participation Commitment Statement.

1. Every year, after the fire business and accounting for the prior year is finalized, the [D]division will send to each participating eligible entity an Annual Financial Statement containing the determination of the calculated Participation Commitment for the entity's coming fiscal year.

2. The Participating Eligible entity's chief executive officer must then sign and return the Annual Participation Commitment Statement to the [D]division by a due date determined by the

[D]division, thereby acknowledging the entity's participation for the coming fiscal year.

3. Unless the division has approved an extension, if an entity fails to return the signed Annual Participation Commitment Statement to the [D]division by the due date, the cooperative agreement shall be considered revoked and the entity shall be withdrawn from participation in the wildland fire suppression fund.

R652-122-900. Revocation of Cooperative Agreement.

1. An eligible entity may revoke a cooperative agreement before the end of the agreement's term by:

(a) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(b) failing to sign and return [the] annual participation commitment statement as described in Section R652-122-800[+20-400(5)(e)], unless an extension has been granted by the division.

2. A cooperative agreement may not be revoked before the end of the fiscal year if the participating entity signed and returned an Annual Participation Commitment Statement. The revocation will be effective the next fiscal year.

3. The [D]division may revoke a cooperative agreement only pursuant to [D]division rules and the terms of the cooperative agreement.

4. An eligible entity whose cooperative agreement has been revoked shall be responsible for the costs of wildfire suppression within in its jurisdiction for any time period during which the entity failed to meet the requirements of the cooperative agreement.

R652-122-1000. Allocation of Wildland Fire Suppression Costs to Entity Without Valid Cooperative Agreement.

1. The division shall bill an entity that has not entered into a cooperative agreement with the division as described in Section 65A-8-203, or whose agreement has been revoked pursuant to Section R652-121-900, for the cost of wildfire suppression accrued by the state within the jurisdiction of that entity.

2. The cost of wildfire suppression to an entity that has not entered into a cooperative agreement with the division as described in Section 65A-8-203, or whose agreement has been revoked pursuant to Section R652-121-900, shall be calculated by determining the number of acres burned within the borders of the entity, dividing that number by the total number of nonfederal acres burned by a wildfire, and multiplying the resulting percentage by the state's total cost of wildfire suppression for that wildfire.

3. An entity that receives a bill from the division, pursuant to [these rules] Title R652, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the bill, subject to the entity's right to appeal, as described in Subsection 65A-8-203(5)(b)(vi).

R652-122-1100. Accounting System for Determining Suppression Costs.

Suppression costs for a wildland fire shall be calculated by determining the number of acres burned within the jurisdictional boundary of the entity, dividing that number by the total number of nonfederal acres burned by a wildfire, and multiplying the resulting percentage by the state's total cost of wildfire suppression for that wildfire.

R652-122-1200. Delegation of Fire Management Authority.

1. Delegation of Fire Management Authority occurs when:

(a) State or Federally owned lands are involved in the incident; or,

(b) firefighting resources are ordered through an Interagency Fire Center [f]beyond "pre-planned dispatch"[j]; [oe]

(c) at the request of the participating entity, [f]local fire official on scene[j] having jurisdiction; or[j]

(d) at the discretion of the State Forester after consultation with local authorities.

R652-122-1300. Minimum Standards for County Wildland Fire Ordinance.

(1) The division uses the International Urban-Wildland Interface Code as a basis for establishing the minimum standards discussed in this document.

(2) The [D]division incorporates by reference the 2003 International Code Council Urban-Wildland Interface Code as the minimum standard for wildland fire ordinance with these exceptions:

(a) Section 101.1 Delete;

(b) Section 101.3 Delete "The extent of this regulation is intended to be tiered commensurate with the relative level of hazard present[-]";

(c) Section 101.3 Second paragraph, substitute "development and" for "unrestricted";

(d) Section 101.4 Delete Exception;

(e) Section 101.5 In the Exception, delete "section 402.3";

(f) Section 105.2 Delete "For buildings or structures erected for temporary uses, see Appendix A, Section A108.3, of this code";

(g) Section 105.2 Add a number 15 to the list of activities that need a permit to read "Or other activities as determined by the code official";

(h) Section 202 Delete "Critical Fire Weather, Ignition-Resistant Construction Class 1,2 and 3, Urban-Wildland Interface area";

(i) Section 202 "See Critical Fire Weather" from Fire Weather definition;

(j) Section 202 Replace Fuel, Heavy definition with "Vegetation consisting of round wood 3 inches (76 mm) or larger in diameter. The amount of fuel (vegetation) would be 6 tons per acre or greater[-]";

(k) Section 202 Replace Fuel, Light definition with "Vegetation consisting of herbaceous and round wood less than 1/4 inch (6.4 mm) in diameter. The amount of fuel (vegetation) would be 1/2 ton to 2 tons per acre[-]";

(l) Section 202 Replace Fuel, Medium definition with "Vegetation consisting of round wood 1/4 to 3 inches (6.4mm to 76 mm) in diameter. The amount of fuel (vegetation) would be 2 to 6 tons per acre[-]";

(m) Section 202 Add the term Legislative Body with the following definition: "The governing body of the political jurisdiction administering this code";

(n) Section 202 Add the term Brush, Tall with the following definition: "Arbor-like varieties of brush species and/or short varieties of broad-leaf trees that grow in compact groups or clumps. These groups or clumps reach heights of 4 to 20 feet. In Utah, this includes primary varieties of oak, maples, chokecherry, serviceberry and mahogany, but may also include other species[-]";

(o) Section 202 Add the term Brush, Short with the following definition: "Low-growing species that reach heights of 1 to 3 feet. Sagebrush, snowberry, and rabbitbrush are some varieties";

(p) Section 202 Add the term Wildland Urban Interface with the following definition "The line, area or zone where structures or other human development (including critical infrastructure that if

destroyed would result in hardship to communities[?] meet or intermingle with undeveloped wildland or vegetative fuel[-]";

(q) Section 301 Delete;

(r) Section 302.1 Replace with " The legislative body shall declare the urban-wildland interface areas within the jurisdiction. The urban wildland interface areas shall be based on the maps created through Section 302[-]";

(s) Section 302.2 Replace with " In cooperation, the code official and the Division of Forestry, Fire and State Lands (FFSL) wildfire representative, [ç]per participating agreement between county and FFSL[-] will create or review Wildland-Urban Interface area maps, to be recorded and filed with the clerk of the jurisdiction. These areas shall become effective immediately thereafter[-]";

(t) Section 302.3 Add "and the FFSL wildfire representative" between "official" and "shall"[-];

(u) Section 402.3 Delete;

(v) Section 403.2 Delete Exception;

(w) Section 403.3 Replace "typically used to respond to that location" to "to protect structures and wildlands";

(x) Section 403.7 Add "It will be up to the code official to ascertain the standard based on local fire equipment, grade not to exceed 12%";

(y) Section 404.1 Delete "or as required . . . with Section 402.1.2";

(z) Section 404.1 Delete Exception;

(aa) Section 404.3 Delete "The draft site shall have emergency . . . with Section 402[-]";

(bb) Section 404.5 Replace "as follows: determined" with "by the local jurisdiction. NFPA 1142 may be used as a reference[-]";

(cc) Section 404.5.1 Delete entire section including Exception;

(dd) Section 404.5.2 Delete entire section including Exception;

(ee) Section 404.6 Replace with "The water system required by this code can only be considered conforming for purposes of determining the level of ignition-resistant construction (see Table 503.1)[-]";

(ff) Section 404.8 Delete the words "and hydrants";

(gg) Section 404.9 After " . . . periodic tests as required by the code official." add the sentences "Code official shall establish a periodic testing schedule. Costs are to be covered by the water provider[-]";

(hh) Section 404.9 After the last sentence, add "Mains and appurtenances shall be installed in accordance with NFPA 24. Water tanks for private fire protection shall be installed in accordance with NFPA 22. Costs are to be covered by the water provider.";

(ii) Section 404.10.3 After " . . . dependent on electrical power" add "supplied by power grid" and after " . . . demands shall provide . . ." add "functional";

(jj) Section 404.10.3 Replace "Exceptions" in its entirety with "When approved by the code official, a standby power supply is not required where the primary power service to the stationary water supply facility is underground or on-site generator.";

(kk) Section 405 Before Section 405.1 Add "The purpose of the plan is to provide a basis to determine overall compliance with this code, for determination of Ignition-Resistant Construction (IRC), [ç]see Table 503.1[-] and for determining the need for alternative materials and methods[-]";

(ll) Section 405.1 After "When required by a code official, a fire protection plan shall be prepared" add the words "and approved ~~before~~[prior to] the first building permit issuance or subdivision approval[-]";

(mm) Chapter 5, Delete Table 502;

(nn) Section 505.2 Replace "Class B roof covering" with "Class A roof covering";

(oo) Section 506.2 replace "Class C roof covering" with "Class A roof covering";

(pp) Section 602 Delete;

(qq) Section 603.2 Replace "for the purpose of Table 503.1" with "for individual buildings or structures on a property";

(rr) Section 603.2 Replace "10 feet or to the property line" with "30 feet or to the property line";

(ss) Section 603.2 replace "along the grade" with "on a horizontal plane";

(tt) Section 603.2 replace "may be increased" with "may be modified";

(uu) Section 603.2 Delete "crowns of trees and structures";

(vv) Add new Section 603.3 titled "Community fuel modification zones" with the following text: Fuel modification zones to protect new communities shall be provided when required by the code official in accordance with Section 603 [~~in order~~]to reduce fuel loads adjacent to communities and structures[-];

(ww) Add new Section 603.3.1 titled "Land ownership" with the following text: Fuel modification zone land used to protect a community shall be under the control of an association or other common ownership instrument for the life of the community to be protected[-];

(xx) Add new Section 603.3.2 titled "Fuel modification zone plans" with the following text: Fuel modification zone plans shall be approved ~~before~~[prior to] fuel modification work and shall be placed on a site grading plan shown in plan view. An elevation plan shall also be provided to ~~show~~[indicate] the length of the fuel modification zone on the slope. Fuel modification zone plans shall include, [~~but not be limited to~~]the following:

(i) Plan showing existing vegetation;

(ii) Photographs showing natural conditions ~~before~~[prior to] work [~~being~~]is performed;

(iii) Grading plan showing location of proposed buildings and structures, and set[-]backs from top of slope to all buildings or structures;

(yy) Section 604.1 Add "annually, or as necessary" after "maintained";

(zz) Section 604.4 First sentence should read "Individual trees and/or small clumps of trees or brush crowns extending to within . . . ";

(aaa) Section 607 change "20 feet" to "30 feet";

(bbb) Chapter 7 Delete;

(ccc) Appendix A is included as optional recommendations rather than mandatory;

(ddd) Appendix B Last sentence changed to "Continuous maintenance of the clearance is required.";

(eee) Appendix C Below title, add "This appendix is to be used to determine the fire hazard severity.";

(fff) Appendix C-A1. Change to "One-lane road in, one-lane road out" and points change to 1, 10 and 15[-];

(ggg) Appendix C-A2. Points change to 1 and 5;

(hhh) Appendix C-A3 Change to 3 entries: Road grade 5% or less, road grade 5-10% and road grade greater than 10%, with points at 1,5 and 10, respectively[-];

(iii) Appendix C-A4. Points are now 1, 5, 8 and 10;

(jjj) Appendix C-A5 Change to "Present but unapproved" for 3 points, and "not present" for 5 points;

(kkk) Appendix C-B1. Fuel Types change to "Surface" and "Overstory". Surface has 4 categories -- Lawn/noncombustible,

NOTICES OF PROPOSED RULES

Grass/short brush, Scattered dead/down woody material, Abundant dead/down woody material; and the points are 1, 5, 10 and 15, respectively. Overstory has 4 categories -- Deciduous trees (except tall brush), Mixed deciduous trees and tall brush, Clumped/scattered conifers and/or tall brush, Contiguous conifer and/or tall brush; and the points are 3, 10, 15 and 20, respectively[-];

(lll) Appendix C-B2. The 3 categories are changed to "70% or more of lots completed", "30% to 70% of lots completed" and "Less than 30% of lots completed" and the points would be 1, 10 and 20, respectively[-];

(mmm) Appendix C-C Replace first category with "Located on flat, base of hill, or setback at crest of hill"; Replace second category with "On slope with 0-20%grade"; Replace third category with "On slope with 21-30% grade"; Replace fourth category with "On slope with 31%grade or greater"; Add fifth category that reads "At crest of hill with unmitigated vegetation below"; replace the points with 1, 5, 10, 15 and 20 for the five categories[-];

(nnn) Appendix C-E. Change the points to 1, 5, 10, 15 and 20[-];

(ooo) Appendix C-F. Drop down the second and third categories to third and fourth and insert new second category to read "Combustible siding/no deck"; The points for the four categories are 1, 5, 10 and 15[-];

(ppp) The new totals for "Moderate Hazard" are 50-75; "High Hazard" are 76-100; "Extreme Hazard" are 101+[-]; and

(qqq) Appendices D-H Delete.

R652-122-1400. Minimum Standards for Wildland Fire Training.

1. At a minimum, the Participating Entity will ensure that firefighters providing Initial Attack to wildland fire within the Participating Entity's jurisdiction will be trained in NWCG S130 Firefighter Training and S190 Introduction to Wildland Fire Behavior. FFSL also recommends S215 Wildland Urban Interface Firefighting Operations.

(a) This includes firefighters who are directly involved in the suppression of a wildland fire; firefighters on scene who have supervisory responsibility or decision-making authority over those involved in the suppression of a wildland fire; or individuals who have fire suppression responsibilities within close proximity of the fire perimeter.

(b) This does not include a person used as a courier, driver of a vehicle not used for fire suppression, or a person used in a non-tactical support or other peripheral function not in close proximity to a wildland fire.

(c) Upon the Delegation of Fire Management Authority, Firefighters not certified by the Utah Fire Certification Council as Wildland Firefighter I will be released from Initial Attack or reassigned to other firefighting duties.

R652-122-1500. Minimum Standards for Wildland Firefighting Equipment.

(1) The following standards are applicable to equipment used by fire departments representing those counties who have cooperative wildland fire protection agreements with the [S]state[-of Utah]. This includes county fire departments and other fire departments which are contracted with the counties to provide fire protection on private wildland. The Utah Division of Forestry, Fire and State Lands has determined that this standard be met by June 1, 2006.

(2) Engines and water tenders used on private wildland fires within the county's jurisdiction will meet the standard for the type of equipment plus appropriate hand tools and water handling equipment as determined by the National Wildfire Coordinating Group.

[TABLE 1
Engines

Component	Type 1	Type 2	Type 3
Pump Rating (gpm)	1,000+ @	250+ @	150+ @
	150 psi	150 psi	250 psi
Tank Capacity (gal)	400+	400+	500+
Hose 2.5 inch	1,200 ft	1,000 ft	
Hose 1.5 inch	400 ft	500 ft	500 ft
Hose 1 inch			500 ft
Ladders	48 ft	48 ft	
Master Stream (gpm)	500		
Personnel (minimum)	4	3	2
Component	Type 4	Type 5	Type 6
Pump Rating (gpm)	50 @	50 @	30 @
	100 psi	100 psi	100 psi
Tank Capacity (gal)	750+	400 - 750	150 - 400
Hose 2.5 inch			
Hose 1.5 inch	300 ft	300 ft	300 ft
Hose 1 inch	300 ft	300 ft	300 ft
Ladders			
Master Stream (gpm)			
Personnel (minimum)	2	2	2]

TABLE 1
Engines

Component	Type 1	Type 2	Type 3
Pump Rating - gpm	1,000+ @ 150 psi	250+ @ 150 psi	150+ @ 250 psi
Tank Capacity - gal	400+	400+	500+
Hose 2.5 inch	1,200 ft	1,000 ft	--
Hose 1.5 inch	400 ft	500 ft	500 ft
Hose 1 inch	--	--	500 ft
Ladders	48 ft	48 ft	--
Master Stream - gpm	500	--	--
Personnel - minimum	4	3	2
Component	Type 4	Type 5	Type 6
Pump Rating - gpm	50 @ 100 psi	50 @ 100 psi	30 @ 100 psi
Tank Capacity - gal	750+	400 - 750	150 - 400
Hose 2.5 inch	--	--	--
Hose 1.5 inch	300 ft	300 ft	300 ft
Hose 1 inch	300 ft	300 ft	300 ft
Ladders	--	--	--
Master Stream - gpm	--	--	--
Personnel - minimum	2	2	2

[TABLE 2
Water Tenders

Component	Type 1	Type 2	Type 3
Tank Capacity (gal)	5,000+	2,500+	1,000+
Pump Capacity (gpm)	300+	200+	200+
Off Load Capacity (gpm)	300+	200+	200+
Max Refill Time (min)	30	20	15
Personnel			
tactical/nontactical	2/1	2/1	2/1

TABLE 2 Water Tenders			
Component	Type 1	Type 2	Type 3
Tank Capacity - gal	5,000+	2,500+	1,000+
Pump Capacity - gpm	300+	200+	200+
Off Load Capacity - gpm	300+	200+	200+
Max Refill Time -- min	30	20	15
Personnel			
tactical/nontactical	2/1	2/1	2/1

KEY: minimum standards, wildland urban interface, cooperative agreements
 Date of Last Change: ~~2024~~ January 10, 2017
 Notice of Continuation: March 26, 2021
 Authorizing, and Implemented or Interpreted Law: 65A-8-203

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R653-11	Filing ID: 56404

Agency Information

1. Department:	Natural Resources	
Agency:	Water Resources	
Room number:	310	
Building:	Natural Resources Building	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Carly Payne	801-538-7235	carlypayne@utah.gov
Shelby Cooley	801-300-1623	scooley@utah.gov
Martin Bushman	801-538-7273	martinbushman@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
 R653-11. Water Conservation Requirements and Incentives

3. Purpose of the new rule or reason for the change:
 The Utah Legislature passed S.B. 118 in the 2023 General Session, which amended Section 73-10-37.

This section of code directs the Utah Division of Water Resources (Division) to provide a financial incentive to landowners that convert lawn to water efficient landscaping, consistent with statutory and regulatory requirements.

The proposed changes amend Rule R653-11 to clarify defined terms, add flexibility in minimum project sizes, expand evidence proving an applicant is a water end user under contract with a water provider, increase the maximum incentive to \$2 a square foot, add notice and cure provisions for participants whose projects initially fail to conform with approved plans, and provide other clarifying language.

4. Summary of the new rule or change:

The proposed amendments to Rule R653-11 clarify defined terms (Subsection R653-11-2(f)), add flexibility in minimum project sizes (Subsection R653-11-7(2)(b)), expand acceptable evidence proving an applicant is a water end user under contract with a water provider (Subsection R653-11-7(3)(e)), increase the maximum incentive to \$2 a square foot (Subsection R653-11-7(4)(d)(ii)), add notice and cure provisions for participants whose projects initially fail to conform with approved plans (Subsection R653-11-7(7)), and provide other nonsubstantive and clarifying language ((Subsections R653-11-(3)(e)(ii)(B), R653-11-7(6)(b), and R653-11-8(6)).

Fiscal Information

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

A) State budget:
 The rule amendments implement water conservation incentives imposed in Section 73-10-37.

In 2023, S.B. 118 appropriated \$3,000,000 in ongoing funding to the Division for administering and funding the lawn conversion incentive programs and to distribute to landowners and water conservancy districts for financial incentives to convert existing lawn to drought resistant landscaping (see Section 73-10-37).

This rule, including amendments govern the distribution of \$3,000,000 to:

- 1) reimburse some costs incurred converting lawn to drought resistant landscaping; and

2) assist eligible water conservancy districts fund incentives under their respective lawn conversion incentive programs.

The incentive programs will be administered by existing staff at the Division -- no new hires or overtime pay will be required.

B) Local governments:

The lawn conversion incentive program, including rule amendments, will not fiscally impact local governments negatively.

The program simply makes funding available to:
 1) property owners as an incentive to convert lawns into water efficient landscaping; and
 2) water conservancy districts for use in funding financial incentives awarded through their respective lawn conversion incentive programs.

The rule does not require:
 1) landowners to convert their lawns to drought resistant landscaping or to seek reimbursement of costs for such conversions from the Division; or
 2) water conservancy districts to implement and fund lawn conversion incentive programs or to seek a grant from the Division.

Grants are not reimbursed to the Division or any other entity by recipient districts. Participation in the program is completely voluntary under this rule.

Those that choose to participate and receive funding, however, must pay whatever portion of the conversion's costs not covered by the incentive award. The cost to convert lawn to drought resistant landscaping varies considerably depending on contractor, region of the state, and actual work performed -- but average costs are generally between \$4 and \$12 a square foot. The state incentive provided in this rule amendment is \$ 2.00 a square foot.

A lawn conversion, once completed, will reduce the landowner's outdoor water use and the associated costs, and eliminate lawn maintenance. It will also conserve water supplies in the community, reduce the likelihood of shortages, and delay the need for further water development by water providers.

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

To the extent a landowner is not a local government and more closely related to a small or non-small business, it will be impacted similarly to that described in the local government section.

A residual benefit of the rule amendment and the incentive program it implements to small and non-small businesses will be increased demand for:
 1) landscaping services by qualified contractors; and

2) organic and inorganic materials (plants, shrubs, trees, gravel, rock, etc.) used in water efficient landscaping. In total, the incentive program over the next year will infuse \$3,000,000 in state incentive money and participant's corresponding cost share into the purchase of landscaping services and associated materials.

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

Impacts to non-small businesses are anticipated to be no different than to small businesses. See small business impact response, above.

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**):

No anticipated impacts to other persons different than local governments, small businesses, or non-small businesses. See previous responses above.

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

The rule does not require landowners to convert their lawns to drought resistant landscaping or to seek reimbursement of costs for such conversions from the Division. Nor does it compel water conservancy districts to implement and fund lawn conversion incentive programs or to seek a grant from the Division.

Participation in the program is completely voluntary under this rule. Those that choose to participate and receive funding, however, must pay whatever portion of the conversion's costs not covered by the incentive award.

The cost to convert lawn to water efficient landscaping varies considerably depending on contractor, region of the state, and actual work performed -- but average costs are generally between \$4 and \$12 a square foot.

The state incentive provided in this rule amendment \$ 2 a square foot. A lawn conversion, once completed, will reduce the landowner's outdoor water use and the associated costs, and the need for eliminate lawn maintenance.

It will also conserve water supplies in the community, reduce the likelihood of shortages, and delay the need for further water development by water providers.

Again, participation in the program under this rule is voluntary.

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	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 Natural Resources, Joel Ferry, 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 73-10-37	Subsection 73-10-37(5)	
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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: 06/14/2024

9. This rule change MAY become effective on: 06/21/2024

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:	Candice Hasenyager, Division Director	Date:	04/01/2024
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R653. Natural Resources, Water Resources.

R653-11. Water Conservation Requirements and Incentives.

R653-11-1. Authority and Purpose.

- (1) This rule is promulgated to:
 - (a) define terms, identify exemptions, and further the objectives of Section 63A-5b-1108 in reducing outdoor water use at state government facilities;
 - (b) clarify terms and further the implementation and administration of the water conservation program created in Section 73-10-37 that financially incentivizes landowners to replace lawn with water efficient landscaping; and
 - (c) fulfill the legislative directives in Subsection 73-10-37(5).

R653-11-2. Definitions.

- (1) Terms used in this rule and not otherwise defined in this section are defined in Subsections 63A-5b-1108(1) and 73-10-37(1).
 - (2) As used in this section:
 - (a) "District" means a water conservancy district, as that term is defined in Section 73-10-32.
 - (b) "Division" means the Division of Water Resources.
 - (c) "Landscaping conversion incentive program" means a program administered by a district that pays an owner a financial incentive to remove lawn from a project area on land owned by the owner.
 - (d) "Program guidelines" means guidelines adopted by a district for the district's landscaping conversion incentive program.
 - (e) "Outdoor water use" means water used for outdoor landscape irrigation and ornamental landscape water features.
 - (f) "Owner" means a person or entity that holds legal or rightful title, or a controlling interest in that title, to private or public nonagricultural land where a water end user is located.
 - (i) Applicant is an owner that applies to the division or a district for a financial incentive to convert lawn to water efficient landscaping.
 - (ii) Participant is an owner that executes a contract with the division or a district for a financial incentive to convert lawn to water efficient landscaping.
 - (g) "Drip irrigation system" means a system of narrow distribution tubes or pipes that deliver water from a dedicated low pressure supply valve to individual plants and trees through drip emitters. Drip emitters do not include micro spray, fogger, or bubbler emitters.

(h) "Lawn" means nonagricultural land planted in closely mowed, managed grasses, excluding golf courses, parks, athletic fields, and sod farms.

(i) "Nonagricultural land" means privately or publicly owned real property immediately surrounding a home, apartment, office building, or similar structure routinely occupied by people for dwelling, business, employment, or recreation; and that is not used to grow crops or to hold, house, or feed livestock.

(j) "Project area" means the area from which lawn is removed and replaced with water efficient landscaping under Sections 73-10-37, R653-11-7, and R653-11-8.

(k) "Water end user" means a person or entity that contracts with a retail water provider to obtain water for residential, commercial, industrial, or institutional use.

R653-11-3. Lawn Limitations at State Government Facilities.

(1) As provided in Subsection 63A-5b-1108(2), a state agency that owns or occupies a state government facility built or reconstructed on or after May 4, 2022, may not have more than 20% of the grounds of the state government facility be in lawn.

(2) The 20% lawn limitation in Subsection 63A-5b-1108(2) does not apply to state government facilities under construction or reconstruction and incomplete as of May 4, 2022.

(3) Upon written request to the division, the division may exempt a state government facility from the 20% lawn limitations in Subsection 63A-5b-1108(2) where it determines that the purpose of the requesting state agency that occupies the facility requires additional lawn.

R653-11-4. Reductions in Outdoor Water Use at State Government Facilities.

(1) As provided in Subsection 63A-5b-1108(3)(a), a state agency shall reduce its outdoor water use compared to the state agency's outdoor water use for fiscal year 2020:

- (a) 5% or more by June 30, 2023; and
- (b) 25% or more by June 30, 2026.

(2) The unit of measurement for outdoor water use under Subsection 63A-5b-1108(3) is gallons of use per fiscal year.

R653-11-5. Timing of Landscape Irrigation at State Government Facilities.

(1) As provided in Subsection 63A-5b-1108(4), a state agency may not water outdoor landscaping at a state government facility between the hours of 10 a.m. and 6 p.m.

(2) Upon written request to the division, the division may authorize a state agency to water landscapes at a state government facility between 10 a.m. and 6 p.m. where nighttime watering is:

- (a) infeasible due to water availability, insufficient water pressure, landscape use patterns or events, or similar impediments; or
- (b) detrimental to establishing and maintaining a landscape or landscape element in a condition that fulfills its fundamental purpose or ensures its perennial survival.

R653-11-6. State Incentives for Water Efficient Landscaping.

(1) The division may provide an incentive under Sections 73-10-37 and R653-11-7 to an owner to remove lawn from a project area on land owned by the owner in an area without a landscaping conversion incentive program.

(2) The division may award a grant under Sections 73-10-37 and R653-11-8 to a district to help fund financial incentives

provided through a landscaping conversion incentive program administered by the district.

R653-11-7. Division Administered Water Efficient Landscaping Incentives.

(1) In an area without an existing landscaping conversion incentive program, the division or its contractor may provide a financial incentive to an owner of private or public property to remove lawn from the property and replace it with water efficient landscaping, as described in Section R653-11-9.

(2) An owner may not receive an incentive under this rule if:

(a) the owner has previously received an incentive under this section for the same project area;

(b) the project area is less than 200 square feet, except as otherwise authorized by the division where all lawn is removed from a parking strip or another isolated area of lawn; or

(c) the project area is located within a municipality or unincorporated area of a county that has not adopted or imposed water use efficiency standards satisfying the minimum benchmarks in Section R653-11-10.

(3) To obtain an incentive under this section an applicant must submit an application to the division or its designated contractor that includes the following:

(a) the applicant's name, mailing address, email address, and phone number;

(b) a description of the property where the proposed lawn removal and replacement will occur;

(c) a description of the lawn area proposed for removal and replacement, including its dimensions and location on the property, ~~ie-~~ such as a project area;

(d) the applicant's acknowledgment and verification that:

(i) they hold legal or rightful title or a controlling interest in the title to the project area;

(ii) the project area is nonagricultural land;

(iii) the project area consists of lawn that is living, mowed, and actively managed;

(iv) the project area is not part of or located on a golf course, park, athletic field, or sod farm;

(v) a water end user is located on the property where the project area is located;

(vi) the water end user contracts with a retail water provider for residential, commercial, industrial, or institutional use of water on the project area;

(vii) the project area is currently irrigated with water supplied by the retail water provider under contract with the water end user;

(viii) they have legal authority to authorize lawn removal and replacement on the project area;

(ix) they voluntarily seek to remove the lawn in the project area and replace it with water efficient landscaping, and are not required to do so by government code or policy;

(x) they have not previously received an incentive under Section 73-10-37 and this rule for the same project area;

(xi) they agree:

(A) to maintain the water efficient landscaping and drip irrigation system installed in the project area and not return it to lawn or overhead spray irrigation after receiving payment for converting the project area to water efficient landscaping; or

(B) return to the division or to a district the payments received for removal of lawn from the project area;

(xii) the lawn conversion project will not violate any applicable law, regulation, ordinance, zoning requirement, contractual obligation, or other legal limitation; and

(xiii) they understand and acknowledge that neither the lawn removal incentive program, its requirements, nor the award of an incentive by the division supersede applicable laws, regulations, ordinances, or contract terms to the contrary; and

(e) submission of the following documents:

(i) billing statement or other verifiable evidence showing that the water end user contracts with the retail water provider that services the project area; and

(ii) water efficient landscaping plan for the project area prepared by the applicant or a third party detailing the:

(A) location on the property and square footage of lawn planned for removal and conversion to water efficient landscaping, including drawings with dimensional measurements, aerial imagery, and photographs of the project area; and

(B) types and locations of the inorganic ground cover, weed barriers, plants, shrubs, trees, and irrigation systems satisfying the water efficient landscaping requirements in ~~[Section R653-11-9]~~this rule.

(f) Upon request by the division, submission of documentation showing the applicant is the owner of the property and possesses legal authority to authorize the lawn removal and replacement.

(4)(a) The division or its contractors will receive and review lawn conversion incentive applications for completeness and compliance with the requirements of Section 73-10-37 and this rule.

(b) Before approving an incentive application, the division or its contractors will verify the location and eligibility of the project area for an incentive by:

(i) reviewing information submitted with the application; or

(ii) physically or virtually inspecting and verifying the project area.

(c)(i) The division or its contractors will approve incentives to qualified applicants under Section 73-10-37 and this rule in the order that eligible applications are filed.

(ii) The division may end an incentive application and corresponding contract where the owner has not completed the project, as prescribed in the application and contract, within 12 months of the date that the application is filed.

(d) An incentive authorized for any single application under Section 73-10-37 and this rule ~~shall~~may not exceed:

(i) \$50,000 in the aggregate, except as otherwise approved by the division in writing on a case-by-case basis; and

(ii) ~~\$(1-50)2~~ for each square foot of lawn replaced with water efficient landscaping.

(e) Incentives offered under Section 73-10-37 and this rule are subject to the availability of funding as appropriated by the Legislature.

(5) Upon approval of an incentive and as a condition to receiving the incentive, the participant shall:

(a) provide the division the information required to complete a federal W-9 tax form; and

(b) execute a lawn conversion incentive contract with the division detailing the parties' mutual obligations and responsibilities, including:

(i) terms and conditions for receiving the incentive payment;

(ii) participant's commitment to:

(A) complete the project consistent with the approved water efficient landscaping plan within 365 days of approval of the application;

(B) maintain the water efficient landscaping and drip irrigation system installed in the project area and not return it to lawn or overhead spray irrigation after receiving payment for converting the project area to water efficient landscaping; and

(C) return to the division the payments received for removing lawn from the project area and replacing it with water efficient landscaping in the event of violating Subsection (B);

(iii) other matters determined by the division necessary to effectively administer the incentive program; and

(iv) participant's acknowledgment that incentive payments received may be subject to state and federal taxation.

(6) Before the division disburses any portion of an incentive to a participant, the division or its contractors will physically or virtually inspect the project area and verify the lawn conversion to water efficient landscaping is completed and consistent with:

(a) the requirements of Section 73-10-37 and this rule;

(b) the approved water efficient landscaping plan prepared by the participant or a third party; and

(c) the lawn conversion incentive contract between the participant and the division.

(7)(a) Where a project fails to satisfy the requirements of this rule, the division may provide notice to cure that:

(i) identifies the deficiencies; and

(ii) provides the participant with 60 days to correct the deficiencies.

(b) Deficiencies must be corrected, and the project completed within:

(i) 60 days of the division's notice to cure; or

(ii) the remainder of the 365-day completion deadline in Subsection (5)(B)(ii)(A), whichever is greater.

(c) Failure to meet the applicable deadline in Subsection (b) will disqualify the project for a financial incentive.

R653-11-8. Grants for District Administered Water Efficient Landscaping Incentives.

(1) A district may obtain a grant from the division to help fund a financial incentive provided to an owner through a landscaping conversion incentive program administered by the district.

(2) To obtain a grant, a district shall file an application with the division that includes:

(a) the district's name, address, and contact information;

(b) verification that the district:

(i) has an operational landscaping conversion incentive program;

(ii) commits to implement the minimum requirements of Subsection 73-10-37(4)(c) and either this rule or program guidelines approved by the division under Subsection (3) in administering the program;

(iii) commits to use grant money exclusively to fund financial incentives provided to owners that remove lawn or turf from a project area in the district's landscaping conversion incentive program;

(iv) commits not pay an incentive amount with grant money that exceeds the maximum amounts established in Subsection R653-11-7(4)(d); and

NOTICES OF PROPOSED RULES

(v) commits to provide an equal amount or more of matching funds for its landscaping conversion incentive program from sources other than the grant money the district receives under this rule;

(c) a detailed description of the landscaping conversion incentive program;

(d) a copy of the program guidelines governing the district's landscaping conversion incentive program;

(e) a request that the division approve the district's program guidelines under Subsection (3), if the district wants to be subject to program guidelines in lieu of rule requirements; and

(f) any additional information requested by the division.

(3)(a) The division may approve a district's request to use its program guidelines in lieu of requirements in this rule that are not specifically mandated in Section 73-10-37 when the program guidelines satisfy the criteria in Subsection (b).

(b) The district's program guidelines must:

(i) result in at least as much water use savings as the waived rule provisions; and

(ii) accomplish the same objectives as the waived rule provisions.

(4) To obtain a grant under this rule, a district shall enter in a contract with the division that:

(a) identifies the amount of grant funding provided by the division;

(b) confirms the district's contribution of matching funds from sources other than the grant, that equal or exceed the grant amount, for its landscaping conversion incentive program;

(c) restricts the district from paying an incentive amount with grant money that exceeds the maximum amounts established in Subsection R653-11-7(4)(d);

(d) confirms the district's commitment to comply with and ensure all grant funded landscaping conversion projects proposed, undertaken, and completed by participants under its landscaping conversion incentive program satisfy the requirements in Subsection 73-10-37(3) and the contract before using grant money for a financial incentive;

(e) enjoins the use of grant money for a financial incentive in any landscaping conversion project that fails to satisfy the requirements in Subsection 73-37-10(3) and either this rule or program guidelines approved by the division under Subsection (3);

(f) requires the district submit to the division quarterly reports on funding status;

(g) requires the district to prepare and submit an annual accounting to the division on the use of grant money for financial incentives in the district's landscaping conversion incentive program;

(h) directs return to the division of all grant funding not dispersed by the district pursuant to Section 73-10-37 and this rule within 24 months of receiving the grant; and

(i) includes other matters determined by the division necessary to effectively administer the grant award.

(5)(a) The quarterly report referenced in Subsection (4)(f) should include a summary detailing:

(i) grant funding status;

(ii) the division and district's cumulative contributions, respectively, to all incentive payments dispersed by the district over the reporting period; and

(iii) the estimated amount of grant funding needed to satisfy incentive payments for approved projects that are underway but not completed.

(b) The annual accounting referenced in Subsection (4)(g) should include the:

(i) division and district's cumulative contributions, respectively, to all incentive payments dispersed by the district over the reporting period; and

(ii) following information pertaining to each incentive payment:

(A) an identifying number or participant name for the landscape conversion project;

(B) landscape conversion project location;

(C) total square feet of lawn converted to water efficient landscaping;

(D) date of project approval;

(E) date of project completion;

(F) date of incentive payment;

(G) photographs of the project area before lawn removal and after conversion to water efficient landscaping;

(H) total amount paid as an incentive; and

(I) division and district's respective contributions to the incentive payment.

(6)(a) Upon ~~expenditure~~ verification of ~~expending~~ 70% of the total grant ~~money awarded to a district~~ award and an annual accounting on the use of that grant money, a district may apply for additional grant money in accordance with Subsections (2) -and (4).

(b) The division may award a district an additional grant based on the:

(i) availability of grant money;

(ii) priority or importance of the grant proposal in relation to the availability of grant money for:

(A) the division's landscaping conversion incentive program under Section R653-11-7;

(B) other landscaping conversion incentive program grant requests; and

(C) regional needs and goals;

(iii) effectiveness of the district's landscaping conversion incentive program in incentivizing owners to convert lawn or turf to water efficient landscaping;

(iv) district's past compliance with Section 73-10-37, this rule, and contract terms and conditions; and

(v) any matter bearing on the district's ability to responsibly handle and disperse grant money consistent with the requirements in Section 73-10-37, this rule, and contract terms and conditions.

R653-11-9. Water Efficient Landscaping.

(1)(a) Except as otherwise determined by the division under Subsection (2), water efficient landscaping, for purposes of Sections R653-11-7 and R653-11-8, is a mixture of inorganic and organic ground cover that:

(i) controls the invasion of common weeds and grasses;

(ii) includes perennial, water efficient plants, shrubs, or trees; and

(iii) water efficient plants and shrubs, excluding tree canopy, cover 50% or more of the project area at maturity;

(iv) has a drip irrigation system that:

(A) replaces the existing irrigation system servicing the project area;

(B) minimizes evapotranspiration losses; and

(C) maintains the water efficient plants, shrubs, and trees in the project area in a healthy state; and

(v) is officially approved by the division, its contractors, or a district.

(b) All treatment locations in the project area, not otherwise covered in brick, or stone shall be covered in 2-4 inches of

permeable gravel, rock, bark, compost mulch, or similar material to control weeds and improve the appearance of the landscaping.

(c) Water efficient landscaping may include permeable:

(i) weed barrier fabric; and

(ii) configurations of pavers, brick, stone, and similar hard surfaced materials, provided the project area satisfies the 50% plant and shrub cover requirement with the treated area counted as contributing nothing toward that cover.

(d) Water efficient landscaping does not include:

(i) a swimming pool, pond, fountain, waterfall, rivulet, or similar above ground landscape water feature;

(ii) concrete or artificial turf; and

(iii) a project area configuration that leaves adjacent strips of lawn less than eight feet in width.

(2) The division may approve a district's request to use or partially use its program guidelines definition of "water efficient landscaping" in lieu of the definition in Subsection (1), if the division determines that application of the program guidelines' definition will:

(a) conserve as much or more water as the definition in Subsection (1);

(b) satisfy environmental needs; and

(c) further the water conservation objectives in Section 73-10-37.

R653-11-10. Water Use Efficiency Standards.

(1) For purposes of Sections R653-11-7 and R653-11-8, water use efficiency standards for counties and municipalities within a county consist of the following outdoor lawn limitations on new residential development.

(a) Statewide requirements are as follows:

(i) No lawn on parking strips or areas less than eight feet in width in new development.

(ii)(A) Except as provided in Subsection (ii)(B), no lawn exceeding 20% of total landscaped area in new commercial, industrial, and institutional development.

(B) The 20% limitation does not apply to lawn areas developed and used for outdoor recreation activities that require lawn in an outdoor environment.

(b) Regional requirements are as follows:

(i) Washington County - no more than 15% of the lot size in new residential development is lawn;

(ii) Salt Lake, Utah, Weber, and Davis counties - no more than 35% of the front and side yard landscaped area in new residential development is lawn; and

(iii) All other counties in Utah - no more than 50% of the front and side yard landscaped area in new residential development is lawn.

(c) The lawn limitations in Subsections (a) and (b) do not apply to small lots with less than 250 square feet in landscaped area.

(2)(a) A municipality or county may adopt more aggressive water use efficiency standards, provided the new standards increase water conservation and efficiency over the standards in Subsection (1).

(b) A municipality or county that adopts more aggressive water use efficiency standards in compliance with Subsection (2)(a) shall be deemed compliant with the requirements of Subsection (1).

KEY: water conservation measures

Date of Last Change: ~~2024~~ **July 11, 2023**

Authorizing, and Implemented or Interpreted Law: 63A-5b-1108; 73-10-37

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R653-15	Filing ID: 56405

Agency Information

1. Department:	Natural Resources	
Agency:	Water Resources	
Room number:	310	
Building:	Natural Resources Building	
Street address:	1594 West N Temple, 310	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 14602	
City, state and zip:	Salt Lake City, UT 84114-6201	
Contact persons:		
Name:	Phone:	Email:
Carly Payne	801-538-7235	carlypayne@utah.gov
Shalaine De Bernardi	801-652-1668	shalainedebernardi@utah.gov
Elizabeth Harris	385-395-0857	eharris@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R653-15. 2024 Grant Funding for Water Infrastructure Projects
3. Purpose of the new rule or reason for the change:
The Utah Legislature appropriated \$21,989,200.00 to the Department of Natural Resources, Division of Water Resources (Division) in the 2024 General Session to help fund water infrastructure projects (see H.B. 3, Item 54). The purpose of this new rule is to outline the application and approval process for receiving grant money from the Division for the construction or improvement of water infrastructure projects.
4. Summary of the new rule or change:
The proposed rule language does not amend or repeal any existing administrative rule. It is a new chapter in an existing Title of the Administrative Code (R653) and is singularly devoted to the purposes identified in the response to Box 3, above.

The rule outlines the eligibility requirements, limitations, conditions, and application and approval process for the water infrastructure grants.

Fiscal Information

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

A) State budget:

The Legislature appropriated \$21,989,200.00 in one-time funding to the Division for "Water Infrastructure Projects" in H.B. 3, Item 54 (2024).

The Legislature did not provide further specifics or direction on the distribution of the appropriated funds. This rule is necessary under Subsection 63G-3-201(2) to guide the Division and ensure consistency in its distribution of the appropriated funds through grants.

Funding is not ongoing and the grant program set forth in the proposed rule will likely expire. The grant program will be administered by existing staff at the Division -- no new hires or overtime pay will be required.

B) Local governments:

The grant program will not fiscally impact local governments negatively.

The program makes funding available to eligible entities for improving water infrastructure.

This rule does not require anyone to make infrastructure improvements, and participation in the grant program is completely voluntary under this rule.

Those that choose to participate and receive grant funding may contribute matching funds if they choose.

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

To the extent a grant recipient is not a local government and more closely related to a small or non-small business, it will be impacted similarly to that described in the local governments section.

A residual benefit of this rule and the grant program it implements to small and non-small businesses will be the opportunity to receive a grant to help with needed water infrastructure projects.

In total, the grant program will infuse \$21,989,200.00 in grants for Utah water infrastructure projects that will, in turn, make its way to small businesses retained to study, design, and construct the projects.

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

Other than what has been stated in Box 5C above, this rule is not expected to have a fiscal impact on non-small businesses' revenues or expenditures.

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**):

No anticipated impacts to others different than to local governments and small businesses. See previous responses above.

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

This rule does not require anyone to construct or improve water infrastructure projects or to seek grant funds to do so.

Participation in the program is completely voluntary under this rule.

Those that choose to participate and receive grant funding may contribute matching funds but are not required to.

Any out-of-pocket expense to a grant recipient will depend entirely upon the recipient.

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	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 Natural Resources, Joel Ferry, 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:

H.B. 3, Item 54 (2024)	Subsection 63G-3-201(2)	
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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:	06/14/2024
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9. This rule change MAY become effective on:

06/21/2024

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:	Candice Hasenyager, Division Director	Date:	04/01/2024
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R653. Natural Resources, Water Resources.
R653-15. 2024 Grant Funding for Water Infrastructure Projects.
R653-15-1. Purpose.

(1) The Legislature appropriated \$21,989,200 to the Division of Water Resources for grants to help fund water infrastructure projects located within the state.

(2) This rule sets forth the procedures and requirements for issuance and receipt of grant funds for water infrastructure projects.

R653-15-2. Definitions.

- As used in this section:
- (1) "Director" means the Director of the Department of Natural Resources.
 - (2) "Division" means the Division of Water Resources.

(3) "Project proponent" means an entity requesting a grant under this rule to help fund a water infrastructure project.

(4) "Water Infrastructure Project" means an existing or new project which:

(a) aids in the development, conservation, collection, transmission, storage, treatment, or distribution of water for culinary or secondary use in residential, commercial, industrial, or agricultural settings; or

(b) facilitates the use of water for public safety or environmental purposes.

R653-15-3. Grants for Water Infrastructure Projects.

(1) The division may issue a grant to a project proponent to help fund the study, design, or construction of a water infrastructure project.

(2) To be eligible for a grant award, the project proponent must propose the study, design, improvement, or construction of a water infrastructure project that:

(a) is located within Utah;

(b) benefits Utah communities and residents; and

(c) complies with applicable federal, state, and local laws and regulations.

R653-15-4. Applications for Grants.

(1) To obtain a grant under this rule, a project proponent shall submit a written application to the division, on or before the application deadline date established by the division.

(2) Each project proponent shall apply using the division's approved form and shall include the following information:

(a) detailed and itemized cost estimate of the proposed project, study, design, or construction prepared by a licensed professional engineer;

(b) map showing the location of the proposed project;

(c) designs and schematics detailing project construction particulars;

(d) estimated timeline for the project, including the projected start date and expected completion date;

(e) estimated useful life of the project;

(f) number of people that will benefit from the project;

(g) matching funds to be contributed, if any, by the project proponent; and

(h) any additional information required on the application.

(3) Each application shall be signed and dated by an authorized representative of the project proponent and include the project proponent's verification that information provided in the application is accurate and that any estimates or projections submitted are based on sound professional judgement and best available data.

R653-15-5. Application Review and Prioritization.

(1) The division shall:

(a) review and prioritize each application submitted under Section R653-15-4; and

(b) make recommendations to the director on which project proponent applicants should be awarded a grant under this rule.

(2) In reviewing applications submitted under Subsection (1), the division may contact an applicant to:

(a) verify information in the application;

NOTICES OF PROPOSED RULES

(b) seek clarifications and supplemental information; and

(c) address and correct anomalies and inconsistencies in the application.

(3) The division shall review and evaluate applications submitted under Subsection (1) based on the following criteria:

(a) the grant amount requested in comparison to the number of Utah residents benefited by the project;

(b) estimated timeline to complete needed studies and design for the project;

(c) estimated timeline for the construction and completion of the project;

(d) existence of other available funding sources to complete the project;

(e) estimated useful life of the project;

(f) matching funds contributed by the project proponent toward the project;

(g) water conservation benefits;

(h) environmental benefits;

(i) legislative support; and

(j) overall public benefit.

(4)(a) The division will prioritize each application based on its evaluation of the criteria identified in Subsection (3).

(b) The prioritization will form the basis for the division's recommendation to the director.

R653-15-6. Grant Award and Agreement.

As a condition to receiving a grant under this section, the applicant shall enter into a contract with the division for use of the grant money.

KEY: 2024 Grant Funding for Water Infrastructure Projects

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 63G-3-201(2); H.B. 3, Item 54, 2024 General Session

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R671-201	Filing ID: 56407

Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Jennifer Yim	801-261-6464	jmyim@utah.gov
Amanda Montague	801-440-0545	amontague@agutah.gov

Zarah Borja	385-910-3215	zborja@agutah.gov
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R671-201. Original Hearing Schedule and Notice
3. Purpose of the new rule or reason for the change:
These changes are proposed as a result of public comment on this rule received in March 2024.
4. Summary of the new rule or change:
These proposed changes are to expressly include victim input consideration in the original hearing scheduling process. Comment from the prior rulemaking process suggested that explicit reference to attending to victim needs would appropriate in this rule as well.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated impact on state budgets, as this rule change makes mention of things already completed by other administrative rules.
B) Local governments:
This rule change is not anticipated to have any fiscal impact on local governments as this rule change makes mention of things already completed by other administrative rules.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change does not have fiscal impact on small businesses as this rule change makes mention of things already completed by other administrative rules.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule changes do not have a fiscal impact on non-small businesses as this rule change makes mention of things already completed by other administrative rules.
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):

This amendment does not affect other persons as listed above as this rule change makes mention of things already completed by other administrative rules.

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 as this rule change makes mention of things already completed by other administrative rules.

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	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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:

Article VII, Section 12	Section 77-27-5	Section 77-27-7
Section 77-27-9		

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: 07/01/2024

9. This rule change MAY become effective on: 07/08/2024

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:	J. Scott Stephenson, Chairman	Date:	05/08/2024
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R671. Pardons (Board of), Administration.

R671-201. Original Hearing Schedule and Notice.

R671-201-1. Schedule and Notice.

(1)(a) The Board shall conduct a scheduling review to determine the month and year of an offender's original hearing, and provide timely notice to the offender, within six months of the offender's commitment to prison, and provide notice in accordance with Utah Administrative Rule R671-203 Victim Input and Notification.

(b)(i) No original hearing may be scheduled for any offender whose prison commitment includes a sentence of death.

(ii) No original hearing will be scheduled for any offender whose sentence includes a commitment of life without the possibility of parole. The Board will not consider parole for any offender whose prison commitment includes a sentence of life without parole, unless the requirements of Subsection 77-27-9(7) are met.

(iii) Every other offender will be scheduled for an original hearing as described in this rule.

(2) For purposes of this rule, "scheduling review" means the process by which the Board schedules the month and year for an offender's original hearing.

(3) The date of the original hearing may be adjusted if:

(a) an offender requests a delay or continuance;

(b) an offender has unadjudicated criminal charges pending at the time a hearing would normally be held;

(c) a Class A misdemeanor commitment has expired before an original hearing; or

(d) the Board determines that other unusual or extraordinary circumstances impact the scheduling of an original hearing; or

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(e) calendar constraints exist.

(4)(a) When scheduling an original hearing by scheduling review, the Board may consider the following, guideline date, pre-sentence report[;] (including victim impact statements), nature of the offense, rehabilitative needs, and any relevant documentation provided.

(b) If the Board obtains and considers additional information which was not available to the offender before or at the time of sentencing, the additional information shall be provided to the offender. The offender may provide a response to any of the disclosed materials before or at the original hearing.

(5) When scheduling an original hearing by scheduling review, if the offender was less than 18 years of age at the time of the commitment offense, the original hearing shall be scheduled:

(a) no later than 6 months before the individual's 25th birthday, so long as the individual is in secure care, in the provisional custody of the Division of Juvenile Justice and Youth Services, at the time of the hearing.

(b) no later than 10 years after the individual's transfer to the custody of the Utah Department of Corrections if the individual is transferred to the custody of the department before their 25th birthday, so long as the total amount of time after the date of sentencing does not exceed 15 years.

(6) When the Board sets an original hearing in Subsection (5), the Board shall make a referral to the victim advocate at the Department of Health and Human Services to provide support and assistance should the victims of record choose to participate in any Board hearings to which they are entitled to participate.

(7) An offender may request in writing that their original appearance and hearing before the Board be continued. The request shall specify the reasons supporting the request. The Board may grant or deny the offender's request in its sole discretion.

KEY: parole, inmates, hearings

Date of Last Change: ~~April 1, 2024~~ 2024

Notice of Continuation: September 23, 2019

Authorizing, and Implemented or Interpreted Law: Art. VII Sec. 12; 77-27-5; 77-27-7; 77-27-9

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R671-312A	Filing ID: 56408

Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Jennifer Yim	801-261-6464	jmyim@utah.gov

Amanda Montague	801-440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R671-312A. Commutation Procedures Applicable to Persons Sentence to Death On or Before April 26, 1992
3. Purpose of the new rule or reason for the change:
These changes are proposed as a result of public comment on this rule received in March 2024.
4. Summary of the new rule or change:
Due to concerns expressed by public comment for the prior rule change, this amendment proposes that service should occur in accordance to the Utah Rules of Civil Procedure.

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, as this rule is clerical in nature and will have no impact on how the Board functions.
B) Local governments:
There is no expected fiscal impact on local governments, as this rule change is clerical and clarifying in nature and will have no impact on local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule does not affect small businesses and so has no expected fiscal impact, as this rule change is clerical and clarifying in nature and will have no impact on small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule change has no effect on non-small businesses and so has no expected financial impact, as this rule change is clerical and clarifying in nature and will have no impact on 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**):

This rule amendment will have no fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities.

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

This rule change entails no compliance costs for affected persons, as this rule change is clerical and clarifying in nature and will have no impact on 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	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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:

Article VII, Section 12	Section 77-19-8	Section 77-27-2
Section 77-27-4	Section 77-27-5	Section 77-27-5.5
Section 77-27-8	Section 77-27-9	Section 77-27-9.5

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: 07/01/2024

9. This rule change MAY become effective on: 07/08/2024

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:	J. Scott Stephenson, Chairman	Date:	05/03/2024
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R671. Pardons (Board of), Administration.

R671-312A. Commutation Procedures Applicable to Persons Sentenced to Death On or Before April 26, 1992.

R671-312A-1. Scope of Rule.

Rule R671-312 governs petitions and proceedings when a petition for commutation of a death sentence is filed by or on behalf of a person sentenced to death for a capital felony in this state. In addition to the rules of general applicability set forth in Rule R671-312, this Rule R671-312A governs commutation petitions and proceedings when a death sentence commutation petition concerns a person who was sentenced to death on or before April 26, 1992.

R671-312A-2. Eligibility.

(1) A person sentenced to death, or that person's counsel, may file a petition for commutation of a death sentence no later than seven days after the sentencing court has issued a judgment of death and a warrant of execution.

(2) If any appeal of the petitioner's conviction or sentence is filed or litigated on behalf of the petitioner, including any collateral challenges or lawsuits, the commutation petition shall be filed within seven days after completion of any such appeals of the conviction or sentence and collateral challenges or lawsuits, including any proceedings seeking post-conviction relief, habeas corpus relief, or other proceedings for extraordinary relief.

(3) Failure of any petitioner or counsel to comply with this rule, other Board rules, or any Board directive or order may result in the summary denial of the petition and cancellation of any scheduled hearing.

(4) Any act, omission, pleading, or other filing by a petitioner or counsel that the Board determines is meant to delay, hinder, or disrupt the Board's commutation process or proceedings may result in the summary denial of the petition and cancellation of any scheduled hearing.

R671-312A-3. Petition Requirements.

(1)(a) The commutation petition shall be signed by the petitioner, under oath, and filed with the Board at the Board's office no later than seven days after the sentencing court signs a warrant setting an execution date.

(b) If the petitioner is represented by counsel, the petitioner's counsel shall also sign the petition.

(c) If the petitioner is represented by counsel, counsel shall comply with Rule R671-103, Attorneys.

(d) The petitioner or counsel shall ~~properly serve~~~~hand-deliver~~ a copy of the petition to the Utah Attorney General or designee in accordance with Utah Rule of Civil Procedure 4.

(2) The commutation petition shall include:

(a) the petitioner's name, date of birth, and Department of Corrections' offender number;

(b) the name, address, telephone number, and email address of any counsel representing the petitioner in the commutation proceeding;

(c) a certified copy of the Judgment, Commitment, and Sentence for which commutation is petitioned;

(d) a certified copy of the warrant setting the execution date applicable to the petitioner and for which commutation is petitioned;

(e) a statement specifying whether or not the conviction or sentence for which commutation is petitioned was appealed; and if so, a copy of any applicable appellate decision;

(f) a statement specifying whether or not the conviction or sentence for which commutation is petitioned was the subject of any complaint, petition, or other court filing or litigation seeking collateral remedies, post-conviction relief, a writ of habeas corpus, or any other extraordinary relief; and if so, a copy of any applicable final orders, rulings, determinations, and appellate decisions regarding such litigation;

(g) a statement of the reasons or grounds which the petitioner believes support the commutation of the death sentence;

(h) copies of any written evidence upon which the petitioner intends to rely at the hearing; and

(i) the names of any witnesses the petitioner intends to call and a summary of their anticipated testimony.

(3) If the petitioner previously requested commutation, the petition shall include a statement reciting what, if any, new, significant, and previously unavailable information exists which supports commutation and the reasons the petitioner believes this information supports reconsideration.

(4) Within seven days of receiving the petition, the state, by and through the Attorney General or designee, shall file a response to the petition. The state shall file its response to the commutation petition with the Board and hand-deliver a copy of the response to the petitioner or counsel, if represented.

(a) The [S]state's response shall include copies of any written evidence, the names of any witnesses, and a summary of the

anticipated testimony upon which the state intends to rely to rebut the petitioner's claim that the sentence of death should be commuted.

(b) The Board may request either the petitioner or the [S]state to provide additional information.

R671-312A-4. Preliminary Determinations and Procedures.

(1) The Board, after considering the commutation petition and the [S]state's response, may grant a commutation hearing or may deny the petition without further pleadings, response, hearing, or submissions.

(2) The Board shall issue an order either granting or denying a commutation hearing. The Board's order shall be delivered to the petitioner, counsel, and the [S]state's counsel, either by mail or electronic mail.

(3) If the Board grants a commutation hearing, the Board Chair or another Board Member designated by the Chair, will:

(a) schedule and hold a pre-hearing conference with the petitioner's counsel and the [S]state's counsel to schedule the commutation hearing;

(b) identify the witnesses to be called;

(c) clarify the issues to be addressed; and

(d) take any other action deemed necessary and appropriate to conduct the commutation hearing and proceedings.

R671-312A-5. Commutation Hearing Procedures.

(1) Pursuant to Utah Constitution Article VII, Section 12, and Section 77-27-5 (1992), a commutation hearing must be held before the full Board.

(2) Notice of the commutation hearing shall be sent to:

(a) the victim's representatives;

(b) the police agency which investigated the offenses for which commutation has been petitioned;

(c) the office or agency responsible for the prosecution of the offenses for which commutation has been petitioned; and

(d) the court which originally imposed the sentence for the offenses for which commutation has been petitioned.

(3) Public notice of the commutation hearing will also be made via the Board's website, and the State of Utah Public Meeting and Notice website.

(4) If not otherwise called as a witness, a victim representative, as defined by Section R671-203-1, shall be given the opportunity to attend the commutation hearing and to present testimony regarding the commutation petition, in accordance with, and subject to Subsections R671-203-4(1) through R671-203-4(3), and Subsection R671-203-4(5).

(5) A commutation hearing is not adversarial and neither party is allowed to cross-examine the other party's witnesses. However, the Board may ask questions freely of any witness, the petitioner, the petitioner's counsel, or the [S]state's counsel.

(6) The Utah Rules of Evidence do not apply to a commutation hearing. However, any evidence and testimony sought to be introduced by the parties must be relevant to the issues to be decided by the Board. The Board, through the Board Chair, will make final determinations regarding evidence or testimony admissibility, relevance, or exclusion.

(7) In conducting the commutation hearing:

(a) The Board Chair or designee will place any witnesses under oath and may impose a time limit on each party for presenting its case.

(b) The Board will record the commutation hearing in accordance with Subsection 77-27-8(2).

(c) Rule R671-302, Public Access to Hearings, will govern media and public access to the hearing.

(d) The Board may take any action it considers necessary and appropriate to maintain the order, decorum, and dignity of the hearing.

(e) During the commutation hearing, no person, including either party, the petitioner, any witness, either party's counsel, or any other person associated with or employed by a party or counsel, may approach any member of the Board without leave from the Chair.

R671-312A-6. Commutation Decision.

(1) The Board shall determine by majority decision whether to grant or deny the commutation petition.

(2) The decision of the Board granting or denying commutation following a hearing shall be delivered by mail or electronic mail to the parties and then published by the Board in the same manner as other Board decisions.

(3) The decision of the Board will also be provided to the court that entered the sentence or conviction that is the subject of the commutation petition.

KEY: capital punishment, death sentence, commutation

Date of Last Change: [~~April 1, 2024~~]**2024**

Notice of Continuation: **October 3, 2022**

Authorizing, and Implemented or Interpreted Law: **Art VII, Sec 12; 77-19-8; 77-27-2; 77-27-4; 77-27-5; 77-27-5.5; 77-27-8; 77-27-9; 77-27-9.5.**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R671-312B	Filing ID: 56409

Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Jennifer Yim	801-261-6464	jmyim@agutah.gov
Amanda Montague	801-440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R671-312B. Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992
3. Purpose of the new rule or reason for the change:
These changes are proposed as a result of public comment on this rule received in March 2024.
4. Summary of the new rule or change:
Due to concerns expressed by public comment for the prior rule change, this amendment proposes that service should occur in accordance to the Utah Rules of Civil Procedure.

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, as this rule is clerical in nature and will have no impact on how the Board functions.
B) Local governments:
There is no expected fiscal impact on local governments, as this rule change is clerical and clarifying in nature and will have no impact on local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule does not affect small businesses and so has no expected fiscal impact, as this rule change is clerical and clarifying in nature and will have no impact on small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule change has no effect on non-small businesses and so has no expected financial impact, as this rule change is clerical and clarifying in nature and will have no impact on 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 <i>agency</i>):
This rule amendment will have no fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities, as this rule change is clerical and clarifying in nature and will have no impact on other persons mentioned above.

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

This rule change entails no compliance costs for affected persons, as this rule change is clerical and clarifying in nature and will have no impact on 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	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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:

Article VII, Section 12	Section 77-19-8	Section 77-27-2
Section 77-27-4	Section 77-27-5	Section 77-27-5.5
Section 77-27-8	Section 77-27-9	Section 77-27-9.5

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: 07/01/2024

9. This rule change MAY become effective on: 07/08/2024

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:	J. Scott Stephenson, Chairman	Date:	04/03/2024
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R671. Pardons (Board of), Administration.

R671-312B. Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992.

R671-312B-1. Scope of Rule.

Rule R671-312 governs all petitions and proceedings when a petition for commutation of a death sentence is filed by or on behalf of a person sentenced to death for a capital felony in this state. In addition to the rules of general applicability set forth in Rule R671-312, this Rule, R671-312B, governs commutation petitions and proceedings when a death sentence commutation petition concerns a person who was sentenced to death after April 26, 1992.

R671-312B-2. Eligibility.

(1) A person sentenced to death, or that person's counsel, may file a petition for commutation of a death sentence no later than seven days after the sentencing court has issued a judgment of death and a warrant of execution.

(2) If any appeal of the petitioner's conviction or sentence is filed or litigated on behalf of the petitioner, including any collateral challenges or lawsuits, the commutation petition shall be filed within seven days after completion of all such appeals of the conviction or sentence and collateral challenges or lawsuits, including all proceedings seeking post-conviction relief, habeas corpus relief, or other proceedings for extraordinary relief.

(3) Failure of any petitioner or counsel to comply with this rule, all other Board rules, or any Board directive or order may result in the summary denial of the petition and cancellation of any scheduled hearing.

(4) Any act, omission, pleading, or other filing by a petitioner or counsel that the Board determines is meant to delay, hinder, or disrupt the Board's commutation process or proceedings may result in the summary denial of the petition and cancellation of any scheduled hearing.

R671-312B-3. Petition Requirements.

(1)(a) The commutation petition shall be signed by the petitioner, under oath, and filed with the Board at the Board's office no later than seven days after the sentencing court signs a warrant setting an execution date.

(b) If the petitioner is represented by counsel, the petitioner's counsel shall also sign the petition.

(c) If the petitioner is represented by counsel, counsel shall comply in all respects with Rule R671-103, Attorneys.

(d) The petitioner or counsel shall ~~properly serve~~^{hand-deliver} a copy of the petition to the Utah Attorney General or designee in accordance with Utah Rule of Civil Procedure 4.

(2) The commutation petition shall include:

(a) the petitioner's name, date of birth, and Department of Corrections offender number;

(b) the name, address, telephone number, and email address of any counsel representing the petitioner in the commutation proceeding;

(c) a certified copy of the Judgment, Commitment, and Sentence for which commutation is petitioned;

(d) a certified copy of the warrant setting the execution date applicable to the petitioner and for which commutation is petitioned;

(e) a statement specifying whether or not the conviction or sentence for which commutation is petitioned was appealed; and if so, a copy of any applicable appellate decision;

(f) a statement specifying whether or not the conviction or sentence for which commutation is petitioned was the subject of any complaint, petition, or other court filing or litigation seeking collateral remedies, post-conviction relief, a writ of habeas corpus, or any other extraordinary relief; and if so, a copy of all applicable final orders, rulings, determinations, and appellate decisions regarding such litigation;

(g) a statement of the reasons or grounds which the petitioner believes support the commutation of the death sentence;

(h) copies of all written evidence upon which the petitioner intends to rely at the hearing;

(i) the names of all witnesses the petitioner intends to call and a summary of their anticipated testimony; and

(j) a statement certifying whether the issue or issues:

(i) have been reviewed previously by the courts;

(ii) should have been raised during the judicial process; or

(iii) if based on new information, are still subject to judicial

review.

(3) If the petitioner previously requested commutation, the petition shall include a statement reciting what, if any, new, significant, and previously unavailable information exists which supports commutation and the reasons the petitioner believes this information supports reconsideration.

(4) Within seven days of receiving the petition, the state, by and through the Attorney General or designee, shall file a response to the petition. The state shall file its response to the commutation petition with the Board and hand-deliver a copy of the response to the petitioner or counsel, if represented.

(a) The state's response shall include copies of all written evidence, the names of any witnesses, and a summary of the anticipated testimony upon which the state intends to rely to rebut the petitioner's claim that the sentence of death should be commuted.

(b) The Board may request either the petitioner or the state to provide additional information.

R671-312B-4. Preliminary Determinations and Procedures.

(1) If the Board determines that it cannot consider the claims pursuant to Section 77-27-5.5, it shall deny the petition.

(2) If the Board determines the petition does not present a substantial issue for commutation, it shall deny the petition.

(3) If the Board determines the petition presents a substantial issue for commutation, which has not, or could not have been reviewed by the judicial process, the Board may grant a commutation hearing or deny the petition without further pleadings, response, hearing, or submissions.

(4) The Board shall issue an order either granting or denying a commutation hearing. The Board's order shall be delivered to the petitioner, counsel, and the state's counsel, either by mail or electronic mail.

(5) If the Board grants a commutation hearing, the Board Chair or another Board Member designated by the Chair, shall:

(a) schedule and hold a pre-hearing conference with the petitioner's counsel and the state's counsel schedule the commutation hearing;

(b) identify the witnesses to be called;

(c) clarify the issues to be addressed; and

(d) take any other action deemed necessary and appropriate to conduct the commutation hearing and proceedings.

R671-312B-5. Commutation Hearing Procedures.

(1) Pursuant to Utah Constitution Article VII, Section 12, and Section 77-27-5, a commutation hearing must be held before the full Board.

(2) Notice of the commutation hearing shall be sent to:

(a) the victim's representatives;

(b) the police agency which investigated the offenses for which commutation has been petitioned;

(c) the office or agency responsible for the prosecution of the offenses for which commutation has been petitioned; and

(d) the court which originally imposed the sentence for the offenses for which commutation has been petitioned.

(3) Notice of the commutation hearing will be provided to the public via the Board's website, and the State of Utah Public Meeting and Notice website.

(4) If not otherwise called as a witness, a victim representative, as defined by Section R671-203-1, shall be given the opportunity to attend the commutation hearing, and to present testimony regarding the commutation of the death sentence, in accordance with, and subject to Subsections R671-203-4(1) through R671-203-4(3), and Subsection R671-203-4(5).

(5) A commutation hearing is not adversarial and neither party is allowed to cross-examine the other party's witnesses. However, the Board may ask questions freely of any witness, the petitioner, the petitioner's counsel, or the State's counsel.

(6) The Utah Rules of Evidence do not apply to a commutation hearing. However, any evidence and testimony sought to be introduced by the parties must be relevant to the issues to be decided by the Board. The Board, through the Board Chair, will make final determinations regarding evidence or testimony admissibility, relevance, or exclusion.

(7) In conducting the commutation hearing:

(a) The Board Chair or designee will place any witnesses under oath and may impose a time limit on each side for presenting its case.

NOTICES OF PROPOSED RULES

- (b) The Board will record the commutation hearing in accordance with Subsection 77-27-8(2).
- (c) Rule R671-302, Public Access to Hearings, will govern media and public access to the hearing.
- (d) The Board may take any action it considers necessary and appropriate to maintain the order, decorum, and dignity of the hearing.
- (e) During the commutation hearing, no person, including either party, the petitioner, any witness, either party's counsel, or any other person associated with or employed by a party or counsel, may approach any member of the Board without leave from the Chair.

R671-312B-6. Commutation Decision.

- (1) The Board shall determine by majority decision whether to grant or deny the commutation petition.
- (2) The decision of the Board granting or denying commutation following a hearing shall be delivered by mail or electronic mail to the parties and then published by the Board in the same manner as other Board decisions.
- (3) The decision of the Board will also be provided to the court that entered the sentence or conviction that is the subject of the commutation petition.

KEY: capital punishment, death sentence, commutation
Date of Last Change: ~~April 1, 2024~~ 2024
Notice of Continuation: October 3, 2022
Authorizing, and Implemented or Interpreted Law: Art VII, Sec 12; 77-19-8; 77-27-2; 77-27-4; 77-27-5; 77-27-5.5; 77-27-8; 77-27-9; 77-27-9.5.

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-1	Filing ID: 56485

Agency Information

1. Department:	Public Safety	
Agency:	Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R911-1. General Definitions
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.
4. Summary of the new rule or change:
This rule establishes definitions applicable to Title R911 administrative rules under DPS, EMS. This filing essentially moves Rule R426-1 from DHHS to DPS with the new rule number being R911-1 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).
(EDITOR'S NOTE: The proposed repeal of Rule R426-1 is under ID 56460 in this issue, May 15, 2024, of the Bulletin.)

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, as this rule filing only moves Rule R426-1 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
B) Local governments:
There is no anticipated cost or savings to local governments, as this rule filing only moves R426-1 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-1 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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, as this rule filing only moves Rule R426-1 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-1 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-1 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-2d-101.1		
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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:	06/14/2024
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9. This rule change MAY become effective on:	07/01/2024
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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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.

R911-1. General Definitions.

R911-1-100. Authority and Purpose.

This rule establishes uniform definitions for rules under Title R911. It also provides administration standards applicable to rules under Title R911.

R911-1-200. General Definitions.

Definitions in this rule are found in Section 53-2d-101, in addition:

(1) "advanced emergency medical technician" or "AEMT" means an individual who has completed an AEMT training program, approved by the department, who is licensed by the department as qualified to give services enumerated in this rule;

NOTICES OF PROPOSED RULES

(2) "affiliated provider" means a licensed EMS individual's secondary employer or employers.

(3) "air ambulance" means a specially equipped and permitted aircraft, especially a helicopter or fixed wing airplane, for transporting patients;

(4) "air ambulance personnel" means the pilot and patient care personnel who are involved in an air medical transport;

(5) "air ambulance service" means any publicly or privately owned organization that is licensed or applies for licensure under Rule R911-3 and provides transportation and care of patients by air ambulance;

(6) "air ambulance service medical director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service;

(7) "categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under Section R911-9-300;

(8) "certify," "certification," and "certified" mean the official department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which they may be licensed;

(9) "competitive grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds;

(10) "continuing medical education" means a department approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.

(11) "county or multi-county EMS council or committee" means a group of persons recognized as the legitimate entity within the county to formulate policy regarding the provision of EMS;

(12) "course coordinator" means an individual who has completed a department course coordinator course and is endorsed by the department as capable to conduct department authorized EMS courses;

(13) "department" means the Department of Public Safety;

(14) "emergency medical dispatcher" or "EMD" means an individual who has completed a department approved EMD training program, and is licensed by the department as qualified to give services enumerated in this rule;

(15) "emergency medical service dispatch center" means a call center designated by the department for the routine acceptance of calls for emergency assistance, staffed by trained operators who utilize a selective medical dispatch system to dispatch licensed designated quick response units or licensed ambulance and paramedic services;

(16) "emergency medical responder" or "EMR" means an individual who has completed a department approved EMR training program, and is licensed by the department as qualified to give services enumerated in this rule;

(17) "emergency medical technician" or "EMT" means an individual who has completed a department approved EMT training program and is licensed by the department as qualified to give services enumerated in this rule;

(18) "emergency medical technician intermediate advanced" means an individual who has completed a department

approved EMT- IA training program and is licensed by the department as qualified to give services enumerated in this rule.

(19) "emergency vehicle operator" means an individual on the roster of an EMS provider who may, in the normal course of the individual's duties, drive an ambulance or an emergency medical response vehicle;

(20) "EMS" means Emergency Medical Services;

(21) "emergency medical incident" means any instance in which an emergency medical services provider is requested to provide or potentially provide emergency medical services;

(22) "EMS instructor" means an individual who has completed a department EMS instructor course and is endorsed by the department as capable to teach EMS personnel;

(23) "EMS stand-by event" means the on-site licensed ambulance, paramedic service, or designated quick response unit at a scheduled event or activity provided by the local 911 exclusive license provider or their designee;

(24) "endorsement" means a department recognized set of skills or specific authority extended to an individual's EMS license;

(25) "exclusive license" means the sole right to perform the licensed act in a defined geographic service area, and that prohibits the department from performing the licensed act, and from granting the right to anyone else;

(26) "Grants Review Subcommittee" means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize, and make grant funding recommendations to the EMS Committee.

(27) "ground ambulance" means a vehicle which is properly equipped, maintained, permitted and used to transport a patient to a patient destination such as a patient receiving facility or resource hospital.

(28) "inclusive trauma system" means the coordinated component of the EMS system composed of any general acute hospitals licensed under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, trauma centers, and pre-hospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of any injured patients from initial injury to complete rehabilitation;

(29) "inter-facility transfer" means an ambulance transfer of a patient, who does not have an emergency medical condition as defined in Subsection 53-2d-101(13), and the ambulance transfer of the patient is arranged by a transferring physician for the particular patient, from a hospital, nursing facility, patient receiving facility, mental health facility, or other licensed medical facility;

(30) "individual" means a human being;

(31) "level of care" means the capabilities and commitment to the care of the trauma patient available within a specified facility;

(32) "level of license" means the official department recognized step in the licensure process in which an individual has attained as an EMS provider. It also means the licensed or designated level of an ambulance provider or quick response unit.

(33) "licensed EMS individual" means a person licensed by the department to perform an EMS function;

(34) "meritorious complaint" means a complaint against a licensed ambulance provider, designated agency, or licensed provider that is made by a patient, a member of the immediate family of a patient, or health care provider, that the department determines is substantially supported by the facts or a licensed ambulance provider, designated agency, or licensed provider;

(a) has repeatedly failed to provide service at the level or in the exclusive geographic service area required licensee;

(b) has repeatedly failed to follow operational standards established by the EMS Committee;

(c) has committed an act in the performance of a professional duty that endangered the public or constituted gross negligence; or

(d) has otherwise repeatedly engaged in conduct that is adverse to the public health, safety, morals or welfare, or would adversely affect the public trust in the emergency medical service system;

(35) "matching funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures;

(36) "medical director" means a physician certified by the department to provide off-line medical control;

(37) "mid-level provider" means a licensed nurse practitioner or a licensed physician assistant;

(38) "net income" means the sum of net service revenue, plus other regulated operating revenue and subsidies of any type, less operating expenses, interest expense, and income;

(39) "on-line medical control" refers to physician medical direction of pre-hospital personnel during a medical emergency;

(40) "off-line medical control" refers to physician oversight of local EMS services and personnel to assure their medical accountability;

(41) "paramedic" means an individual who has completed a department approved paramedic training program and is licensed by the department as qualified to give services enumerated in this rule.

(42) "paramedic ground ambulance" means the provision of advanced life support patient care and transport by licensed paramedic personnel in a licensed ambulance;

(43) "paramedic rescue service" means the provision of advanced life support patient care by licensed paramedic personnel without the ability to transport patients;

(44) "paramedic unit" means a vehicle which is properly equipped, maintained and used to transport licensed paramedics to the scene of emergencies to perform paramedic services without the ability to transport patients to a designated hospital or designated patient receiving facility;

(45) "paramedic tactical service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by licensed paramedics who are trained in combat medical response;

(46) "paramedic tactical unit" means a vehicle which is properly equipped, maintained, and used to transport licensed paramedics to the scene of traumatic confrontations to provide paramedic tactical services;

(47) "patient care report" means a record of the response by each responding emergency medical services provider unit to each patient during an EMS incident;

(48) "patient receiving facility" means a department designated medical clinic or designated resource hospital that is approved to receive patients transported by a licensed ambulance provider;

(49) "per capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in Section 26B-4-107, as part of the Emergency Medical Services Grants Program.

(50) "permit" means the document issued by the department that authorizes a vehicle to be used in providing emergency medical services;

(51) "person" means an individual, firm, partnership, association, corporation, company, or group of individuals acting

together for a common purpose, agency, or organization of any kind public or private;

(52) "physician" means a medical doctor licensed to practice medicine in Utah;

(53) "pilot" means an individual licensed to operate an air ambulance;

(54) "pre-hospital care" means medical care given to an ill or injured patient by a designated or licensed EMS provider outside of a hospital setting;

(55) "primary affiliated provider" or "PAP" means a licensed EMS individual's primary or main employer or provider;

(56) "primary emergency medical services" means an organization that is the only licensed or designated service in a geographical area;

(57) "provider" means a department licensed or designated entity that provides emergency medical services;

(58) "provisional license" means temporary terms and conditions placed on a licensed EMS individual's license until completion of an investigation or a final adjudication or conclusion of the pending matter;

(59) "quick response unit" or "QRU" means an entity that provides emergency medical services to supplement local licensed ambulance providers or provide unique services;

(60) "quick response vehicle" or "QRV" means a vehicle which is properly equipped, maintained, permitted, and used to perform assistive services at a scene. A QRV may transport or deliver a patient to a licensed ambulance provider access point. The QRV may include an automobile, an all-terrain vehicle, or a watercraft.

(61) "resource hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of pre-hospital emergency care;

(62) "restricted license" means a licensed EMS individual may not function in their EMS capacity for an interim period;

(63) "scene" means the location of initial contact with the patient;

(64) "selective medical dispatch system" means a department approved reference system used by a designated local dispatch agency to dispatch aid to medical emergencies which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(65) "specialized life support air ambulance service" means a level of care which requires equipment or specialty patient care by one or more medical personnel in addition to the regularly scheduled air medical team; and

(66) "training officer" means an individual who has completed a department training officer course and is endorsed by the department to be responsible for an EMS provider organization's continuing medical education, license renewal records, and testing.

KEY: emergency medical services

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-2	Filing ID: 56486

Agency Information

1. Department:	Public Safety	
Agency:	Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R911-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.
4. Summary of the new rule or change:
This filing essentially moves Rule R426-2 from DHHS to DPS with the new rule number being R911-2 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024). (EDITOR'S NOTE: The proposed repeal of Rule R426-2 is under ID 56461 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
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A) State budget:
There is no anticipated cost or savings to the state budget, as this rule filing only moves Rule R426-2 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
B) Local governments:
There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-2 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-2 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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, as this rule filing only moves Rule R426-2 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-2 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-2 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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		
53-2d-101.1		

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:	06/14/2024
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9. This rule change MAY become effective on:	07/01/2024
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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.

R911-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management, and Quality Assurance Reviews.

R911-2-100. Authority and Purpose.

(1) This rule is established under Title 53, Chapter 2d, Emergency Medical Services Act. It describes types of providers that require a designation, the application process for obtaining a designation and minimum designation requirements.

(2) The rule also establishes criteria for critical incident stress management and the process for quality assurance reviews.

R911-2-200. EMS Provider Designation Types.

The following type of provider shall obtain a designation from the department:

- (1) quick response provider;
- (2) emergency medical service dispatch center; or
- (3) nonemergency secured behavioral health transport.

R911-2-300. Quick Response Provider Minimum Designation Requirements.

A quick response provider shall meet the following minimum designation requirements:

- (1) vehicles, equipment, and supplies that meet department requirements;
- (2) describe locations for stationing its vehicles, equipment and supplies;
- (3) a current dispatch agreement with a designated emergency medical service dispatch center;
- (4) a department-endorsed training officer;
- (5) a current plan of operations, which shall include:
 - (a) the name, EMS license number, and license level of personnel;
 - (b) operational procedures; and
 - (c) a description of how the designated provider proposes to interface with other licensed and designated EMS providers.
- (6) a current agreement with a department-certified off-line medical director who will perform the following:
 - (a) develop and implement patient care standards which include written standing orders and triage, treatment, pre-hospital protocols, and pre-arrival instructions to be given by designated emergency medical dispatch centers;
 - (b) ensure the qualification of field licensed EMS personnel involved in patient care and dispatch through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending department review, a field EMS personnel or dispatcher who does not comply with local medical triage, treatment and transport protocols, pre-arrival instruction protocols, or who violates EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner;

(f) notify the department within one business day of any imposed suspensions; and

(g) attend meetings of the local EMS council, if one exists, to coordinate operations of local EMS providers;

(7) provide current treatment protocols approved by the certified off-line medical director for the designated service level;

(8) provide a copy of its certificate of insurance; and

(9) provide a letter of support from the licensed ambulance providers in the geographical service area.

R911-2-400. Emergency Medical Service Dispatch Center Minimum Designation and Certified Emergency Medical Dispatcher Requirements.

(1) Designated emergency medical service dispatch centers shall have a selective medical dispatch system that meets EMS Committee approval, and uses local dispatch protocols approved by the off-line medical director including:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions;

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(d) use protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(e) provide pre-hospital arrival instructions by a certified emergency medical dispatcher (EMD);

(f) have a current updated plan of operations including:

(i) plan of operations to be used in a disaster or emergency;

(ii) communication systems; and

(iii) aid agreements with other designated medical service dispatch centers;

(g) a current agreement with a department-certified off-line medical director;

(h) an ongoing medical call review quality assurance program; and

(i) a licensed emergency medical dispatcher roster including certified EMD staff names, certification numbers, and expiration dates.

(2) EMDs shall be certified by the dispatch center's selective medical dispatch system vendor. Before authorization of a training and certification program by the vendor of a qualified medical dispatch system, the vendor must meet the certification requirements approved by the EMS Committee. Certification requirements shall include:

(a) successful completion of the certification course and related testing;

(b) keep documentation of having completed a training course, utilizing the 2020 American Heart Association emergency cardiovascular care guidelines, in high-quality telephone cardiopulmonary resuscitation (T-CPR), the instruction shall

incorporate recognition protocols for out-of-hospital cardiac arrest (OHCA) CPR instructions for callers, and continuous education;

(c) certified EMDs shall be included in the department's license management system for compliance monitoring and may adjust state EMS grant revenues based on failure to comply with the requirements of this section;

(d) meet background screening requirements as described in Section 53-2d-410; and

(e) be at least 18 years of age or older.

R911-2-500. Nonemergency Secured Behavioral Health Transport Minimum Designation Requirements.

(1) Vehicles, equipment, and supplies that meet the current requirements of the department for designated nonemergency secured behavioral health transport providers as found on the Office of EMS and Preparedness' website.

(2) Meet staffing requirements as set forth by the EMS Committee. During transport each designated nonemergency secured behavioral health transport vehicle shall be staffed with two personnel. One or both staff shall have completed required training as approved by department policy for mental health patient de-escalation and American Heart Association cardiopulmonary resuscitation or equivalent.

R911-2-600. Designation Applications.

(1) Any person applying for designation shall submit to the department:

(a) applications fees;

(b) complete application on department forms; and

(c) documentation verifying that the provider meets the minimum requirements for the designation.

(2) The department may determine if clarifying information is needed for approval or processing. The department will provide needed requirements to the applicant.

(3) A provider applying for re-designation should submit an application as described in this section 90 days before the expiration of its designation to avoid a lapsed period.

(4) A designation may be issued for up to a four-year period.

R911-2-700. Quick Response Provider Designation Applications.

A quick response provider shall provide:

(1) name of the organization and its principles;

(2) name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility;

(3) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;

(4) a description of the geographical area of service; and

(5) a demonstrated need for the service.

R911-2-800. Emergency Medical Service Dispatch Center Designation Applications.

An emergency medical service dispatch center shall provide:

(1) name of the organization and its principles;

(2) name of the person or organization financially responsible for the service provided by the designee and documentation from that entity accepting responsibility;

(3) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;

(4) a description of the geographical area of service; and

(5) a demonstrated need for the service.

R911-2-900. Nonemergency Secured Behavioral Health Transport Designation Applications.

(1) A designated nonemergency secured behavioral health transport provider shall provide to the department:

(a) name of the organization and its principles;

(b) name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility; and

(c) if the applicant is privately owned, they shall submit certified copies of the document creating the entity.

(2) Provide a current plan of operations, which shall include:

(a) a description of operational procedures;

(b) description of how the designated nonemergency secured behavioral health transport will interface with hospitals, emergency receiving facilities, licensed mental health facilities, and EMS providers;

(c) a list of current insurance carriers and health facilities in which the designated provider has current contracts;

(d) written policies that address under what circumstances a transport will be declined for medical or payment purposes;

(e) a written protocol to activate 911 if an emergency medical situation arises; and

(f) procedures for patient care.

(3) Provide a written policy of how the designated nonemergency secured behavioral health transport will report patient care data to the department.

(4) Provide a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the and following minimum amounts:

(a) liability insurance in the amount of \$1,000,000 for each individual claim; and

(b) liability insurance in the amount of \$1,000,000 for property damage from any one occurrence.

(5) A designated nonemergency secured behavioral health transport provider shall obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:

(a) provide the department with a copy of its certificate of insurance demonstrating compliance with this section;

(b) direct the insurance carrier or self-insurance program to notify the department of any changes in insurance coverage within 60 days; and

(c) provide the department with a copy of its certificate of insurance indicating coverage at or above \$1,000,000 for liability.

(6) Before approval of the designation, each vehicle will be inspected and permitted by the department and shall meet the requirements in Subsection R911-4-300(5).

R911-2-1000. Denial or Revocation of Designation.

(1) The department may deny an application for a designation for any of the following reasons:

(a) failure to meet requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, or staffing requirements;

(c) failure to meet requirements for renewal or upgrade;

(d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26-2d-602 and 53-2d-604;

(e) failure to meet agreements covering training standards or testing standards;

(f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(g) a history of criminal activity by the licensed or designated provider or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsifying or misrepresenting any information required for licensure or designation or by the application for either;

(i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the department;

(j) failure to submit records and other data to the department as required by statute or rule;

(k) misuse of grant funds received under Section 53-2d-207; and

(l) violation of federal standards required for the provision of EMS service.

(2) An applicant who has been denied a designation may request a department review by filing a written request for reconsideration within 30 calendar days of the issuance of the department's denial.

R911-2-1100. Application Review and Approval.

If the department finds that an application for designation is complete and that the applicant meets requirements, it may approve the designation.

R911-2-1200. Change in Designated Level of Service.

(1) A quick response provider may apply to provide a higher designated level of service by:

(a) submitting the applicable fees; and

(b) submitting an application on department forms to the department.

(2) As part of the application, the applicant shall provide:

(a) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service;

(c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director; and

(d) provide the department with a letter of support from the licensed providers in the geographical service area.

(3) If the department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.

R911-2-1300. Critical Incident Stress Management and Peer Support Training.

(1) The department may establish a critical incident stress management (CISM) team to meet its public health responsibilities.

(2) The department's CISM team may conduct stress debriefings, defusings, demobilizations, education, and other critical incident stress interventions upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.

NOTICES OF PROPOSED RULES

(3) The department's CISM team may assist the department in approving peer support training for licensed EMS personnel

(4) Individuals who serve on the CISM team shall complete department approved initial and ongoing training.

(5) While serving as a CISM team member, the individual is acting on behalf of the department. Records collected by the CISM team are department records. CISM team members may not share department identifiable personal information related to activities under Subsection (2).

(6) The department may reimburse a CISM team member for travel expenses incurred in performing their duties in accordance with state finance mileage reimbursement policy.

(7) The department will maintain a list of individuals who have successfully completed an approved peer support training program.

(8) Individuals who perform peer support functions may receive legal protections to not be compelled to disclose information as described in Section 78B-5-9.

(9) Individuals who perform peer support functions for a licensed or designated EMS provider shall be familiar with peer support policies for the licensed or designated EMS provider with whom they are employed or otherwise serving.

R911-2-1400. Quality Assurance Reviews.

(1) The department may conduct quality assurance reviews of licensed and designated providers and training programs on an annual basis or more frequently as necessary to enforce this rule.

(2) The department shall conduct a quality assurance review before issuing a new license or designation.

(3) The department may conduct quality assurance reviews on personnel, vehicles, facilities, communications, equipment, documents, records, methods, procedures, materials, and other attributes or characteristics of the designated provider.

(a) The department will provide a written copy to the designated provider.

(b) The designated provider shall correct deficiencies within 30 days unless otherwise directed by the department.

(c) The designated provider shall immediately notify the department on a department approved form when the deficiencies have been corrected.

KEY: emergency medical services

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R911-3. Licensure
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.
4. Summary of the new rule or change:
This filing essentially moves Rule R426-3 from DHHS to DPS with the new rule number being R911-3 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).
(EDITOR'S NOTE: The proposed repeal of Rule R426-3 is under ID 56462 in this issue, May 15, 2024, of the Bulletin.)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-3	Filing ID: 56488

Agency Information

1. Department:	Public Safety
Agency:	Emergency Medical Services
Building:	Calvin Rampton Building
Street address:	4501 S. 2700 W.
City, state and zip:	Taylorsville, UT 84129

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, as this rule filing only moves Rule R426-3 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
B) Local governments:
There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-3 from DHHS to DPS in response to the passage of S.B. 64

(2023) and will have no impact on how DPS functions or the parties this applies to.

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

There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-3 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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, as this rule filing only moves Rule R426-3 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-3 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-3 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-2d-103(1)(e)	Section 53-2d-104	Section 53-2d-101.1
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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: 06/14/2024

9. This rule change MAY become effective on: 07/01/2024

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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.

R911-3. Licensure.

R911-3-1. Authority and Purpose.

(1) This rule is authorized under Subsection 53-2d-103(1)(e).

(2) The purpose of this rule is to set forth ground ambulance policies, rules, and standards adopted by the Utah Emergency Medical Services Committee created in Section 53-2d-104, which promotes and protects the health and safety of the people of this state.

R911-3-2. Requirement for Licensure.

A provider of ground ambulance, paramedic ground ambulance, or paramedic services shall obtain a license from the department before providing these services.

R911-3-3. Licensure Types.

(1) The department may issue exclusive ground ambulance transport licenses for the following types of service:

- (a) emergency medical technician (EMT);
- (b) advanced emergency medical technician (AEMT); and
- (c) paramedic.

(2) The department may issue exclusive ground ambulance inter-facility transport licenses for the following types of service:

- (a) EMT;
- (b) AEMT; and
- (c) paramedic.

(3) The department may issue exclusive paramedic, non-transport licenses.

(4) The department may issue a paramedic tactical license that is a function not tied to a specific geographical location.

R911-3-4. Scope of Operations.

(1) A ground ambulance or paramedic licensed provider may only provide service to its specific licensed geographic service area and is responsible to provide services to its entire specific geographic service area except as provided by aid agreements. It will provide emergency medical services for its category of licensure.

(2) A ground ambulance provider or paramedic service provider shall provide services 24 hours a day, every day of the year.

(3) A ground ambulance provider or paramedic service provider shall provide standby services for any special event that requires ground ambulance or paramedic services within its geographic service area. The licensed provider may arrange for those services through aid agreements. Designated quick response units may also support licensed ground ambulance or paramedic services at special events. If a licensed provider refuses to provide service, or is non-responsive in a timely manner to a request for a special event, the event organizer may use a licensed or designated provider of their choice.

(4) A ground ambulance provider may provide arranged patient care services through a community paramedicine program. The licensed ground ambulance provider shall submit a description of the community paramedicine program to the department to be included with the operations plan for licensure.

R911-3-5. Minimum Licensure Requirements Ground Ambulance and Paramedic Services.

A licensed provider shall meet the following minimum requirements:

(1) sufficient ground ambulances, emergency response vehicles, equipment, and supplies that meet the requirements of this

rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensed providers;

(2) locations or staging areas for stationing its vehicles;

(3) a current written dispatch agreement with a designated emergency medical dispatch center;

(4) ground ambulances may have current written aid agreements with other ground ambulance licensed providers to give assistance in times of unusual demand;

(5) a department certified EMS training officer that is responsible for continuing education;

(6) a current plan of operations;

(7) a description of how the licensed provider or applicant proposes to interface with other licensed and designated EMS providers;

(8) demonstrate fiscal viability;

(9) medical personnel roster which includes level of licensure to ensure there is sufficient trained and licensed staff for operational procedures;

(10) any proposed permitted vehicles;

(11) a current written agreement with a department certified off-line medical director or a medical director certified in the state where the service is based;

(12) provide a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the manner and following minimum amounts:

(a) liability insurance in the amount of \$1,000,000 for each individual claim;

(b) liability insurance in the amount of \$1,000,000 for property damage from any one occurrence; and

(c) obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:

(i) provide the department with a copy of its certificate of insurance demonstrating compliance with this section; and

(ii) direct the insurance carrier or self-insurance program to notify the department of changes in insurance coverage within 60 days;

(13) not be disqualified for disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state;

(14) a paramedic tactical service shall be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical service's geographic service area;

(15) applicable fees and application on department approved forms to the department;

(16) a detailed description and detailed map of the exclusive geographical areas that will be served;

(17) if the requested geographical service area is for less than the currently established geographical service area for ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;

(18) if an applicant is responding to a public bid, the applicant shall include detailed maps and descriptions for each geographical area served;

(19) documentation showing that the applicant meets each local zoning and business licensing standard within the exclusive geographical service area that it will serve;

(20) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;

(21) patient care protocols, medications, and equipment approved by the provider's medical director based on licensure level according to department policies;

(22) applicant's plans for operations during times of unusual demand;

(23) a written assessment of field performance from the applicant's off-line medical director;

(24) other information that the department determines necessary for the processing of the application and the oversight of the licensed entity.

(25) written cost, quality, and access goals as described in Section R911-3-6, if available;

(26) response to a request for proposal;

(27) if, upon department review, the application for a new license is complete and meets each requirement, the department shall issue a notice of approved application;

(28) award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with any applicable statute and rule and a successful department quality assurance review;

(29) after review and before issuing a license to a new service, the department will inspect the ground vehicle, equipment, and required documentation; and

(30) a license may be issued for up to a four-year period unless revoked or suspended by the department. The department may alter the length of the license to standardize renewal cycles.

R911-3-6. Cost, Quality, and Access Goals for Ground Ambulance Providers.

(1) A local government shall establish emergency medical service goals.

(2) The local government emergency medical service shall renew their goals every four years in concurrence with the licensure process for the EMS licensed ground ambulance provider. Each local government in a licensed service area shall participate.

(3) The local government may amend goals if necessary, due to:

(a) unforeseen changes in service delivery;

(b) community impacts; or

(c) significant unforeseen impact in the geographical service area.

(4) The local government shall write and approve the emergency medical service goals, and submit them to the department with the licensure or re-licensure application by the EMS licensed ground ambulance provider for that geographical service area.

(5) Local governments may choose to recognize EMS providers who have achieved accreditation by a department approved accreditation organization as meeting the cost, quality, and access goals.

(6) Cost goals shall state the expected financial cost to the local government and patients for the level of service provided.

(7) Quality goals shall state the expected level of service plus any additional foreseen improvements or advancements in service expectations.

(8) Access goals shall state the local government's expectation for access to the EMS system by any individual within the local government's geographic area.

R911-3-7. Medical Control.

(1) Each licensed provider shall enter into a written agreement with a physician to serve as its off-line medical director to supervise the medical care or instructions provided by the field EMS personnel and dispatchers. The physician shall be familiar with:

(a) the design and operation of the local pre-hospital EMS system; and

(b) local dispatch and communication systems and procedures.

(2) The off-line medical director shall:

(a) develop and implement patient care standards which include written standing orders and triage, treatment, and transport protocols;

(b) ensure the qualification of field EMS personnel involved in patient care through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending department review, a field EMS personnel who does not comply with local medical triage, treatment and transport protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner;

(f) the medical director shall notify the department within one business day of the suspension; and

(g) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers; and

(3) licensed providers shall notify the department if an off-line medical director is replaced, within 30 days.

R911-3-8. Ground Ambulance or Paramedic Service Provider Aid Agreements.

(1) The department and the surrounding ambulance providers expect each licensed ground ambulance provider to provide mutual aid support for adjoined geographical service areas. Mutual aid support means that a licensed ground ambulance provider may be called upon to provide assistance during times of unusual demand. The licensed ground ambulance provider shall submit exceptions for the mutual aid expectation as part of a license application.

(2) Other types of aid agreements shall be in writing, signed by both parties, and detail the:

(a) purpose of the agreement;

(b) type of assistance required;

(c) circumstances under which the assistance would be given; and

(d) duration of the agreement.

(3) The parties shall provide a copy of any aid agreement except for mutual aid support to the department and to the designated emergency medical dispatch center that dispatch the licensed ground ambulance providers.

(4) When mutual aid support is given the licensed ground ambulance provider rendering support will be responsible for the following, unless otherwise stated in writing, and approved by the department before the event:

(a) billing or other financial reimbursements;

(b) liability for EMS operations related to staff and patient care; and

(c) patient care protocols for licensure level.

R911-3-9. Application Review and Award for Ground Ambulance Providers Selected by Public Bid.

(1) Upon receipt of an appropriately completed application, for ground ambulance or paramedic service license and submission of license fees, the department shall collect supporting documentation and review each application.

(2) If, upon department review, the application is complete and meets each requirement, the department shall:

(a) for a new license application, issue a notice of approved application;

(b) issue a renewal license to an applicant;

(c) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision verified to the department that the licensed provider has met each specification of the original bid and requirements; or

(d) issue a second four-year renewal license to a licensed provider selected by a political subdivision if:

(i) the political subdivision verified to the department that the licensed provider has met each specification of the original bid and requirements; and

(ii) if the department or the political subdivision has not received, before the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.

(3) Upon the request of the political subdivision and the agreement of each interested party and the department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.

R911-3-10. Criteria for Denial or Revocation of Licensure.

(1) The department may deny an application for a license, a renewal of a license, or revoke, suspend or restrict a license without reviewing whether a license shall be granted or renewed to meet public convenience and necessity for any of the following reasons:

(a) failure to meet substantial requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, staffing, or insurance requirements;

(c) failure to meet agreements covering training standards or testing standards;

(d) substantial violations;

(e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(f) a history of serious or substantial public complaints;

(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsification or misrepresentation of any information in the application or related documents;

(i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the department;

(j) failure to submit records and other data to the department as required;

(k) a history of inappropriate billing practices;

(l) misuse of grant funds; or

(m) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) If an applicant or licensed provider has been denied, revoked, suspended, or issued a restricted license by the department, the applicant or licensed provider may appeal a denial by filing a

written appeal within 30 calendar days of the receipt of the issuance of the department's denial.

R911-3-11. Change of Owner.

(1) A licensed provider cannot transfer their license and the vehicle permits to another party.

(2) A new owner shall submit within ten calendar days before the acquisition of property, applications and fees for a new license and vehicle permits.

KEY: emergency medical services, licensure

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-103(1)(e); 53-2d-104; 53-2d-101.1

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:	R911-4	Filing ID: 56489
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Agency Information

1. Department:	Public Safety	
Agency:	Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R911-4. Operations

3. Purpose of the new rule or reason for the change:

This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process

effective 03/13/2024 to transfer administrative rules from DHHS to DPS.

4. Summary of the new rule or change:

This filing essentially moves Rule R426-4 from DHHS to DPS with the new rule number being R911-4 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).

(EDITOR'S NOTE: The proposed repeal of Rule R426-4 is under ID 56463 in this issue, May 15, 2024, of the Bulletin.)

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, as this rule filing only moves Rule R426-4 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

B) Local governments:

There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-4 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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

There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-4 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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, as this rule filing only moves Rule R426-4 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-4 from DHHS to DPS in response to the

passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-4 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-2d-101.1		
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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:	06/14/2024
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9. This rule change MAY become effective on:	07/01/2024
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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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.

R911-4. Operations.

R911-4-100. Authority and Purpose.

This rule establishes standards for the operation of licensed ground EMS providers or designated EMS providers under Title 53, Chapter 2d, Emergency Medical Services Act.

R911-4-200. Licensed Ground Ambulance, Designated QRU, and Designated Nonemergency Secured Behavioral Health Transport Staffing.

(1) While responding to a call, each permitted QRV shall be staffed by at least one individual licensed at or above the provider's designated level of service.

(2) While responding to a call, each licensed ground ambulance shall be staffed with the following minimum complement of licensed personnel for the level of service described unless otherwise determined by local selective medical dispatch system protocols for a lower level response as described in the licensed ground ambulance provider's operational plan:

(a) EMT ambulance: One EMT, and one EMT, AEMT, EMT-IA, or paramedic;

(b) AEMT ambulance: one AEMT and one EMT, AEMT, EMT-IA or paramedic;

(c) paramedic ambulance: one paramedic; and one EMT, AEMT, EMT-IA, or paramedic;

(d) paramedic Rescue, non-transport: one paramedic;

(e) paramedic inter-facility: one paramedic and one EMT, AEMT, EMT-IA, or paramedic; or

(f) paramedic tactical, non-transport: one paramedic.

(3) A licensed ground ambulance or EMS provider shall deploy at least one licensed personnel at the appropriate level of service to the scene of a 911 call, as determined by local selective

medical dispatch system protocols. It is required that ground ambulance responses have a minimum of two licensed personnel on-scene of 911 calls.

(4) Transport of a patient from a scene to a hospital or patient receiving facility, or the transfer of a patient to another licensed ground ambulance provider shall be accomplished by two or more personnel licensed at a level deemed appropriate by the on-scene licensed providers. This shall be determined by a patient's medical condition and local EMS provider treatment protocols.

(5) When providing care, responders not in a uniform shall display upon request their level of medical licensure.

(6) Each licensed or designated provider shall maintain a personnel file for each licensed individual. The personnel file shall include records documenting the individual's qualifications, training, endorsements, certifications, licensure, immunizations, and continuing medical education.

(7) A licensed individual may perform only to the licensed EMS provider level of service, even if the licensed EMS or designated provider is licensed or designated at a higher level of service.

(8) During transport each designated nonemergency secured behavioral health transport vehicle shall be staffed with a minimum of two personnel, with at least one who has obtained required training as approved by department policy for mental health patient de-escalation and American Heart Association cardiopulmonary resuscitation or equivalent.

R911-4-300. Permits and Inspections.

(1) A licensed ground ambulance or designated EMS provider shall only use vehicles for which the provider has obtained a permit from the department. Each new ground ambulance shall meet state approved specifications and standards. Department policy for ground ambulances will be posted on the Bureau of Emergency Medical Services and Preparedness's website.

(2) A permit issued by the department is valid for one year.

(3) The provider shall display the current permit location on vehicle in a location easily visible at ground level from outside of the vehicle.

(4) Permits and decals are not transferable to other vehicles.

(5) Each licensed ambulance and designated QRU provider shall annually provide proof upon request that every operator of an emergency vehicle has successfully completed an emergency vehicle operator's course approved by the department.

R911-4-400. Licensed Ground Ambulance, Designated QRU Provider, and Designated Nonemergency Secured Behavioral Health Transport Operations.

(1) Each licensed ground ambulance provider or designated QRU provider shall notify the department of the permanent location of its ground ambulances and QRVs. The licensed ground EMS provider or designated QRU provider shall notify the department in writing if the permanent location changes for any permitted vehicles.

(2) Each licensed ground ambulance provider, designated QRU provider, or designated nonemergency secured behavioral health transport provider shall maintain each operational permitted vehicle on a premise suitable to make it available for immediate use, in good mechanical repair, properly equipped, and in a sanitary condition.

(3) Each licensed ground ambulance provider or designated provider shall maintain each operational vehicle in a clean

condition with the interior being thoroughly cleaned after each use in accordance with OSHA standards and the provider's exposure control plan.

(4) Each licensed ground ambulance provider or designated provider shall equip each operational vehicle with adult and child safety restraints. To the point practicable and feasible, each occupant shall be safely restrained during operation.

(5) Each licensed ground ambulance provider or designated ORU provider shall assure that each emergency vehicle operator who may drive the emergency vehicle:

(a) is at least 18 years of age;

(b) possesses a valid driver license;

(c) successfully passed the provider's criminal background check within the prior four years; and

(d) successfully completed a department approved emergency vehicle operator's course or refresher course within the past two years.

(6) The department shall verify annually that licensed ground ambulance providers or designated providers are in compliance with this requirement.

R911-4-500. Scene and Patient Management.

(1) Designated emergency medical service dispatch centers shall use a selective medical dispatch system to determine which licensed ambulance provider will be notified for patient transport.

(2) When responding to a medical emergency call, EMS personnel shall follow protocols approved by the service provider's medical director, and act within their scope of practice.

(3) EMS personnel shall establish communication with on-line medical control as soon as reasonable.

(4) Licensed Paramedic tactical service provider may only function at the invitation of the local or state public safety authority. When called upon for assistance, the licensed tactical paramedic provider shall immediately notify the local emergency medical service dispatch center to coordinate patient transportation.

(5) Patients who are to be transferred to a different hospital, patient receiving facility, or mental health facility may be delayed by the licensed ambulance provider for severe weather, hazardous conditions, or any other situation that may endanger the safety of the EMS personnel, employed staff, the person being transported, or the public.

(a) Severe weather should be evaluated based on the licensed ambulance provider's written policies. Policies for weather assessment should be shared with hospitals and other receiving facilities in the geographical service area. During periods of severe weather, the transport should be delayed until the transportation risks are acceptable. The licensed providers shall maintain a weather assessment policy.

(b) When EMS personnel are not immediately able to respond due to unusual demands with other events, the licensed ambulance provider shall communicate the delay with the transferring hospital or facility. Additionally, the transferring hospital or facility should notify the receiving hospital facility, or mental health facility regarding the delay. Communications shall provide an estimated response time. The licensed ambulance provider is responsible to coordinate with the discharging facility an acceptable delay period or make reasonable attempts to arrange the transport with another licensed ambulance provider.

(6) Personnel shall be evaluated by the licensed ambulance provider for fatigue as to reduce possibilities of accidents while driving. If the licensed ambulance provider determines that

personnel have fatigue to the point of compromised ability to drive or perform medical skills, the licensed ambulance shall discuss transport options with the transferring facility. Additionally, the transferring facility should notify the delay to the receiving facility. Options may include a possible transport delay, or assistance through mutual agreements.

R911-4-600. Pilot Projects.

(1) A person who proposes to undertake a research or study project which requires waiver of any rule shall have a project director who is a physician licensed to practice medicine in Utah, and shall submit a written proposal to the department for presentation to the EMS Committee for recommendation.

(2) The proposal shall include the following:

(a) a project description that describes the:

(i) need for project;

(ii) project goal;

(iii) specific objectives;

(iv) approval by the provider off-line medical director;

(v) methodology for the project implementation;

(vi) geographical area involved by the proposed project;

(vii) specific rule or portion of rule to be waived;

(viii) proposed waiver language; and

(ix) evaluation methodology;

(b) a list of the EMS providers and hospitals participating in the project; and

(c) a signed statement of endorsement from the participating hospital medical directors and administrators, the director of each participating licensed paramedic and ambulance provider, other project participants, and other parties who may be significantly affected.

(3) If the pilot project requires the use of additional skills, a description of the skills to be utilized by the field EMS licensed personnel and provision for training and supervising the field EMS licensed personnel who are to utilize these skills, including the names of the field EMS licensed personnel.

(4) The name and signature of the project director attesting to their support and approval of the project proposal.

(5) If the pilot project involves human subjects' research, the applicant shall also obtain department Institutional Review Board approval.

(6) The department or committee, as appropriate, may require the applicant to meet additional conditions as it considers necessary or helpful to the success of the project, integrity of the EMS system, and safety to the public.

(7) The department or committee, as appropriate, may initially grant project approval for one year. The department or committee, as appropriate, may grant approval for continuation beyond the initial year based on the achievement and satisfactory progress as evidenced in written progress reports to be submitted to the department at least 90 days before the end of the approved period. A pilot project may not exceed three years.

(8) The department or committee, as appropriate, may only waive a rule if:

(a) the applicant has met the requirements of this section;

(b) the waiver is not inconsistent with statutory requirements;

(c) there is not already another pilot project being conducted on the same subject; and

(d) it finds that the pilot project has the potential to improve pre-hospital medical care.

NOTICES OF PROPOSED RULES

(9) Approval of a project allows the field EMS licensed personnel listed in the proposal to exercise the specified skills of the participants in the project. The project director shall submit the names of field EMS licensed personnel not initially approved to the department.

(10) The department or committee, as appropriate, may rescind approval for the project at any time if:

(a) those implementing the project fail to follow the protocols and conditions outlined for the project;

(b) it determines that the waiver is detrimental to public health; or

(c) it determines that the project's risks outweigh the benefits that have been achieved.

(11) The department or committee, as appropriate, shall allow the licensed or designated EMS provider involved in the study to appear before the department or committee, as appropriate, to explain and express its views before determining to rescind the waiver for the project.

(12) At least six months before the planned completion of the project, the medical director shall submit to the department a report with the preliminary findings of the project and any recommendations for change in the project requirements.

R911-4-700. Confidentiality of Patient Information.

Licensed or designated EMS providers and any licensed EMS personnel may not disclose patient information except as necessary for patient care or as allowed by statute or rule.

R911-4-800. Permitted Vehicle Supply Requirements.

(1) In accordance with the licensed EMS provider level or designation type and level, each permitted vehicle shall carry the quantities of supplies, medications, and equipment as described in the department inspection requirements. The vehicle requirements shall be approved by the state EMS medical director and the state EMS Committee.

(2) Medical directors for licensed or designated providers are responsible to provide protocols, training, and quality assurance for any medications used by licensed individuals performing duties for their respective licensed or designated provider.

(3) If a licensed or designated EMS provider desires to carry different equipment, supplies, or medication from the vehicle supply requirements, the provider shall submit a written request from the certified off-line medical director to the department requesting the waiver. The request shall include:

(a) a detailed training outline;

(b) protocols;

(c) proficiency testing;

(d) supporting documentation;

(e) local EMS Council or committee comments; and

(f) a detailed letter of justification.

(4) Alnynon-disposable equipment shall be designed and constructed of materials that are durable and capable of withstanding repeated cleaning. The provider shall:

(a) clean the equipment after each use in accordance with OSHA standards;

(b) sanitize or sterilize equipment before reuse;

(c) not reuse equipment intended for single use;

(d) clean and change linens after each use; and

(e) store or secure any equipment in a readily accessible and safe manner to prevent its movement.

(5) The provider shall have any equipment tested, maintained, and calibrated according to the manufacturer's standards.

(6) The provider shall document any equipment inspections, testing, maintenance, and calibrations. Testing or calibration conducted by an outside service shall be documented. Such inspections, testing, and calibration shall be performed monthly. Any testing documentation shall be maintained and available for department review upon request.

(7) A provider required to carry any of the following equipment shall perform monthly inspections to ensure proper functionality:

(a) defibrillator, manual, or automatic;

(b) autovent;

(c) infusion pump;

(d) glucometer;

(e) flow restricted, oxygen-powered ventilation devices;

(f) suction equipment;

(g) electronic Doppler device;

(h) automatic blood pressure, pulse measuring device;

(i) pulse oximeter; and

(j) any other electronic, battery powered, or critical care device.

(8) The licensed or designated EMS provider shall perform monthly inspections to ensure proper functionality of any equipment that require consumable items, power supplies, electrical cables, pneumatic power lines, hydraulic power lines, or related connectors.

(9) Unless otherwise authorized by the state EMS medical director, a licensed or designated EMS provider shall store any medications according to the manufacturers' recommendations, including temperature control and packaging requirements.

(10) Any medication known or suspected to have been subjected to temperatures outside the recommended temperature range shall be return to the supplier for replacement.

(11) The department shall maintain and publish requirements for ground ambulances, QRVs, and other designated providers on the department's website.

KEY: emergency medical services

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-5	Filing ID: 56490

Agency Information

1. Department:	Public Safety
Agency:	Emergency Medical Services
Building:	Calvin Rampton Building
Street address:	4501 S. 2700 W.
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 141775
City, state and zip:	Salt Lake City, UT 84114-1775

Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R911-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.
4. Summary of the new rule or change:
This filing essentially moves Rule R426-5 from DHHS to DPS with the new rule number being R911-5 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024). (EDITOR'S NOTE: The proposed repeal of Rule R426-5 is under ID 56464 in this issue, May 15, 2024, of the Bulletin.)

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, as this rule filing only moves Rule R426-5 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
B) Local governments:
There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-5 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

C) Small businesses ("small business" means a business employing 1-49 persons):																												
There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-5 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.																												
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, as this rule filing only moves Rule R426-5 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.																												
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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-5 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.																												
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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-5 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.																												
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																												
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2024</th> <th>FY2025</th> <th>FY2026</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Total Fiscal Cost</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </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
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NOTICES OF PROPOSED RULES

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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-2d-101.1		
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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)	National EMS Scope of Practice Model
Publisher	National Association of State EMS Officials (NASEMSO)
Issue Date	February 2019
Issue or Version	2019

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	EMT Student Handbook
Publisher	Utah Department of Health and Human Services
Issue Date	July 2023

C) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular
Publisher	American Heart Association
Issue Date	2020

D) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Recertification Guide
Publisher	National Registry of Emergency Medical Technicians
Issue Date	February 1, 2023
Issue or Version	Version 4

E) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	EMS Instructor Training Program
Publisher	United States Department of Transportation
Issue Date	May 1996

F) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Course Coordinator Manual
Publisher	Utah Department of Health and Human Services
Issue Date	March 2023

G) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Training Officer Manual
Publisher	Utah Department of Health and Human Services
Issue Date	July 2023

H) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Standard and Guidelines for the Accreditation of Education Programs in the Emergency Medical Services Professions
Publisher	Commission on Accreditation of Allied Health Education Programs (CAAHEP)
Issue Date	2023

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:	06/14/2024
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9. This rule change MAY become effective on:	07/01/2024
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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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services, R911-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards, R911-5-100. Authority and Purpose.

(1) Authority for this rule is found in Title 53, Chapter 2d, Emergency Medical Services Act.

(2) The purpose of this rule is to:
(a) describe requirements for training, certification, endorsements, and licensing of individuals who provide emergency medical services; and

(b) provide uniform minimum standards to be met by those providing emergency medical services within the state.

R911-5-110. Definitions as Used in this Rule.

(1) "Advanced Emergency Medical Technician" (AEMT) as defined in Subsection R911-1-200(1).

(2) "Committee" as defined in Subsection 53-2d-101(8).

(3) "Crisis Response Technician" (CRT) is a person who provides "Behavioral Emergency Services" as defined in Subsection 53-2d-101(5)(a)(b).

(4) "Department" as defined in Subsection R911-1-200(13).

(5) "Emergency Medical Responder" (EMR) as defined in Subsection R911-1-200(16).

(6) "Emergency Medical Services" (EMS) as defined in Subsection R911-1-200(20).

(7) "Emergency Medical Technician" (EMT) as defined in Subsection R911-1-200(17).

(8) "Paramedic" as defined in Subsection R911-1-200(41).

(9) "Provider" as defined in Subsection R911-1-200(57).

R911-5-200. Scope of Practice.

(1) The department may license an individual as an EMR, EMT, AEMT, paramedic, or CRT who meets the requirements in this rule.

(2) The committee adopts the standard for EMR, EMT, AEMT, and paramedic training and competency as defined in the National Association of State EMS Officials' National EMS Scope of Practice Model 2019, Report No. DOT HS 812-666. Washington, DC: National Highway Traffic Safety Administration, which is incorporated by reference.

(3) An EMR, EMT, AEMT, paramedic, or CRT may perform the skills to their level of licensure, as adopted in this section.

(4) A CRT may perform skills including crisis response triage, discussion of available resources, and referral to appropriate mental health professions as determined by department-approved training and local mental health authority-approved protocols in the corresponding response area.

R911-5-210. Professional Conduct and Code of Ethics for EMS Personnel.

EMS personnel shall maintain professional conduct and follow the code of ethics from the 2023 EMT Student Handbook, incorporated by reference in this rule.

(1) The following are examples of conduct, while providing patient care and transport, that may result in investigation of an EMS personnel's license or a provider's license or designation pursuant to Subsection R911-5-3300(2):

(a) theft or inappropriate removal or possession of property;

(b) falsification of personal or hospital records;

(c) functioning under the influence of alcohol, illegal drugs, or medications that may impair judgment or capability;

(d) possession, distribution, sale, transfer, or use of alcohol or illegal drugs;

(e) fighting or threatening violence;

(f) negligence or improper conduct leading to damage of property;

(g) violation of safety or health rules that threatens the safety of patients receiving care;

(h) sexual or other unlawful or unwelcome harassment;

(i) possession of dangerous or unauthorized materials, such as explosives or illegal firearms;

(j) unauthorized access or disclosure of confidential information;

(k) misrepresentation of an individual's level of licensure;

(l) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure; and

(m) violation of laws pertaining to medical practice, drugs, or controlled substances.

(2) Complaints regarding EMS personnel's actions or behaviors, on or off duty, that can be interpreted as possible violations of this section:

(a) must be submitted to the department in writing; and

(b) if determined a potential violation, will be investigated pursuant to Section R911-5-3300.

(3) Any EMS personnel who is found to have violated this section may be subject to license suspension or revocation.

R911-5-300. EMS Personnel Licensure for EMRs, EMTs, AEMTs, Paramedics, and CRTs.

(1) The department may license an EMR, EMT, AEMT, paramedic, or CRT for a two-year period. The department may modify a license period to standardize renewal cycles.

(2) An individual who wishes to become licensed as an EMR, EMT, AEMT, paramedic, or CRT shall:

(a) successfully complete a department-approved EMR, EMT, AEMT, paramedic, or CRT course;

(b) be able to perform the functions listed in the National EMS Education Standards referenced in Subsection R911-5-200(2) as verified by personal attestation and successful accomplishment by department-endorsed EMS instructors;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of training requirements for an EMR, EMT, AEMT, paramedic, or CRT licensure;

(d) submit the applicable fees and a completed application, including Social Security number, to the department;

(e) submit to and pass a background investigation, including an FBI background investigation; and

(f) keep documentation of having completed a department-approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for the Level of Adult and Pediatric Healthcare Cardiopulmonary Resuscitation and Emergency Cardiac Care Basic Life Support.

(3) An individual who wishes to become licensed as a CRT shall:

(a) successfully complete a department-approved CRT course;

(b) be able to perform the functions as described in Subsection R911-5-200(4);

(c) submit the applicable fees and a completed application, including Social Security number, to the department; and

(d) submit to and pass a background investigation, including an FBI background investigation.

(4) Age requirements:

(a) EMR may be licensed at 16 years of age or older;

(b) EMT, AEMT, and paramedic may be licensed at 18 years of age or older; and

(c) CRT may be licensed at 21 years of age or older.

(5) Within two years after the official course end date, the applicant for EMR, EMT, AEMT, paramedic, or CRT licensure shall successfully complete the department's approved National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, or paramedic examinations, or re-examinations, if necessary.

(6) Licensed personnel shall keep and submit upon request by the department any documentation required for licensure.

(7) An individual who wishes to enroll in an AEMT or paramedic course shall have as a minimum a Utah EMT license, and the license shall remain current until the new license level is obtained.

(8) An individual who wishes to enroll in a CRT course shall be a licensed EMS personnel or a law enforcement officer for at least two years before enrollment or have at least two years of equivalent experience before enrollment into a CRT course or program.

(9) Upon successful completion of the program, written verification of the successful candidates shall be submitted to the department for review.

(10) The department may extend time limits for an individual who has unusual circumstances or hardships.

R911-5-400. Licensure at a Lower Level.

An individual who completed a paramedic course, but has not been recommended for licensure, may request to become licensed at the AEMT levels if:

(1) the paramedic course coordinator submits to the department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and

(2) the individual successfully completes other application and testing requirements for an AEMT.

R911-5-500. License Challenges for EMTs or AEMTs.

(1) The department may license an individual as an EMT or AEMT, in consecutive order, who has military medical training, a Utah registered nurse license, a Utah nurse practitioner license, a Utah physician assistant license, or a Utah physician license, and:

(a) can demonstrate knowledge, proficiency, and competency to perform the functions listed in the National EMS education standards as described in Subsection R911-5-200(2), as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT or AEMT, respectively;

(c) maintains and submits documentation of having completed a CPR course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular, which is incorporated by reference; and

(d) is 18 years of age or older.

(2) To become licensed as either an EMT or AEMT, the individual shall:

(a) submit the applicable fees and a completed application, including Social Security number, signature, and proof of current Utah license as a registered nurse, a physician assistant, or a medical doctor, or military transcripts for training;

(b) successfully complete the National Registry of Emergency Medical Technicians EMT or AEMT cognitive and psychomotor examinations, or re-examinations, if necessary; and

(c) submit to and pass a background screening clearance, per Section R911-5-3200.

(3) The department may license as a CRT an individual with military mental health training, or a licensed mental health professional in Utah, who:

(a) can demonstrate knowledge, proficiency, and competency to perform the functions as verified by personal attestation and successful demonstration to a county mental health authority or designee;

(b) has a knowledge of:

(i) crisis response protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of a CRT;

(c) maintains and submits documentation of having completed a cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular; and

(d) is 21 years of age or older.

R911-5-510. License Challenges for CRTs.

To become licensed as a CRT, the individual shall:

(1) submit the applicable fees and a completed application, including Social Security number, signature, and proof of current Utah license as a mental health professional, or military transcripts for training;

(2) successfully complete the department-approved written and practical CRT examinations, or re-examinations, if necessary; and

(3) submit to and pass a background screening clearance, per Section R911-5-3200.

R911-5-600. License Renewal Requirements for EMRs, EMTs, AEMTs, and Paramedics.

(1) The department may renew an individual license for a two-year period. The department may modify the period for a license to standardize renewal cycles.

(2) An individual seeking license renewal shall:

(a) submit the applicable fees and a completed application, including Social Security number, to the department;

(b) submit a completed Utah EMS application to the department, no later than 30 days and no earlier than six months before the individual's current license expiration date;

(c) have a current National Registry of Emergency Medical Technicians certification for their current license level;

(d) submit to and pass a background screening clearance, per Section R911-5-3200;

(e) keep documentation and submit, upon request, proof of having completed a department-approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular;

(f) provide documentation of completion of department-approved continuing medical education requirements; and

(g) maintain cardiopulmonary resuscitation certification during licensure period.

(3) The EMR, EMT, AEMT, and paramedic shall complete the required continuing medical education hours, as outlined in Recertification Guide Version 4, published by the National Registry of Emergency Medical Technicians, incorporated by reference in this rule. The hours shall be completed throughout the prior two years.

(4) An individual is responsible to complete and submit required renewal material and the recertification application to the National Registry of Emergency Medical Technicians, per the guidance provided under "Renewal License" on the department website.

(5) A department-approved entity that provides continuing medical education may compile renewal materials on behalf of an EMR, EMT, AEMT, or paramedic; however, the individual EMR, EMT, AEMT, or paramedic is responsible for a timely and complete submission.

(6) The department may not lengthen an individual's license period to more than two years, unless the individual is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires.

R911-5-700. License Renewal Requirements for CRTs.

(1) A CRT applying for a renewal license shall be in good standing with the local mental health authority. The local mental health authority or designee may revoke a CRT's license upon written request to the department.

(2) A CRT applying for a renewal license shall complete department-approved continuous education requirements of no less than eight hours every two years.

(3) An individual is responsible to complete and submit required renewal materials to the department at one time, no later than 30 days and no earlier than one year before the individual's current license expiration date. Renewal materials submitted less than 30 days before license expiration may result in license expiration. The department processes renewal material in the order received.

(4) The department may shorten a CRT's license period.

(5) The department may not lengthen an individual's license period to more than two years unless the individual is a member of the National Guard or Reserve component of the Armed Forces and is on active duty when the license expires.

R911-5-800. Reciprocity for EMRs, EMTs, AEMTs, and Paramedics.

(1) The department may license an individual as an EMR, EMT, AEMT, or paramedic who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for licensure in Utah based on out-of-state training and experience shall:

(a) submit the applicable fees and a completed application, including Social Security number, to the department; and

(b) complete the following within two years of submitting the application:

(i) submit to and pass a background screening clearance, per Section R911-5-3200;

(ii) keep and submit upon request documentation of having completed a department-approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular;

(iii) successfully complete the National Registry of Emergency Medical Technician cognitive and psychomotor for EMR, EMT, AEMT, or paramedic examinations, or re-examinations, if necessary; and

(iv) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs.

(3) A paramedic candidate shall also keep documentation of successful completion of Advanced Care Life Support or equivalent.

(4) AEMT and paramedic licensed personnel shall keep documentation of PEPP, PALS, or equivalent courses within the prior two years.

R911-5-810. Reciprocity for CRTs.

(1) The department may license an individual as a CRT who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

NOTICES OF PROPOSED RULES

(2) An individual seeking reciprocity for CRT licensure in Utah based on out-of-state training and experience shall:

(a) submit the applicable fees and a completed application, including Social Security number, to the department; and

(b) complete the following within two years of submitting the application:

(i) submit to and pass a background screening clearance, per Section R911-5-3200;

(ii) keep documentation of having completed a CPR course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular; and

(iii) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution.

R911-5-900. Lapsed Licenses with National Registry of Emergency Medical Technician Certification.

(1) An individual whose EMR, EMT, AEMT, paramedic, or CRT license has expired for less than one year shall recertify with the National Registry of Emergency Medical Technicians.

(2) An individual whose license for EMR, EMT, AEMT, or paramedic has expired for more than one year shall:

(a) comply with the recertification requirements per the guidance of the National Registry of Emergency Medical Technicians;

(b) pay a late licensure fee; and

(c) complete renewal requirements.

(3) If an EMR, EMT, AEMT, or paramedic license for an individual remains expired for more than a year, any new license will be issued with an expiration date two years from the previous license's expiration.

(4) An individual whose license for CRT has expired for more than one year shall:

(a) submit a letter of recommendation including results of an oral examination, from a county mental health director or designee, verifying proficiency in behavioral health care skills at the licensure level;

(b) successfully complete the applicable department's approved written examination; and

(c) complete renewal requirements.

(5) If a CRT license for an individual remains expired for more than a year, any new CRT license will be issued with an expiration date two years from the completion of renewal materials.

(6) An individual whose certification or license has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, paramedic, or CRT until the individual completes the renewal process.

R911-5-1000. Emergency Medical Care During Clinical Training.

A student enrolled in a department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require licensure to perform.

R911-5-1100. Instructor Requirements.

(1) The department may endorse an individual as an EMS instructor who:

(a) meets the initial licensure requirements in Section R911-5-1200;

(b) is currently in Utah as an EMR, EMT, AEMT, or paramedic; and

(c) has been a licensed EMR, EMT, AEMT, or paramedic for a minimum of two years.

(2) The department adopts the United States Department of Transportation's EMS Instructor Training Program as the standard for EMS instructor training and competency in the state, which is incorporated by reference in this rule.

(3) An EMS instructor may only teach up to the license level to which the instructor is licensed.

(4) An EMS instructor shall comply with the teaching standards and procedures in the March 2023 Course Coordinator Manual as incorporated by reference in this rule.

(5) An EMS instructor shall maintain the EMS license for the level the instructor is endorsed to teach. If an individual's EMS license lapses, the instructor endorsement is invalid until the EMS license is renewed.

R911-5-1200. Instructor Endorsement.

(1) The department may endorse an individual who is a licensed EMR, EMT, AEMT, or paramedic as an EMS instructor for a two-year period.

(2) An individual who wishes to become endorsed as an EMS instructor shall:

(a) submit an application and pay applicable fees;

(b) submit one letter of recommendation regarding EMS skills and teaching abilities from a licensed or designated agency, which must be on department or agency letterhead and signed;

(c) submit documentation of 15 hours of teaching experience with teaching experience in EMS or other related medical discipline, such as first aid or CPR, being preferred; and

(d) successfully complete the department-sponsored initial EMS instructor training course.

(3) An individual who wishes to be endorsed as an EMS instructor to teach EMR, EMT, AEMT, or paramedic courses or CME shall provide documentation of a minimum of 25 patient contacts within the prior year with a licensed or designated agency or an emergency health care facility. Documentation must be on department or agency letterhead and signed.

(4) An individual shall submit a completed and signed instructor contract to the department every two years agreeing to abide by the standards and procedures in the March 2023 Course Coordinator Manual.

R911-5-1300. Instructor Endorsement Renewal.

An EMS instructor who wishes to renew an endorsement as an instructor shall:

(1) maintain current EMS licensure;

(2) attend the required department-approved instructor seminar at least once in the two-year endorsement renewal cycle; and

(3) submit an application and pay applicable fees.

R911-5-1400. Instructor Lapsed Endorsement.

(1) An EMS instructor whose instructor endorsement expired less than one year ago may again become endorsed by:

(a) completing endorsement requirements;

(b) submitting an application; and

(c) paying any associated fees.

(2) An EMS instructor whose instructor endorsement has expired for more than one year shall complete any initial instructor endorsement requirements and reapply as if there were no prior endorsement.

R911-5-1500. Training Officer Endorsement.

(1) The department may endorse a licensed individual who is an endorsed EMS instructor as a training officer for a two-year period.

(2) An individual who wishes to become endorsed as an EMS training officer shall:

(a) have completed a minimum of 30 hours of EMS instruction within the past year and have a current EMS instructor endorsement;

(b) successfully complete the department's course for new training officers;

(c) submit an application and pay applicable fees; and

(d) submit biennially a completed and signed training officer contract to the department agreeing to abide by the standards and procedures in the July 2023 Training Officer Manual, incorporated by reference in this rule.

(3) A training officer shall maintain an EMS instructor endorsement.

(4) An EMS training officer shall abide by the terms of the training officer contract and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective training officer contract.

R911-5-1600. Training Officer Endorsement Renewal.

A training officer who wishes to renew an endorsement as a training officer shall:

(1) attend a training officer seminar at least once in the two-year endorsement renewal cycle;

(2) maintain a current EMS instructor endorsement and EMS license;

(3) submit an application and pay applicable fees; and

(4) submit a completed and signed new training officer contract to the department agreeing to abide by the standards and procedures in the current Training Officer Manual.

R911-5-1700. Training Officer Lapsed Endorsement.

(1) An individual whose training officer endorsement expired less than one year ago may again become endorsed by completing the endorsement renewal requirements and paying applicable fees. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose training officer endorsement expired more than one year ago shall complete each initial training officer endorsement requirement and reapply as if there were no prior endorsement.

R911-5-1800. Course Coordinator Endorsement.

(1) The department may endorse an individual as an EMS course coordinator for a two-year period.

(2) An individual who wishes to become endorsed as a course coordinator shall:

(a) be endorsed as an EMS instructor;

(b) be a co-coordinator of record for one department-approved course with an endorsed course coordinator;

(c) co-coordinate a course equivalent to what they will be functioning as a course coordinator;

(d) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;

(e) complete endorsement requirements within one year of completion of the department's course for new course coordinators;

(f) submit an application and pay applicable fees;

(g) complete the department's course for new course coordinators;

(h) sign and submit the course coordinator contract to the department agreeing to abide to the standards and procedures in the March 2023 Course Coordinator Manual; and

(i) maintain EMS instructor endorsement.

(3) A course coordinator may only coordinate courses up to the licensure level to which the course coordinator is licensed.

(4) A course coordinator shall abide by the terms of the course coordinator contract and comply with the standards and procedures in the March 2023 Course Coordinator Manual as incorporated into the course coordinator contract.

(5) A course coordinator shall maintain an EMS instructor endorsement and the EMS license for the level that the course coordinator is endorsed to coordinate. If an individual's EMS license or EMS instructor endorsement lapses, the course coordinator endorsement is invalid until EMS license or EMS instructor endorsement is renewed.

R911-5-1900. Course Coordinator Endorsement Renewal.

A course coordinator who wishes to renew an endorsement as a course coordinator shall:

(1) maintain a current EMS instructor endorsement and EMR, EMT, AEMT, or paramedic license;

(2) coordinate or co-coordinate at least one department-approved course every two years;

(3) attend a course coordinator seminar at least once in the two-year endorsement renewal cycle;

(4) submit an application and pay applicable fees; and

(5) sign and submit a course coordinator contract to the department agreeing to abide by the policies and procedures in the March 2023 Course Coordinator Manual.

R911-5-2000. Course Coordinator Lapsed Endorsement.

(1) An individual whose course coordinator endorsement expired less than one year ago may again become endorsed by completing the renewal requirements. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose course coordinator endorsement has expired for more than one year shall complete each initial course coordinator endorsement requirement and reapply as if there were no prior endorsement. The department may waive the co-coordinator requirement if the candidate provides written verification they coordinated or co-coordinated a course within the past two years.

R911-5-2100. Critical Care Paramedic Endorsement.

(1) The department may endorse an individual as a critical care paramedic for up to a four-year period.

(2) An individual who wishes to become endorsed as a critical care paramedic shall:

(a) be a licensed paramedic in Utah;

(b) be certified by the International Board of Specialty Certification as a:

(i) certified critical care paramedic (CCP-C); or

(ii) certified flight paramedic (FP-C);

(c) submit an application for critical care paramedic certification and pay applicable fees;

(d) submit proof of certification from the International Board of Specialty Certification; and

(e) maintain a paramedic license.

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(3) Education cannot be used in lieu of a valid and current International Board of Specialty Certification critical care or flight paramedic certification to maintain the critical care endorsement.

R911-5-2200. Critical Care Paramedic Endorsement Renewal.

A critical care paramedic who wishes to renew shall:

- (1) maintain a paramedic license;
- (2) submit an application for critical care paramedic;
- (3) pay applicable fees; and
- (4) submit proof of certification from the International Board of Specialty Certification.

R911-5-2300. Course Approvals.

A course coordinator offering EMS training to individuals who wish to become licensed as an EMR, EMT, AEMT, or paramedic shall obtain department approval before initiating an EMS training course. The department shall approve a course if:

- (1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days before commencing the course;
- (2) the applicant has sufficient equipment available for the training;
- (3) the department finds the course meets the department rules and contracts governing training;
- (4) the course coordinators and instructors hold current respective course coordinator and EMS instructor endorsements; and
- (5) the department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R911-5-2400. Paramedic Training Institutions Standards Compliance.

- (1) A person shall be authorized by the department to provide training leading to the licensure of a paramedic.
- (2) To become authorized and maintain authorization to provide paramedic training, a person shall follow:
 - (a) the March 2023 Course Coordinator Manual; and
 - (b) the 2023 Standard and Guidelines for the Accreditation of Education Programs in the Emergency Medical Services Professions, incorporated by reference in this rule.

R911-5-2500. Off-line Medical Director Requirements.

- (1) The department may certify an off-line medical director for a four-year period.
- (2) An off-line medical director shall be:
 - (a) a physician actively engaged in providing emergency medical care or meets this requirement at the discretion of the state EMS medical director;
 - (b) familiar with Title 53, Chapter 2b, Emergency Medical Services Act and applicable EMS administrative rules under Title R911; and
 - (c) familiar with medical equipment and medications required.

R911-5-2600. Off-line Medical Director Certification.

- (1) An individual who wishes to certify as an off-line medical director shall:
 - (a) complete an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the department's medical director training course within 12 months of becoming a medical director;
 - (b) submit an application; and

(c) pay applicable fees.

(2) An individual who wishes to recertify as an off-line medical director shall:

- (a) attend the medical directors annual workshop at least once every four years;
- (b) submit an application; and
- (c) pay applicable fees.

R911-5-2700. Epinephrine Auto-Injector and Stock Albuterol Use.

- (1)(a) Any qualified entity or qualified adult shall receive training approved by the department.
- (b) The epinephrine auto-injector training shall include:
 - (i) recognition of life-threatening symptoms of anaphylaxis;
 - (ii) appropriate administration of an epinephrine auto-injector;
 - (iii) proper storage of an epinephrine auto-injector;
 - (iv) disposal of an epinephrine auto-injector; and
 - (v) an initial and annual refresher course.
- (c) The stock albuterol training shall include:
 - (i) recognition of life-threatening symptoms of an asthma emergency;
 - (ii) appropriate administration of stock albuterol;
 - (iii) proper storage of stock albuterol;
 - (iv) disposal of stock albuterol; and
 - (v) an initial and annual refresher course.
- (2) The annual refresher course requirement may be waived if:

- (a) the qualified entities or qualified adults are currently licensed at the EMR or higher level by the state; or
- (b) the approved training is the Red Cross Anaphylaxis and Epinephrine Auto-Injector course, found within the online classes and training section of <https://redcross.org>.
- (3) Training in the school setting shall be based on approved department trainings found on <https://heal.utah.gov/SN-training/> pursuant to Sections 53-2d-207 and 53-2d-208.
- (4) To become qualified, a teacher or school employee who is 18 years of age or older shall successfully complete the training program listed in Subsection (1).
- (5) Any epinephrine auto-injector and stock albuterol shall be kept in a secure unlocked location for use in an emergency.
- (6) Devices shall be disposed of following the manufacturer's specifications.

R911-5-2800. Law Enforcement Blood Draws Authorized Individual Qualifications.

- Individuals who are not authorized to draw blood pursuant to Subsection 41-6a-523(1)(b), or individuals who are not licensed by the department, such as AEMTs, or paramedics, shall meet one of the following requirements as a prerequisite for authorization to withdraw blood to determine its alcohol or drug content when requested to do so by a peace officer:
- (1) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit;
 - (2) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course that prepares individuals to function in routine clinical or emergency medical situations; or
 - (3) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.

R911-5-2900. Permits for Blood Draws.

(1) The department may issue permits to withdraw blood to determine the alcohol or drug content therein, when requested by a peace officer, to qualified applicants, as determined by the department. Individuals described in Section R426-5-2800 are exempt from permit requirements.

(2) An applicant shall submit to the department an application on forms the department provides.

(3) When the permit holder is requested to withdraw blood for the purpose stated in Subsection (1), the permit holder shall have a valid permit card.

(4) Permits shall be valid for a three-year period. The date the permit expires shall appear on the permit.

(5) An individual shall submit an application to the department on department-provided forms to renew permits within three months before the expiration date to ensure that it will not lapse. The permit holder shall either verify that they have been engaged in performing blood withdrawal procedures during the current permit period or submit verification signed by a physician attesting to their competence to perform blood withdrawal procedures.

(6) Permit holders shall notify the department within 15 days of a change in name or mailing address.

R911-5-3000. Cause for Blood Draw Permit Termination or Revocation.

Permits shall be subject to termination or revocation under any of the following conditions:

(1) the permit holder has made a misrepresentation of a material fact in the application, or any other communication to the department or its representatives, which misrepresentation was material to the eligibility of the permit holder;

(2) the permit holder is not qualified to hold a permit;

(3) the permit holder after having received a permit has been convicted of a felony or of a misdemeanor that involves moral turpitude; or

(4) the permit holder does not comply with the possession requirements.

R911-5-3100. Published List of Individuals Permitted to Draw Blood.

(1) The department shall make available to the public a list of individuals permitted to withdraw blood for determination of its alcohol or drug content.

(2) The department may publish amended lists.

R911-5-3200. Background Screening Clearance for EMS Licensure.

(1) The department shall conduct a background screening on each individual who seeks licensure or renewal as an EMR, EMT, AEMT, paramedic, or EMD. The department shall approve EMS licensure upon successful completion of a background screening. Background clearance indicates the individual does not pose an unacceptable risk to public health and safety.

(2) The individual seeking licensure or renewal shall submit the completed applications, including fees, before submission of fingerprints.

(3) The department may review relevant information obtained from the following sources:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;

(e) child abuse or neglect findings described in Section 78A-6-3a;

(f) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; and

(g) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions.

(4) If the department determines an individual is not eligible for licensure based upon the criminal background screening and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided in Title 77, Chapter 18a, The Appeal.

(5) If the department determines an individual is not eligible for licensure based upon the noncriminal background screening and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.

(6) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses within the past 15 years, they may not be approved for licensure:

(a) any felony or Class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;

(b) any felony or Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, excluding Sections 76-9-103 and 76-9-108;

(c) any felony or Class A or B misdemeanor under the following:

(i) Section 76-9-301.8, Bestiality;

(ii) Section 76-9-702.1, Sexual battery; or

(iii) Section 76-9-702.5, Lewdness involving a child.

(7) If an individual has been convicted or has pleaded no contest for the following offenses, 15 years have passed since the last conviction, and the offense cannot be expunged, they shall be considered for licensure:

(a) any felony or Class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;

(b) any felony or Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, excluding Sections 76-9-103 and 76-9-108; or

(c) any felony or Class A or B misdemeanor under the following:

(i) Section 76-9-301.8, Bestiality;

(ii) Section 76-9-702.1, Sexual battery; or

(iii) Section 76-9-702.5, Lewdness involving a child.

(8) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses, they shall be considered for licensure:

(a) any felony or Class A misdemeanor not listed in Subsections (6)(a) through (6)(c).

(b) any class B or C misdemeanor under Title 76, Chapter 5, Offenses Against the Individual;

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(c) any felony, Class A misdemeanor under Title 76, Chapter 6, Offenses Against Property;

(d) any felony or Class A misdemeanor under Title 76, Chapter 6a, Pyramid Scheme Act;

(e) any felony or Class A misdemeanor under Title 76, Chapter 8, Offenses Against the Administration of Government;

(f) any felony, Class A misdemeanor under Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare and Morals;

(g) any felony, Class A, B, or C misdemeanor under the following:

(i) Sections 76-10-1201 through 79-10-1229.5, Pornographic and Harmful Materials and Performances; and

(ii) Sections 76-10-1301 through 76-10-1314, Prostitution;

(iii) any felony or Class A misdemeanor under Section 76-10-2301, Contributing to the Delinquency of a Minor;

(h) any felony or Class A or B misdemeanor under Utah Motor Vehicles Traffic Code Sections 41-6a-502, 41-6a-502.5, and 41-6a-517.

(i) any felony or Class A or B misdemeanor under Title 58, Chapter 37, Utah Controlled Substances Act.

(j) any felony or Class A or B misdemeanor under Section 32B-4-409.

(k) any criminal conviction or pattern of convictions that may represent an unacceptable risk to public health and safety.

(9) An individual seeking licensure who has been convicted or has pleaded no contest, is subject to a plea in abeyance, a diversion agreement, a warrant for arrest, arrested or charged for any of the identified offenses in Subsection R911-5-3200(8), shall be considered for licensure.

(10) A licensed EMS personnel who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in Subsection R911-5-3200(8), and after an investigation and peer review board process as established in Section R911-5-3400, the department may issue license, suspend or revoke a license, or place a license on probation.

(11) A licensed EMS personnel who is subject to a warrant of arrest, arrested, or charged for any of the identified offenses in Subsection R911-5-3200(6) shall immediately have the individual's EMS license placed on restriction pending the outcome of a department investigation as per the process established in Section R911-5-3300.

(12) As required by Subsection 53-2d-410(5)(b), juvenile court records shall be reviewed if an individual is:

(a) under the age of 28; or

(b) over the age of 28 and has convictions or pending charges identified in Subsection R911-5-3200(6).

(13) Adjudications by a juvenile court may exclude the individual from licensure if the adjudications refer to an act that, if committed by an adult, would be a felony or a misdemeanor of the identified offenses in Subsection R911-5-3200(6).

(14) The department may deny licensure based on a supported finding from:

(a) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;

(b) child abuse or neglect findings described in Section 78A-6-3a; or

(c) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(15) The department may deny licensure based on a finding from licensing records of individuals licensed by the Division of Professional Licensing under Title 58, Occupations and Professions.

(16) Results of background screening review, as listed in Subsection R911-5-3200(7), (8), (12), or (14), may be reviewed to determine under what circumstance, if any, the individual may be granted licensure. The following factors may be considered:

(a) types and number;

(b) passage of time;

(c) surrounding circumstances;

(d) intervening circumstances; and

(e) steps taken to correct or improve.

(17) The department shall rely on relevant information identified in Subsection R911-5-3200(2) as conclusive evidence and may deny licensure based on that information.

(18) A licensed EMS personnel may appeal a department licensure decision as listed in Subsection R911-5-3200(16) to the department per the process established in Section R911-5-3400.

(19) A licensed EMS personnel who has been arrested, charged, or convicted shall notify the department and each employer or affiliated entity who utilizes the EMS personnel's license within seven business days. The licensed EMS personnel shall also notify the department of each entity they work for or are affiliated with.

(20) A licensed or designated EMS provider who is notified or becomes aware of a licensed EMS personnel's arrest, charge, or conviction shall notify the department within seven business days.

R911-5-3300. Review and Investigation of Complaints and Referrals.

(1) The department shall review each complaint filed against an EMS provider and a licensed EMS personnel.

(2)(a) The department may investigate designated or licensed provider complaints.

(b) The department may conduct interviews with a provider or EMS personnel.

(c) The department may allow the licensed EMS personnel or provider an opportunity to respond to the allegations and to provide supporting witnesses and documentation.

(d) Based on the investigation, the department shall make a recommendation to the department's office director.

(e) If the department's recommendation is that the licensed EMS personnel or provider is to be placed on probation or suspension, the department's recommendation shall include terms and conditions.

(f) The department may take action against a designated or licensed provider's license or designation based on the investigative findings.

(g) The department shall notify the licensed EMS personnel or provider in writing of the department's decision within 30 days of completion of the investigation.

(3)(a) Licensed EMS personnel complaints shall be investigated either by the department or by the primary affiliated provider (PAP).

(b) The department shall investigate and may take action if the department determines any of the following applies to a licensed EMS personnel:

(i) the licensed EMS personnel demonstrates a threat to themselves or to a coworker;

(ii) the licensed EMS personnel demonstrates a threat to the public health;

(iii) the licensed EMS personnel demonstrates a threat to the safety or welfare of the public;

(iv) the licensed EMS personnel potentially violated Subsection R911-5-3200(4); or

(v) the department determines the risk cannot be reasonably mitigated.

(c) The department may place the licensed EMS personnel on a restricted license while an investigation is pending until terms are reached for a provisional license using the process outlined in Subsection R911-5-3300(5)(f)(i).

(d) The department may conduct interviews with any individual necessary. The department may gather information and evidence, which may include requiring the licensed EMS personnel to submit to a drug or alcohol screening or any other appropriate evaluation.

(e) The licensed EMS personnel shall have an opportunity to respond to the allegations and to provide supporting witnesses and documentation.

(f) Once the department has completed its investigation, it shall submit the report with any findings and recommendations to the peer review board per Subsection R911-5-3400(4) for review.

(g)(i) The PAP shall investigate a complaint against the licensed EMS personnel who the department refers to the PAP.

(ii) The PAP investigation shall:

(A) be investigated by the licensed or designated EMS provider's EMS-endorsed training officer or designee; and

(B) be completed and findings submitted to the department within 30 calendar days from receipt of complaint from the department;

(iii) If the department determines that the PAP actions are insufficient, the department may initiate an investigation of the licensed EMS personnel which follows the department and the peer review board process.

(4) The department shall investigate an EMS personnel's license, a provider's license or designation, or an individual's department endorsement for any of the following reasons:

(a) refusal to submit to a drug test requested by the EMS provider or the department;

(b) failure to report by an individual or any affiliated provider pursuant to Subsections R911-5-3200(19) and R911-5-3200(20);

(c) non-prescribed use of or addiction to narcotics or drugs;

(d) use of alcoholic beverages or being under the influence of alcoholic beverages at any level while on call or on duty as an EMS personnel or while driving an EMS vehicle;

(e) being under the influence of a prescribed or non-prescribed medication or drug, legal or illegal, while on call or on duty as a licensed EMS personnel that affects the person's ability to operate or function safely;

(f) failure to comply with the training, licensing, or relicensing requirements for the license;

(g) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator. Action taken by the department on this item shall only be against the individual's ability to perform this particular function and would not affect their base EMS license;

(h) fraud or deceit in applying for or obtaining a license;

(i) fraud, deceit, lack of professional competency, patient abuse, or theft in the performance of the duties as a licensed EMS personnel;

(j) false or misleading information or failure to disclose criminal background information during an investigation or an EMS personnel peer review board proceeding;

(k) unauthorized use or removal of narcotics, medications, supplies, or equipment from a provider, emergency vehicle, or health care facility;

(l) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) mental incompetence as determined by a court of competent jurisdiction;

(o) demonstrated inability and failure to perform adequate patient care;

(p) inability to provide EMS with reasonable skill and safety because of illness, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated;

(q) misrepresentation of an individual's level of licensure;

(r) failure of a licensed EMS personnel to display a clearly identifiable level of EMS licensure during an EMS response;

(s) unsafe, unnecessary, or improper operation of an emergency vehicle that would likely cause concern or create a danger to the general public; or

(t) improper or unnecessary use of emergency equipment.

(5)(a) Background screening referrals may be submitted to the department for review and investigation.

(b) The department shall review any case referred under Section R911-5-3200.

(c) The department may require the licensed EMS personnel to provide the proper criminal background documentation.

(d) The licensed EMS personnel shall notify the department of each entity they work for or are affiliated with or that they may become affiliated with in connection with their EMS licensure.

(e) Failure to comply with any department requirements may result in disciplinary action against the EMS personnel's licensure.

(f)(i) The department may negotiate with the licensed EMS personnel and their PAP to determine terms and conditions of the EMS personnel's provisional licensure.

(ii) When the department determines an EMS personnel's license will be restricted, the department shall notify both the licensed EMS personnel and each licensed or designated provider the individual is affiliated with.

(iii) The department shall try to contact and begin negotiations with the PAP and the licensed EMS personnel. Each individual shall try to determine reasonable terms and conditions to the EMS personnel's license.

(iv) If terms and conditions are agreed upon between the parties, the licensed EMS personnel and each affiliated licensed or designated provider shall be notified immediately. This notification shall include information that the licensed EMS personnel is under a provisional license with terms and conditions until the resolution of any criminal charge or the completion of an investigation.

(v) If the licensed EMS personnel is not employed or affiliated with a licensed or designated provider or if terms and conditions are not agreed upon, the department may act as necessary to protect the public's best interest.

(vi) The department, the licensed EMS personnel, and the PAP, if applicable, shall sign the terms of the provisional licensure agreement. Any other affiliated licensed or designated EMS providers shall be notified of the provisional license and its terms and conditions.

(vii) Once the provisional license has been signed, the department shall notify any known EMS provider the licensed EMS personnel is affiliated with.

(viii) If an affiliated licensed or designated EMS provider or the licensed EMS personnel fail to abide by the terms and conditions of a provisional license, they may be subject to sanctions by the department.

(g) The department shall submit recommended background clearance actions for licensed EMS personnels to the peer review board under Section R911-5-3400.

(6) Appeal process:

(a)(i) If a licensed or designated EMS provider or a licensed EMS personnel chooses to appeal an action by the department, they may appeal to the EMS committee or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.

(ii) If the department action is appealed to the EMS committee, then the recommendation shall be given to the department executive director for a final decision.

(b) If a licensed EMS personnel chooses to appeal an action by the department, they may appeal to the executive director, or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.

R911-5-3400. EMS Personnel Peer Review Board.

(1) The EMS personnel peer review board is created under Subsection 53-2d-103(1)(d).

(2) The EMS personnel peer review board shall be composed of the following 15 members appointed by the executive director of the Department of Health and Human Services:

(a) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the first or second class;

(b) one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the third through sixth class;

(c) one educational representative from an accredited EMS training program;

(d) one physician certified and practicing as an EMS medical director;

(e) one EMD;

(f) two representatives from professional employee groups, one fire based, and one non-fire based;

(g) two endorsed EMS training officers;

(h) two non-supervisory licensed EMTs;

(i) two non-supervisory licensed AEMTs; and

(j) two non-supervisory licensed paramedics.

(3) The EMS personnel peer review board member's terms of office shall comply with the following criteria.

(a) Except as provided in Subsection (2)(b), members shall be appointed for a six-year term.

(b) The department shall adjust the length of terms to ensure the terms of members of the board are staggered so about one-third of the board is appointed every two years.

(c) No member shall serve consecutive full terms.

(d) When a vacancy occurs in the membership of the board for any reason, the executive director of the department shall appoint the replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.

(e) The EMS personnel peer review board shall organize and select one of its members as chair and one of its members as vice chair to serve no more than two years in each position.

(f) If a board member becomes ineligible for the EMS personnel peer review board membership position through promotion, an increase in level of licensure, or transfer out of the employment position that qualified them for the appointment, they shall be replaced at the next two-year interval.

(g) An equitable mix of urban and rural members is preferred.

(4) The EMS personnel peer review board meeting shall take place quarterly.

(a) Regular meetings shall be noticed and posted to employers and posted in accordance with the Utah Open and Public Meetings Act, Section 52-4-202.

(b) Failure to attend three or more consecutive meetings by any member may be grounds for removal of that member and replacement in accordance with Subsection (2)(d).

(c) A member may not receive compensation or benefits from the department for the member's service. The member may receive per diem and travel expenses in accordance with department rules and policies.

(5) Once a complaint or background screening finding against a licensed EMS personnel is investigated, the department shall refer the case and provide a report with any findings and recommendations to the EMS personnel peer review board.

(6) If the EMS personnel peer review board chooses to recommend any action that deviates from the department recommendation, the board shall provide written justification for that recommendation.

(7) The EMS personnel peer review board may make recommendations to the department's office director of:

(a) no department action;

(b) a letter of notice;

(c) probation of the licensed EMS personnel's license with specific terms and conditions for a period;

(d) suspension of the licensed EMS personnel's license for a defined period;

(e) permanent revocation of the licensed EMS personnel's license; or

(f) a combination of any of these actions.

(8) If the department's office director modifies the recommended action of the EMS personnel peer review board, the department's office director shall attach a written letter of dissent noting the reasoning for the decision. The department's office director shall then notify the EMS personnel peer review board of the dissent and action taken.

(9) The department shall notify the licensed EMS personnel of any action taken within 15 days of the decision by mail.

(10) An action to restrict, place on probation, suspend, or revoke the licensed EMS personnel's license shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

R911-5-3500. EMS Rules Task Force.

(1) The EMS rules task force is created under Subsection 53-2d-103(1)(c).

(2) The EMS rules task force shall be composed of the following members appointed by the executive director of the Department of Health and Human Services:

- (a) a representative from the Utah Fire Chiefs' Association;
 - (b) a representative from the Utah Rural EMS Directors' Association;
 - (c) an EMS medical director;
 - (d) a representative from a privately owned EMS agency;
 - (e) a rural EMS medical dispatch representative;
 - (f) a paramedic licensed representative;
 - (g) an urban EMS medical dispatch representative;
 - (h) an Emergency Nurses Association representative;
 - (i) a course coordinator from an accredited EMS training program;
 - (j) an endorsed EMS training officer;
 - (k) a representative from the state EMS committee;
 - (l) a designated trauma center representative;
 - (m) a designated patient receiving facility representative;
- and
- (n) a designated nonemergency secured behavioral patient transport representative.

(3) The EMS rules task force member's terms of office will comply with the following criteria.

- (a) Except as provided in Subsection (2)(b), members shall be appointed for a three-year term.
 - (b) The department shall adjust the length of terms to ensure the terms of members of the EMS rules task force are staggered so about one-third of the EMS rules task force is appointed every two years.
 - (c) Members may serve two consecutive full terms.
 - (d) When a vacancy occurs in the membership for any reason, the department shall solicit applications for replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.
 - (e) The EMS rules task force shall organize and select one of its members as chair and one of its members as vice chair to serve no more than two years in each position.
 - (f) If an EMS rules task force member becomes ineligible for the EMS rules task force membership position through promotion, an increase in level of license, or transfer out of the employment position that qualified them for the appointment, they shall be replaced at the next two-year interval.
 - (g) An equitable mix of urban and rural members is preferred.
- (4) Regular meetings of the EMS rules task force shall be scheduled as determined by the membership and the department.

KEY: emergency medical services

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-6	Filing ID: 56491

Agency Information

1. Department:	Public Safety	
Agency:	Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R911-6. Emergency Medical Services Per Capita Grants and Competitive Grants Program
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.
4. Summary of the new rule or change:
This filing essentially moves Rule R426-6 from DHHS to DPS with the new rule number being R911-6 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).
(EDITOR'S NOTE: The proposed repeal of Rule R426-6 is under ID 56465 in this issue, May 15, 2024, of the Bulletin.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
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A) State budget:
There is no anticipated cost or savings to the state budget, as this rule filing only moves Rule R426-6 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
B) Local governments:
There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-6 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-6 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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, as this rule filing only moves Rule R426-6 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-6 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-6 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.
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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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		
53-2d-101.1		

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:	06/14/2024

9. This rule change MAY become effective on:	07/01/2024
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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.

R911-6. Emergency Medical Services Per Capita Grants and Competitive Grants Program.

R911-6-100. Authority and Purpose.

- (1) Authority for this rule is found in Title 53, Chapter 2d, Emergency Medical Services Act.
- (2) This rule provides distribution of EMS per capita grant funds and competitive grant funds.

R911-6-200. Per Capita Grants and Competitive Grants Eligibility.

- (1) Per capita and competitive grant funds are available to a licensed ground ambulance provider, a licensed paramedic non-transport provider, a designated quick response provider, or a designated emergency medical service dispatch center that is:
 - (a) a licensed or designated EMS provider owned by political subdivisions of local or state government;
 - (b) an incorporated non-profit entity; or
 - (c) a for-profit licensed or designated EMS provider who is the primary EMS provider for a geographical service area.
- (2) A for-profit licensed or designated EMS provider is a primary EMS provider if they are licensed or designated and provide a service at a higher level than the public or non-profit provider located in the same geographical service area. EMS provider levels rank in the following order:
 - (a) Paramedic;
 - (b) Emergency medical technician intermediate advanced (EMT-IA);
 - (c) Advanced emergency medical technician (AEMT);
 - (4) Emergency medical technician (EMT);
 - (5) Emergency medical responder (EMR);
 - (6) Emergency medical dispatcher (EMD).
- (7) A licensed ground ambulance provider who is only licensed to provide inter-facility transport in a geographical service area, or is a licensed paramedical tactical provider are not eligible for per capita grant funds or competitive grant funds.
- (8) EMS per capita grants and competitive grants are available for use specifically related to the provision EMS and staff education. Grant funds cannot be used for rescue equipment or fire equipment not directly used for patient medical care.
- (9) A per capita grant or a competitive grant recipient shall comply with Title 53, Chapter 2d, Emergency Medical Services Act, and Rules R911-2 through R911-9 before receiving grant funds.
- (10) A per capita grant or competitive grant recipient may not be more than six months overdue in owed payments to the department.
- (11) A licensed ground ambulance provider that exceeded 10% profitability in the previous three fiscal reporting period is not eligible for EMS Grant funds.

R911-6-300. Per Capita Grants and Competitive Grants Implementation.

- (1) A grant award shall be implemented through a contract between the department and a grant recipient.
- (2) The committee shall establish annual grant program guidelines. The department shall use the current annual grant program guidelines to award grand funds paid to recipients.
- (3) The department may reject a grant application that does not adhere to current annual grant program guidelines.
- (4) Grant funds may be used during the terms indicated in an award contract.
- (5) Grant funds are paid by the department's terms in the contract with grant recipients.
- (6) Grant funds do not require matching recipient funds.
- (7) A per capita grant award shall be no less than \$500.

R911-6-400. Per Capita Application and Award Formula.

- (1) A per capita grant applicant shall attest to the accuracy of their licensed or designated EMS provider's personnel roster on December 31 of the year before the grant award.
 - (a) A licensed or certified EMS individual who works for both a public and a for-profit agency may be credited only to the public or non-profit licensed or designated EMS provider.
 - (b) A licensed EMS individual who is employed by two or more licensed or designated EMS providers may be included on a percentage basis for grant award calculations. However, if a certified EMD is also an EMT, EMT-I, AEMT, EMT-IA, or paramedic, the certified EMD may be credited to one licensed or designated EMS provider as a certified EMD, and to a licensed or designated EMS provider as an EMT, EMT-I, AEMT, EMT-IA, or paramedic.
- (2) The department shall allocate funds by using the following point totals for licensed or certified personnel: certified EMDs = 1; licensed EMRs = 1; licensed EMTs = 2; licensed Advanced EMTs = 3; licensed Intermediate Advanced EMTs = 3; and licensed Paramedics = 4. The number of certified or licensed personnel is based upon the personnel rosters of each licensed EMS provider, designated EMS dispatch agency, and designated EMS quick response provider on December 31 of the preceding fiscal year. Point totals of each eligible licensed or designated EMS provider will be multiplied by the current county classification.

R911-6-500. Competitive Grant Process.

- (1) Competitive EMS grants are available to a licensed EMS provider in a county between the third and sixth class. Grant funds will be allocated and approved by the committee. Grant award prioritization shall use a standardized application with questions to assess comparative need for a licensed EMS provider;
- (2) the Rural EMS Directors' Association of Utah may provide content for application questions and recommend priorities for grant awards;
- (3) the grants subcommittee may review suggested competitive grant awards and make recommendations to the committee for final approval.

R911-6-600. Emergency Grant Awards.

- (1) The grants subcommittee may recommend interim or emergency grants if the following are met:
 - (a) grant funds are available;
 - (b) the applicant clearly demonstrates need;
 - (c) the application was not rejected by the grants subcommittee during the current grant cycle; and

NOTICES OF PROPOSED RULES

(d) delay of funding to the next scheduled grant cycle would impair the licensed or designated EMS provider's ability to provide care.

(2) Applicants for emergency grants shall:

(a) submit an emergency grant application, following the same format as annual grant applications; and

(b) submit the emergency grant application to the department at least 30 days before the EMS Committee meeting at which the grant application will be reviewed.

(3) The grants subcommittee shall review the emergency grant application and forward recommendations to the EMS Committee. The EMS Committee shall review and comment on the grants subcommittee recommendations and forward comments and recommendations to the department.

KEY: emergency medical services

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.

4. Summary of the new rule or change:

This filing essentially moves Rule R426-7 from DHHS to DPS with the new rule number being R911-7 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).

(EDITOR'S NOTE: The proposed repeal of Rule R426-7 is under ID 56466 in this issue, May 15, 2024, of the Bulletin.)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-7	Filing ID: 56492

Agency Information

1. Department:	Public Safety	
Agency:	Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R911-7. Emergency Medical Services Prehospital Data System Rules
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from

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, as this rule filing only moves Rule R426-7 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

B) Local governments:

There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-7 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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

There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-7 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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, as this rule filing only moves Rule R426-7 from t DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-7 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-7 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-2d-203

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)	NEMSIS Data Dictionary
Publisher	National EMS Information System and National Highway Traffic Safety Administration
Issue Date	March 17, 2023
Issue or Version	3.5

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	NEMSIS State Data Set Utah
Publisher	National EMS Information System
Issue Date	April 2024
Issue or Version	3.5

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: 06/14/2024

9. This rule change MAY become effective on: 07/01/2024

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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.

R911-7. Emergency Medical Services Prehospital Data System Rules.

R911-7-1. Authority and Purpose.

- (1) Section 53-2d-203 authorizes this rule.
- (2) This rule establishes minimum mandatory emergency medical service (EMS) data reporting requirements.
- (3) Persons providing emergency medical services shall provide data to the department.

R911-7-2. Prehospital Data Set.

- (1) Each EMS provider shall collect and report data as specified by the department.
- (2) Each EMS provider shall submit data to the department electronically in the National Emergency Medical Services Information System (NEMSIS) format for every dispatch instance regardless of patient disposition.
 - (a) Each EMS provider shall report data for every individual with whom the EMS provider has contact, whether care was given or refused, including in the case of a mass casualty event.
 - (b) Stand-by or special events are exempt from this section.
 - (3) The department incorporates by reference:
 - (a) NEMSIS Data Dictionary National Highway Traffic Safety Administration (NHTSA) version 3.5; and
 - (b) NEMSIS V3 State Data Set Utah NEMSIS Version 3.5.
 - (4) An EMS provider shall use a NEMSIS compliant EMS reporting system, unless written arrangements are made with the department.
 - (5) An EMS provider shall submit NEMSIS demographic data elements within 30 days after the end of each calendar quarter and in the format defined in the NEMSIS EMS Demographic Data Set.
 - (a) An EMS provider shall submit NEMSIS demographic data in the state EMS licensing system.
 - (b) An EMS provider shall make demographic changes in the state EMS licensing system.
 - (c) The department may consider an EMS provider's data submitted after it has been entered or updated in the department-provided system.
 - (6) Each EMS provider shall submit NEMSIS EMS incident data elements for each patient care report (PCR) in the format defined in the NEMSIS EMS data set within seven days of the incident occurring.
 - (a) The department may consider data submitted as soon as it has been directly entered or updated in the department-provided system.
 - (b) Each EMS provider shall submit incident data with at least 90% of each submission complete with correct information in the state system for the submission to be considered correct and complete.
 - (c) Each EMS provider shall configure its electronic patient care report (ePCR) systems to correctly send incidents as soon as they are completed and not wait until the record has been billed.
 - (7) Each EMS provider shall reconcile NEMSIS EMS incident data monthly via email for each PCR for the prior month's ePCR count.

(a) If there are no incidents to report for the previous month, the EMS provider shall report confirmation of no data within seven days after the previous month ends.

(b) The department shall provide monthly reports to the EMS provider on completeness for ePCRs with less than 90% complete and correct.

(8) Each EMS provider may submit optional NEMSIS data elements.

(9) Each EMS provider shall notify the department at least 90 calendar days before changing reporting systems.

(10) For each patient an EMS provider transports to a hospital or patient receiving facility, the EMS provider shall report the patient status containing information critical to the ongoing care of the patient upon transfer.

(11) For each patient an EMS provider transports to a hospital or patient receiving facility, the hospital or patient receiving facility shall provide the following information for that patient to the EMS provider within 24 hours of request:

- (a) the patient's emergency department disposition;
- (b) the patient's hospital disposition;
- (c) the patient's demographic information, including payment source; and
- (d) a hospital face sheet.

R911-7-3. Penalty for Violation of Rule.

Any person who violates any provision of this rule may be assessed a penalty as provided in Section 26B-1-224.

KEY: emergency medical services

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-203; 26B-1-224

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-8	Filing ID: 56493

Agency Information

1. Department:	Public Safety	
Agency:	Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R911-8. Emergency Medical Services Ground Ambulance Rates and Charges

3. Purpose of the new rule or reason for the change:

This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.

4. Summary of the new rule or change:

This filing essentially moves Rule R426-8 from DHHS to DPS with the new rule number being R911-8 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).

(EDITOR'S NOTE: The proposed repeal of Rule R426-8 is under ID 56467 in this issue, May 15, 2024, of the Bulletin.)

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, as this rule filing only moves Rule R426-8 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

B) Local governments:

There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-8 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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

There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-8 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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, as this rule filing only moves Rule R426-8 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-8 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-8 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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	FY2024	FY2025	FY2026
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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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-2d-503	Section 53-2d-103	
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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:	06/14/2024
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9. This rule change MAY become effective on: 07/01/2024

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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.
R911-8. Emergency Medical Services Ground Ambulance Rates and Charges.

R911-8-100. Authority and Purpose.

- (1) This rule is established pursuant to Title 53, Chapter 2d, Emergency Medical Services Act.
- (2) This rule establishes maximum ambulance rates and charges for Utah licensed ground ambulance providers.

R911-8-200. Ground Ambulance Transportation Revenues, Rates, and Charges.

- (1) A licensed ground ambulance provider may not charge more than the rate described pursuant to Subsections R911-8-200(6) through (12) on ambulance transports.
- (2) Net income and subsidies for a licensed ground ambulance provider may 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 may 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 - \$1,176.11 per transport;
 - (b) advanced EMT ground ambulance license level - \$1,552.68 per transport;
 - (c) paramedic ground ambulance license level - \$2,270.22 per transport; and
 - (d) any EMT or AEMT level licensed ground ambulance provider with a paramedic on-board - \$2,270.22 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 base rate may not include costs for:
 - (a) providing procedures to an individual; or
 - (b) administering medications.
- (8) A mileage rate may be charged up to a maximum of \$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.
- (9) A surcharge of \$1.50 per mile may be assessed if an ambulance is required to travel two or more miles on unpaved roads.
- (10) 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.
- (11) 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 halfway point of the trip; and
 - (b) no more than \$22.05 per quarter hour is charged for time over 30 minutes.
- (12) A licensed ground ambulance provider may charge for disposable supplies used and medications administered during patient care, in addition to the base rate and mileage rate if the disposable supplies and medications are priced fairly and competitively with a similar product in the local area.

(13) A licensed ground ambulance provider may charge for supplies, providing supplies, medications, and administering medications on a response if:

- (a) supplies and medications 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, but does not transport.

(14) 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.

(15) 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.

(16) 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.

(17) 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 R911-7. 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: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-503; 53-2d-103

Street address:	4501 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R911-9. Specialty Care Systems Facility Designations
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.
4. Summary of the new rule or change:
This filing essentially moves Rule R426-9 from DHHS to DPS with the new rule number being R911-9 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).
(EDITOR'S NOTE: The proposed repeal of Rule R426-9 is under ID 56468 in this issue, May 15, 2024, of the Bulletin.)

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, as this rule filing only moves Rule R426-9 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-9	Filing ID: 56494

Agency Information

1. Department:	Public Safety
Agency:	Emergency Medical Services
Building:	Calvin Rampton Building

B) Local governments:			
There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-9 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-9 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.			
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, as this rule filing only moves Rule R426-9 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.			
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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-9 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.			
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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-9 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.			
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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this regulatory impact analysis.			

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)	Resources for Optimal Care of the Injured Patient
Publisher	American College of Surgeons
Issue or Version	2014

B) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	National Trauma Data Standard Data Dictionary
Publisher	American College of Surgeons
Issue Date	July 2023
Issue or Version	2024

C) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Utah Trauma Registry State Required Elements Addendum to the NTDS Data Dictionary
Publisher	Utah Department of Health and Human Services
Issue or Version	2023

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		
53-2d-101.1		

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:	06/14/2024

9. This rule change MAY become effective on:	07/01/2024
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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services, R911-9. Specialty Care Systems Facility Designations, R911-9-100. Authority and Purpose for Specialty Care Systems Standards.

(1) This rule establishes requirements pursuant to statute for a statewide specialty care systems and related emergency medical systems including the following:

(a) establishes and actively supervises a statewide trauma system;

(b) establishes, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport, and transfer of trauma patients to the most appropriate health care facility; and

(c) allows designation of trauma care facilities consistent with the trauma center designation requirements and verification process established by the department and applicable statutes.

(2) This rule provides standards for the categorization of hospitals and the voluntary designation of trauma centers to assist physicians in selecting the most appropriate physician and facility

based upon the nature of the patient's critical care problem and the capabilities of the facility.

(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of their attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

R911-9-200. Trauma System Advisory Committee.

(1) The Trauma System Advisory Committee shall:

(a) be a broad and balanced representation of healthcare providers and health care delivery systems; and

(b) conduct meetings in accordance with committee procedures.

(2) The department shall appoint committee members to serve terms from one to four years.

(3) The department may re-appoint committee members for one additional term in the position initially appointed by the department.

(4) Causes for removal of a committee member include the following:

(a) more than two unexcused absences from meetings within 12 calendar months;

(b) more than three excused absences from meetings within 12 calendar months;

(c) conviction of a felony; or

(d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.

R911-9-300. Trauma Center Categorization Guidelines.

The department incorporates by reference as criteria for Level I, Level II, Level III, Level IV, and Pediatric trauma center designation, compliance with national standards published in the American College of Surgeons (ACS) document: Resources for Optimal Care of the Injured Patient 2014.

R911-9-400. Trauma Center Review Process.

(1) The department shall conduct a quality review site visit of trauma centers and applicants to verify compliance with standards set in Section R911-9-300. In conducting each evaluation, the department may consult with experts from the following disciplines:

(a) trauma surgery;

(b) emergency medicine;

(c) emergency or critical care nursing; and

(d) hospital administration.

(2) A consultant may not assist the department in evaluating a facility in which the consultant is employed, practices, or has any financial interest.

R911-9-500. Trauma Center Categorization Process.

The department shall:

(1) Develop a survey document based upon the Trauma Center Criteria described in Section R911-9-300.

(2) Periodically survey Utah hospitals which provide emergency trauma care to determine the maximum level of trauma care which each is capable of providing.

(3) Disseminate survey results to each Utah hospital, and as appropriate, to Utah licensed ambulance providers.

R911-9-600. Trauma Center Designation Process.

(1) Hospitals seeking voluntary designation and any designated trauma centers desiring to remain designated, shall apply for designation by submitting the following information to the department at least 30 days before the date of the scheduled site visit:

(a) a completed and signed application and appropriate fees for trauma center verification;

(b) a letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;

(c) the data specified under Section R911-9-700 is current;

(d) Level I and Level II trauma centers must submit a copy of the Pre-review Questionnaire (PRQ) from the ACS in lieu of the application in Subsection R911-9-600(1)(a);

(e) Level III and Level IV and Level V trauma centers must submit a complete department approved application.

(2) Hospitals desiring to be designated as Level I and Level II trauma centers must be verified by the ACS within three months of the expiration date of previous designation and must submit a copy of the full ACS report detailing the results of the ACS site visit. A department representative must be present during the entire ACS verification or consultation visit. Hospitals desiring to be Level III or Level IV trauma centers must be designated by hosting a formal site visit by the department.

(3) Hospitals not previously designated as a Level I or a Level II trauma center, applying for designation after December 31, 2016, will be considered for designation implementing the point system suggested by the ACS as follows and using data from the Utah Trauma Registry:

(a) population as defined by the federal Office of Management and Budget total Metropolitan Statistical Area (MSA):

(i) total MSA population of less than 600,000 receives two points;

(ii) total MSA population of 600,000 to 1,200,000 receives four points;

(iii) total MSA population of 1,200,000 to 1,800,000 receives six points;

(iv) total MSA population of 1,800,000 to 2,400,000 receives eight points; and

(v) total MSA population of greater than 2,400,000 receives ten points;

(b) median transport times, combined air and ground time at scene only, not to include transfer:

(i) median transport time of less than 10 minutes receives zero points;

(ii) median transport time of 10 -- 20 minutes receives one point;

(iii) median transport time of 21 -- 30 minutes receives two points;

(iv) median transport time of 31 -- 40 minutes receives three points; and

(v) median transport time of greater than 41 minutes receives four points;

(c) department, system stakeholder, or community support:

(i) department support for a trauma center, if none exist, or an additional trauma center in the MSA -- five points;

(ii) department position that no additional trauma centers are needed -- negative five points;

(iii) Trauma System Advisory Committee, or equivalent body, statement of support for a trauma center if none exist, or an additional trauma center in the MSA -- five points;

(iv) community support demonstrated by letters of support from 25% - 50% of city and county governing bodies within the MSA -- one point; and

(v) community support demonstrated by letters of support from over 50% of city and county governing bodies within the MSA -- two points;

(d) severely injured patients, ISS more than 15, discharged from acute care facilities not designated as Level I, II, or III trauma centers:

(i) discharges of 0-200 severely injured patients receives zero points;

(ii) discharges of 201 -- 400 severely injured patients receives one point;

(iii) discharges of 401 -- 600 severely injured patients receives two points;

(iv) discharges of 601 -- 800 severely injured patients receives three points; and

(v) discharges of greater than 800 severely injured patients receives four points;

(e) Level I trauma centers:

(i) for the existence of each verified Level I trauma center already in the MSA assign one negative point;

(ii) for the existence of each verified Level II trauma center already in the MSA assign one negative point; and

(iii) for the existence of each verified Level III trauma center already in the MSA assign one half negative point;

(f) numbers of severely injured patients, ISS more than 15, seen in Level I and Level II trauma centers already in the MSA. The expected number of high-ISS patients is calculated as: 500 times the number of Level I and Level II centers in the MSA equals the expected number of high-ISS patients;

(i) if the MSA has more than 500 severely injured patients above the expected number assign two points;

(ii) if the MSA has 0 - 500 severely injured patients above the expected number assign one point;

(iii) if the MSA has 0 - 500 fewer severely injury patients than the expected number assign one negative point; and

(iv) if the MSA has more than 500 fewer severely injured patients than the expected number assign two negative points.

(g) The following scoring system shall be used to allocate trauma centers within the MSAs:

(i) MSAs with scores of five points or less shall be allocated 1 Level I or II trauma center;

(ii) MSAs with scores of six - ten points shall be allocated 2 Level I or II trauma centers;

(iii) MSAs with score of 11 - 15 points shall be allocated 3 Level I or II trauma centers; and

(iv) MSAs with scores of 16 - 20 points shall be allocated 4 Level I or II trauma centers.

(h) If the number of trauma centers allocated by the model is greater than the existing number of Level I or II trauma centers in the MSA, efforts should be undertaken to recruit and designate additional trauma centers.

(i) If the number of Level I and II trauma centers allocated by the model is less than or equal to the number currently designated, the department should not designate additional Level I or II trauma centers in the MSA.

R911-9-700. Data Requirements for an Inclusive Trauma System.

(1) Each hospital shall collect, and monthly submit to the department, trauma registry information necessary to maintain an inclusive trauma system.

(a) Designated trauma centers shall provide such data in a standardized electronic format approved by the department.

(b) The department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process.

(2) To ensure consistent patient data collection, a trauma patient is defined as a patient sustaining a traumatic injury and meeting the following criteria:

(a) at least one of the following injury diagnostic codes: ICD10 Diagnostic Codes: S00-S00 with 7th character modifiers of A, B, or C only, T07, T14, T20-T28 with 7th character modifier of A, T30-T32, T79.A1-T79.A9 with 7th character modifier of A excluding the following isolated injuries: S00, S10, S20, S30, S40, S50, S60, S70, S80, S90. Late effect codes, which are represented using the same range of injury diagnosis codes but with the 7th digit modifier code of D through S are also excluded; and

(b) at least one of the following patient conditions:

(i) stay at a hospital greater than 12 hours, as measured from the arrival at the emergency department to patient discharge;

(ii) transferred in or out of reporting hospital via EMS transport, including air ambulance; or

(iii) death resulting from the traumatic injury, independent of hospital admission or hospital transfer status.

(3) The department incorporates by reference the National Trauma Data Standard Data Dictionary for 2024 Admissions published by the ACS, and the Utah Trauma Registry State Required Elements for 2023 published by the Department of Health and Human Services.

R911-9-800. Noncompliance to Trauma Standards.

(1) The department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the department finds evidence that the facility has not been or will not be operated in compliance with standards adopted under Section R911-9-300.

(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the department has not designated it as such pursuant to this rule.

R911-9-900. Resource Hospital Minimum Designation Requirements.

A resource hospital shall meet the following minimum requirements for designation:

(1) Be licensed in Utah or another state as a general acute hospital or be a Veteran's Administration hospital operating in Utah;

(2) Have the ability to communicate with other EMS providers operating in the area;

(3) Provide on-line medical control for pre-hospital EMS providers who request assistance for patient care, 24 hours day, seven days a week;

(4) Create and abide by written pre-hospital emergency patient care protocols for use in providing on-line medical control for pre-hospital EMS providers;

(5) Train new staff on the protocols before the new staff is permitted to provide on-line medical control and annually review protocols with physician and nursing staff;

(6) Annually provide in-service training on the protocols to physicians and nurses who provide on-line medical control;

(7) Make the protocols immediately available to staff for reference;

(8) Provide on-line medical control which shall include:

(a) direct voice communication with a physician; or
(b) a registered nurse or physician's assistant, who shall be licensed in Utah, who is in voice contact with a physician;

(9) Implement a quality improvement process which shall include:

(a) representatives from local EMS providers that routinely transport patients to the resource hospital;

(b) quarterly meetings; and

(c) minutes of the quality improvement meetings which are available for department review;

(10) Identify a coordinator for the pre-hospital quality improvement process;

(11) Cooperate with the pre-hospital EMS providers' off-line medical directors in the quality review process, including granting access to hospital medical records of patients served by the particular pre-hospital EMS provider;

(12) Participate in local and regional forums for performance improvement; and

(13) Assist the department in evaluating EMS system effectiveness by submitting to the department, in an electronic format quarterly data specified by the department.

(14) Designated trauma centers are deemed to meet the resource hospital standards and are exempt from requirements outlined in this section.

(15) The resource hospital designation and re-designation shall be for a period of three years.

R911-9-1000. Stroke Treatment and Stroke Receiving Facility Minimum Designation Requirements.

(1) A Primary or Comprehensive Stroke Treatment Center or an Acute Stroke Ready Hospital shall be accredited by the Joint Commission or other nationally recognized accrediting body.

(2) A hospital designated as a Stroke Receiving Facility for receiving stroke patients via Emergency Medical Services shall meet the following requirements:

(a) Be licensed as an acute care hospital in Utah;

(b) Require physician response to the emergency department in less than 30 minutes for treatment of stroke patients;

(c) Maintain the ability of physician and nursing staff to utilize a standardized assessment tool for ischemic stroke patients;

(d) Maintain and utilize approved thrombolytic medications for treatment of patients meeting criteria for administration of thrombolytic therapy;

(e) Establish a standardized acute stroke protocol and authorize appropriate emergency department staff to implement the protocol when appropriate;

(f) Have ancillary equipment and personnel available to diagnose and treat acute stroke patients in a timely manner;

(g) Establish patient transport protocols with designated stroke treatment centers;

(h) Have a performance improvement program for acute stroke care and report data as required by the department; and

(i) Submit to a site visit by representatives of the department.

(3) Upon designation, the department may, in consultation with off-line EMS medical direction and protocol, recommend direct transport of stroke patients to a Stroke Receiving Center or a Stroke Treatment Center by licensed ambulance provider.

NOTICES OF PROPOSED RULES

(4) Each hospital shall collect, and submit at least quarterly to the department, stroke registry information necessary to maintain an inclusive stroke system. Each hospital shall provide such data in a standardized electronic format approved by the department.

(5) The stroke treatment and stroke receiving designation and re-designation shall be for a period of three years.

R911-9-1100. Percutaneous Coronary Intervention Center Minimum Designation Requirements.

(1) To receive acute ST-elevation myocardial infarction (STEMI) patients via an ambulance, a Percutaneous Coronary Intervention (PCI) center, shall meet the following minimum designation requirements:

(a) be licensed as an acute care hospital in Utah;
 (b) maintain an emergency department that is always staffed by at least one physician and one registered nurse;

(c) have the ability to receive 12 lead EKG data from licensed ambulance providers transporting patients to the hospital for treatment of STEMI;

(d) maintain the ability to provide cardiac catheterization and PCI of STEMI patients within 90 minutes of patient arrival in the emergency department 24 hours a day and seven days a week;

(e) maintain a performance improvement program for STEMI care and report data to the department as required by the department; and

(f) submit to a site visit by representatives of the department.

(2) Upon designation, the department may, in consultation with off-line EMS medical direction and protocol, recommend direct transport of STEMI patients to a STEMI Treatment Center by a licensed ambulance provider.

(3) The PCI designation and re-designation shall be for a period of three years.

(4) Each hospital shall collect, and submit at least quarterly to the department, cardiac registry information necessary to maintain an inclusive cardiac system. Each hospital shall provide such data in a standardized electronic format approved by the department.

R911-9-1200. Patient Receiving Facility Minimum Designation Requirements.

(1) A patient receiving facility shall meet the following minimum designation requirements:

(a) have the ability to communicate with licensed and designated EMS providers;

(b) be staffed or have on-call physician, physician assistant, or nurse practitioner availability during designated hours with a response time of less than 20 minutes;

(c) have and maintain ACLS and PALS certification;

(d) attend meetings of the local EMS council, if one exists, to participate in the coordination and operations of local licensed and designated EMS providers;

(e) abide by off-line protocols approved by the licensed ambulance provider's off-line medical director;

(f) train staff on protocols used by the licensed ambulance providers who transport patients to the patient receiving facility;

(g) implement a quality improvement process of all patients received at the patient receiving facility with the local resource hospital or trauma center including access to medical records for patients transported by ambulance;

(h) maintain equipment, services and medications on-site to provide advanced life support (ALS) intervention and appropriate treatment. Equipment and services shall include:

(i) ECG;

(ii) ACLS medications;

(iii) laboratory services;

(iv) radiology services;

(v) oxygen delivery systems;

(vi) airway support equipment and supplies; and

(vii) suction equipment and supplies;

(i) submit to a yearly site visit by representatives of the department; and

(j) submit monthly data reports to the department on each patient received by an ambulance, and in an electronic format provided by the department.

(2) The department may recommend the preferential transportation of STEMI patients by ambulance to a patient receiving facility.

KEY: emergency medical services, trauma, reporting, trauma center designation

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R911-10	Filing ID: 56495

Agency Information

1. Department:	Public Safety	
Agency:	Emergency Medical Services	
Building:	Calvin Rampton Building	
Street address:	4501 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Darin Bushman	801-608-7367	dbushman@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R911-10. Air Ambulance Licensure and Operations
3. Purpose of the new rule or reason for the change:
This rule filing is being submitted as a result of the passage of S.B. 64 during the 2023 General Session, which moves

the Bureau of Emergency Medical Services (EMS) from the Department of Health and Human Services (DHHS) to the Department of Public Safety (DPS); and S.B. 72 during the 2024 General Session, which includes some cleanup language to address issues from S.B. 64 (2023), and authorizes DPS to engage in the rulemaking process effective 03/13/2024 to transfer administrative rules from DHHS to DPS.

4. Summary of the new rule or change:

This filing essentially moves Rule R426-10 from DHHS to DPS with the new rule number being R911-10 and incorporates new statutory references due to the passage of S.B. 64 (2023), and S.B. 72 (2024).

(EDITOR'S NOTE: The proposed repeal of Rule R426-10 is under ID 56469 in this issue, May 15, 2024, of the Bulletin.)

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, as this rule filing only moves Rule R426-10 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

B) Local governments:

There is no anticipated cost or savings to local governments, as this rule filing only moves Rule R426-10 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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

There is no anticipated cost or savings to small businesses, as this rule filing only moves Rule R426-10 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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, as this rule filing only moves Rule R426-10 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 persons other than small businesses, non-small businesses, state, or local government entities, as this rule filing only moves Rule R426-10 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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 anticipated compliance costs or savings for affected persons, as this rule filing only moves Rule R426-10 from DHHS to DPS in response to the passage of S.B. 64 (2023) and will have no impact on how DPS functions or the parties this applies to.

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	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 Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-2d-101.1		
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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:	06/14/2024
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9. This rule change MAY become effective on:	07/01/2024
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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:	Darin Bushman, Director EMS Bureau	Date:	05/01/2024
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R911. Public Safety, Emergency Medical Services.
R911-10. Air Ambulance Licensure and Operations.
R911-10-1. Authority and Purpose.

- (1) Section 53-2b-101.1 authorizes this rule.
- (2) This rule provides department requirements for air ambulance provider licensure and operations.

R911-10-2. Definitions.

- For the purposes of this rule:
- (1) "Air ambulance provider" means a state-licensed entity providing air ambulance services.
 - (2) "Base location" means the physical address where the crew, medical equipment, supplies, and the air ambulance are located.
 - (3) "Deemed status" means an air ambulance provider has received accreditation from a department-approved accreditation service.
 - (4) "Department" means the Department of Public Safety.
 - (5) "PSAP" means the public safety answering point for 911 calls.

R911-10-3. Air Ambulance Provider Requirements.

- (1) A person in any capacity, including as an owner or agent, may furnish, operate, conduct, maintain, advertise, or

otherwise be engaged in providing emergency medical care using an air ambulance only when licensed by the department.

(2) The department may conduct air ambulance provider investigations.

(3) A person from another state may only provide emergency medical services, including patient care, aboard an air ambulance within the state if that person complies with the requirements under this rule.

(4)(a) An air ambulance provider shall have a medical director who shall be responsible for medical direction and oversight regarding credentialing air medical providers, clinical practice, and patient care.

(b) An air ambulance provider shall report a personnel change in the medical director position to the department within 30 days.

(5) An air ambulance provider shall get a deemed status or receive state certification by state-approved auditors of the required criteria to meet national standards for patient safety and quality of care.

(6) Air ambulance permits and licenses are not transferable.

(7) An air ambulance provider may get a replacement air ambulance permit or license by submitting a written request to the department certifying that the original permit or license has been lost, destroyed, or made unusable.

(8) Each air ambulance provider shall get a new air ambulance inspection and subsequent permit from the department before returning an air ambulance to service following a modification, change, or any renovation that results in a change to the stretcher placement or seating in the air ambulance interior configuration.

(9) An air ambulance provider shall file an amended list of aircraft that are used to provide service within the state to the department within 30 days after an air ambulance is added to or removed permanently from service.

(10) The licensure period for an air ambulance provider shall be four years.

(11) An air ambulance provider may only use an air ambulance to provide emergency medical care. State licensure does not constitute authority to provide non-medical air transportation.

(12) An air ambulance provider shall comply with other statutes, rules, or regulations in effect for medical personnel and EMS, involving:

- (a) licensing and authorizations;
- (b) insurance;
- (c) prescribed and proscribed acts; and
- (d) penalties.

(13) The department may verify and inspect equipment and documentation to ensure compliance.

(14) An air ambulance provider seeking deemed status shall allow a department representative to be present during a site visit conducted by an accreditation organization.

R911-10-4. Air Ambulance Provider Licensure Application.

(1) An applicant for an air ambulance license desiring to get or to renew a license shall submit the following to the department:

- (a) the applicable fees and application on the department-approved forms;
- (b) a copy of the air ambulance service licenses concurrently issued and on file with other states;

(c) information about individual aircraft that will be used while providing medical care for physical inspection of medical compliance, as referenced in Section R911-10-10;

(d) results from the prior ten years of any investigations, disciplinary actions, or exclusions with the potential to impact the quality of medical care provided to patients. Such investigations, disciplinary actions, or exclusions apply to:

(i) current and prior legal names of the entity;

(ii) other names used by the entity to provide health care services; and

(iii) any person or entity who had direct or indirect ownership of at least 50% interest in the air ambulance service within the prior 10-year period;

(e) the name of the air ambulance service medical director pursuant to requirements found in Sections R911-5-2500 and R911-5-2600;

(f) proof of deemed status or state certification by state-approved auditors;

(g) emergency contact information, which the department may use to provide effective communications and resource management in the event of a statewide or localized disaster or emergency situation;

(h) a roster of medical personnel including level of certification or licensure to ensure there is sufficient trained and certified staff that meets the requirements in Section R911-10-22;

(i) the air ambulance provider's policies and procedures based on state or nationally accepted emergency medical dispatch standards and state or nationally accepted EMS clinical guidelines to aid in directing the daily operation of the air ambulance communications center as referenced in Section R911-10-12;

(j) a copy of the air ambulance provider's plan to send significant clinical data to hospital or emergency patient receiving facility medical personnel before arrival;

(k) a copy of the air ambulance provider's quality improvement program that assesses and improves patient care provided by the air ambulance services, as referenced in Section R911-10-21;

(l) an integrated medical transport plan, as established in Section R911-10-17; and

(m) the air ambulance provider's insurance requirements as referenced in Section R911-10-8.

R911-10-5. Exceptions to Air Ambulance Provider Licensure.

This rule does not apply to the following:

(1) an entity providing air ambulance services operated by an agency of the United States Government;

(2) services that provide rescue and evacuation equipment and aircraft owned and operated by a governmental entity other than one that includes transporting patients by air ambulance in its primary role and receives payment for such services; and

(3) evacuation and rescue equipment used and owned by the Department of Public Safety in air, ground, or water evacuation.

R911-10-6. Department-Approved Accreditation Service.

To be recognized as a department-approved accreditation service, a service must meet the following criteria:

(1) provide evidence of timely reviews of applications from air ambulance providers seeking accreditation;

(2) publish standards that address the components of medical transport impacting quality of patient care and provider safety;

(3) outline procedures for random site visits, audits, and other strategies utilized to ensure an accredited provider or a provider seeking accreditation is adhering to accreditation standards;

(4) publish policies for the initial accreditation requirements, including:

(a) the tenure of accreditation, not to exceed three years;

(b) the requirements for reaccreditation; and

(c) the accreditation decision-making process;

(5) use trained personnel, including site surveyors, with experience in medical transport at the level of accreditation and licensure;

(6) utilize a formal training program that educates accreditation personnel, including site surveyors, in consistent interpretation of standards and policies of the accreditation provider;

(7) publish the required qualifications for accreditation personnel who conduct site surveys that demonstrate experience with and knowledge of the air ambulance industry;

(8) demonstrate that accreditation standards are updated to comply with national standards in healthcare and air medical transportation;

(9) have a multi-disciplinary board of directors representing medical transport organizations;

(10) clearly outline and enforce a conflict of interest policy that excludes board members or other accreditation agency representatives from participating in accreditation decisions, site surveys, or other processes when a real or potential conflict of interest exists;

(11) publish fees for providers seeking accreditation;

(12) utilize and provide documentation of an open process that encourages and accepts comments on changes to its accreditation standards;

(13) explain the procedure for a corrective action plan, which assures that air ambulance providers will implement corrective actions for any identified deficiencies;

(14) demonstrate a continuous quality improvement process that reviews the application process, site surveys, accreditation decisions, and accreditation standards;

(15) maintain and be able to present current certificates of insurance to include:

(a) general liability; and

(b) medical professional liability; and

(16) allow a department representative to be present during site surveys, investigations, and any other on-site visit.

R911-10-7. Air Ambulance Provider Change of Ownership and Management.

(1) When an air ambulance provider anticipates a change of ownership, the air ambulance provider shall notify the department 30 calendar days before the change of ownership.

(2) The conversion of an air ambulance provider's legal structure, or the legal structure of an entity that has a direct or indirect ownership interest in the air ambulance provider, is a change of ownership if the conversion includes a transfer of at least 50% of the air ambulance provider's direct or indirect ownership interest to any new owner.

(3) A change of ownership of a licensed air ambulance provider requires a new license if:

(a) the change of ownership's transfer is for at least 50% of the ownership interest from a sole proprietor to another individual, regardless of whether the transaction affects the title to real property;

NOTICES OF PROPOSED RULES

(b) the dissolution of a partnership and conversion into any other legal structure includes a transfer of at least 50% of the direct or indirect ownership from a partnership to any new owner;

(c) the consolidation of two or more corporations resulting in the creation of a new corporate entity includes a transfer of at least 50% of the direct or indirect ownership to any new owner;

(d) the formation of a corporation from a partnership, a sole proprietorship, or a limited liability company includes a transfer of at least 50% of the direct or indirect ownership to any new owner;

(e) the transfer, purchase, or sale of shares in a corporation result in a shift of at least 50% of the direct or indirect ownership of the corporation to any new owner;

(f) there is a transfer of at least 50% of the direct and indirect ownership interest in a limited liability company;

(g) the termination or dissolution of a limited liability company and the conversion into any other entity includes a transfer of at least 50% of the direct or indirect ownership to any new owner;

(h) any transfer of ownership interest between an existing person or entity in a limited liability company involves the acquisition of ownership interest by a new person or entity with an ownership interest; or

(i) the air ambulance provider enters into a lease arrangement or management agreement whereby the air ambulance provider keeps no authority or responsibility for the operation and management of service.

(4) A change of ownership may not result from:

(a) forming a corporation from a sole proprietorship with the proprietor as the sole shareholder; or

(b) the dissolution of a partnership to form a corporation with the same persons keeping the same shares of ownership in the new corporation.

(5) To report a change of ownership, each applicant shall provide:

(a) the legal name of the entity and any other names used by it to provide health care services;

(b) contact information for the entity including mailing address, telephone and fax numbers, email address, and website address, as applicable;

(c) the identity of each person and business with a controlling interest in the air ambulance provider, including:

(i) a list of the governing body and officers for a non-profit corporation;

(ii) a list of the names of the officers and stockholders who directly or indirectly own or control 5% or more of the shares of a for-profit corporation; and

(iii) proof of lawful presence in the United States in compliance with Subsection 41-1a-202(1)(b) for a sole proprietor;

(d) the name, address, and business telephone number of every person identified in this section as ownership or management and the individual designated by the applicant as the chief executive officer of the entity;

(e) an alternate address and telephone number for at least one individual for use in the event of an emergency or closure of the air ambulance provider if the addresses and telephone numbers provided are the same as the contact information for the entity itself;

(f) proof of professional liability insurance held in the name of the applicant;

(g) by-laws or equivalent documents that govern the rights, duties, and capital contributions of the business entity;

(h) the address of the entity's physical location and the name of the owner of each structure on the campus where licensed services are provided;

(i) a copy of any management agreement pertaining to operation of the entity that sets forth the financial and administrative responsibilities of each party;

(j) a statement signed and dated at the same time as the application stating whether any of the new owners have been the subject of, or a party to, any of the following events within the previous ten years, regardless of whether action has been stayed in a judicial appeal or otherwise settled between the parties:

(i) a felony or misdemeanor conviction involving crimes as described in Section R911-5-3200;

(ii) a state license or federal certification denial, revocation, or suspension by another jurisdiction; or

(iii) a civil judgment or a criminal conviction in a case brought by federal, state, or local authorities that resulted from the operation, management, or ownership of a health facility or other entity related to substandard patient care or health care fraud; and

(k) a statement signed and dated at the same time as the application that:

(i) states whether any new owner has ever been or is the subject of, or a party to debarment, suspension, a proposal for debarment, a declaration of ineligibility, or voluntarily exclusion from participation in a contract by any governmental department or agency, whether international, national, state, or local, regardless of whether action has been stayed in a judicial appeal or otherwise settled between the parties; and

(ii) certifies the applicant is compliant with Section 63G-6a-904 and OMB guidelines at 2 C.F.R. 180, October 23, 2023, which implement Executive Order Nos. 12549 and 12689.

(6) Any statement regarding information requested in Subsection R911-10-7(5)(j) shall, if applicable, include:

(a) whether the event is the result of action by federal, state, or local authorities and, if so, the full name of the authority; its jurisdiction; the case name; the docket, proceeding, or case number by which the event is designated; and a copy of the consent, decree, order, or decision;

(b) whether the event is a felony or misdemeanor conviction involving moral turpitude and, if so, the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court; and

(c) whether the event involves a civil action or arbitration proceeding and, if so, the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, court or arbitration decision.

(7) If an applicant leases one or more buildings to operate as an air ambulance provider, the applicant shall also provide a copy of the lease that clearly shows which party in the agreement is to be held responsible for the physical condition of the property.

(8) The applicant shall keep any article of incorporation, article of organization, partnership agreement, or other organizing document required by the secretary of state to conduct business.

(9) The existing applicant shall be responsible for correcting rule violations and deficiencies in any current plan of correction before the change of ownership becomes effective. If the applicant cannot accomplish such corrections in the time frame specified, the prospective applicant shall be responsible for uncorrected rule violations and deficiencies including any current plan of correction submitted by the previous licensee unless the prospective licensee submits a revised plan of correction, approved by the department, before the change of ownership becomes effective.

(10) If the department issues a license to the new owner, the previous owner shall return its license to the department within five calendar days of the new owner's receipt of its license.

(11) The applicant shall maintain professional liability insurance during the license term and shall notify the department of any change in the amount, type, or provider of professional liability insurance coverage during the license term.

(12) An air ambulance provider shall notify the department within 30 days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during the tenure of a license.

R911-10-8. Air Ambulance Provider Insurance Requirements.

(1) An air ambulance provider applicant shall demonstrate liability coverage for injuries to persons and for loss or property damages resulting from negligence by the service or medical crew.

(2) An air ambulance provider shall immediately notify the department and stop operations if the coverage required by this section is canceled or suspended.

(3) The department may not issue an air ambulance license to an applicant unless the applicant has evidence of medical professional liability insurance that requires the insurer to compensate for injuries to persons or unintentional damage to property.

(4) An air ambulance provider applicant shall provide a copy of the current certificate of insurance demonstrating coverage for each air ambulance medical crew member that states, at a minimum, aggregate limits of \$1,000,000 per claim made and a total of \$3,000,000 for claims made against the provider during the policy year.

(5) An applicant shall provide proof of worker's compensation coverage as required by law.

R911-10-9. Base Locations.

(1) The air ambulance provider shall provide the base location to the department.

(2) The department may conduct announced and unannounced inspections at any location where an air ambulance provider operates. An inspection may occur at any time, including nights or weekends, to determine compliance.

(3) Each base location shall have and maintain security measures that protect medical supplies, pharmaceuticals, and equipment onboard the air ambulance from tampering and unauthorized access, including direct visual monitoring or closed-circuit television

(4) A base location shall provide a secured location with locked perimeter fencing or hangar for each air ambulance.

(5) The base location shall prominently display the following within the building:

(a) the state license or certificate of operation;

(b) Drug Enforcement Agency registration within base locations that store controlled substances;

(c) current Post-Accident Incident Plan; and

(d) documentation showing the professional certifications and licenses of flight crew members.

(6) The air ambulance provider shall ensure the facility is clean and free of debris and compliance with state and local building and fire codes.

(7) The base location shall maintain evidence of medical professional liability insurance.

R911-10-10. Number and Type of Air Ambulances.

An air ambulance provider shall provide a list of each air ambulance to be licensed and inspected for medical compliance by the department, including tail number, the N-Number, and designation of rotor or fixed wing capabilities.

R911-10-11. Capabilities of Medical Communications.

(1) An air ambulance provider shall have a communications network available consisting of reliable equipment designed for clear communications related to the number and condition of patients among each stakeholder within the system.

(2) The communication center shall demonstrate and maintain voice communications linkage with the radios and other allowable communication devices used in the air ambulance for the declared service area.

(3) Air ambulance providers shall have two-way communications equipment available that allows for or has the following:

(a) real-time patient tracking that shall be maintained and documented every 15 minutes including the time the air ambulance returns to service following transport;

(b) appropriate wireless communications capabilities with dispatch centers and local first responders to include fire, EMS, and law enforcement;

(c) communications with medical referral and receiving facilities to exchange patient information and consult with medical control that shall be capable of communications exclusive to the air traffic control system; and

(d) a dedicated telephone number for the air ambulance service dispatch center.

(4) The air ambulance provider base station shall use a communications network during each phase of patient treatment and transport.

(5) The air ambulance provider shall establish an emergency plan for communications during power outages and in disaster situations.

(6) The air ambulance provider shall establish a policy for delineating methods for maintaining medical communications during power outages and in disaster situations.

R911-10-12. Coordination of Medical Communications.

(1) An air ambulance provider shall have flights coordinated by designated medical dispatchers or communications specialists.

(2) Communication specialists are required for processing requests, initiating responses, telecommunications, and assessing the capability for utilizing emergency medical dispatch protocols approved by the department.

(3) Communication specialists shall have:

(a) certification;

(b) appropriate training pertaining to EMS and medical transportation communications related to health care; and

(c) training commensurate with the scope of responsibility given to them by the particular air ambulance provider.

(4) Air ambulance communications centers shall:

(a) establish and maintain policies and procedures based on state or nationally accepted emergency medical dispatch standards and state or nationally accepted EMS clinical guidelines to aid in directing the daily operation of the air ambulance communications center;

(b) coordinate air ambulance deployment activities and communications with primary 911 PSAP call centers and appropriate medical facilities; and

(c) require its communications specialists to satisfy performance standards that are based on state or nationally accepted emergency medical dispatch standards and state or nationally accepted EMS clinical guidelines.

(5) At a minimum, the air ambulance communications center's performance standards shall measure a communication specialist's ability to:

(a) deploy the appropriate medical resources within the prescribed timeframe established by the communications center's standard operating procedures; and

(b) provide pertinent information to the appropriate 911 PSAP call center and receive updated information about the incident from the responding units or medical facilities.

(6) An air ambulance provider's communications center shall establish a quality assurance review process that is executed with consistency and objectivity in accordance with internal standards developed by the air ambulance provider.

R911-10-13. Pre-arrival and Hand-Off Communications to Hospitals or Emergency Patient Receiving Facilities.

(1) An air ambulance provider shall have a plan in place to send significant clinical data to hospital or emergency patient receiving facility medical personnel before arrival.

(2) An air ambulance provider shall start the process for transferring responsibility of patient care during patient transport to reduce the communication load on patient arrival to the facility as early as possible. Transfer of care documentation shall be part of the EMS record.

(3) Information sent to the hospital or the emergency patient receiving facility before arrival shall include:

(a) patient information;

(b) chief complaint;

(c) brief patient history;

(d) condition of the patient;

(e) treatment provided; and

(f) estimated time of arrival.

(4) Information provided to the hospital or emergency patient receiving facility during patient hand-off shall include either:

(a) a copy of the full patient care report; or

(b) an abbreviated patient encounter form containing information essential to continued patient care, including:

(i) patient information;

(ii) chief complaint;

(iii) brief patient history;

(iv) allergies, if known;

(v) time and date of onset of symptoms;

(vi) pertinent physical findings;

(vii) patient medications, if known;

(viii) vital signs;

(ix) air medical treatment, including medications administered, IV fluids, procedures performed, and oxygen delivery; and

(x) transfer of care documentation, including the legibly written name of the air medical crew member.

(5) An air ambulance provider shall provide a copy of the full patient care report to the hospital or emergency patient receiving facility within 24 hours after the end of the patient transport.

R911-10-14. Data Collection, Submission, and Call Volume.

(1) An air ambulance provider shall have a system in place to collect, submit, monitor, and track flight requests. The provider shall submit this information to the department.

(2) An air ambulance provider shall:

(a) report the specified state minimum data set, as required by the department, for every request that results in the dispatch of an air ambulance, whether emergency prehospital, inter-hospital transport, aborted flight, cancelation of requested service, death on scene, or refusal of care as requested by the department; and

(b) provide a yearly call volume report or EMS agency status report documenting the number of flights made within that calendar year.

(3) The yearly call volume report or EMS agency status report identified in Subsection (2)(b) shall contain the following totals:

(a) flights organized by emergency prehospital;

(b) inter-hospital transports;

(c) aborted flights;

(d) cancelation of requested services;

(e) death on scene;

(f) non-transport; and

(g) the refusal of care to assist efforts related to evaluating patient care and the improvement of the EMS system.

R911-10-15. Temporary Air Ambulance Use.

(1) An air ambulance provider shall notify the department when a permitted air ambulance is removed from service or is replaced with a substitute air ambulance.

(2) Upon receipt of notification, the department may issue a temporary permit for the operation of the air ambulance.

R911-10-16. Medical Operations Policies and Procedures.

(1) An air ambulance provider shall have a detailed manual of policies and procedures available for reference in the flight coordination office and available for department inspection to assist with EMS system planning and resource coordination efforts.

(2) An air ambulance provider's personnel shall be familiar and comply with policies contained within the manual, which shall include:

(a) procedures for acceptance of requests, referrals, and denial of service for medically related reasons;

(b) a written description of the geographical boundaries and features for the service area;

(c) a copy of the service area map;

(d) scheduled hours of operation;

(e) criteria for the medical conditions and indications or medical contraindications for flight;

(f) medical communication procedures, including:

(i) medically related dispatch protocol;

(ii) call verification; and

(iii) advisories to the requesting entity to include procedures for informing the requesting entity of flight procedures, anticipated time of aircraft patient arrival, or cancelation of flight;

(g) criteria regarding acceptable destinations based upon medical needs of the patient;

(h) non-aviation safety procedures for medical crew assignments and notification, including rosters of medical personnel;

(i) written policy that ensures air medical personnel may not be assigned or assume cockpit duties concurrent with patient care duties and responsibilities;

(j) written policy that directs air ambulance personnel to honor a patient request for a specific service or destination when the circumstances will not jeopardize patient safety;

(k) medical communications procedures;

(l) flight cancelation and referral procedures;

(m) mutual aid procedures;

(n) a written plan that addresses the actions to be taken in the event of an emergency, diversion, or patient crisis during transport operations;

(o) patient tracking procedures that shall ensure air and ground position reports at intervals not to exceed 15 minutes in-flight and 45 minutes after landing;

(p) policy for delineating methods of maintaining medical communications during power outages and in disaster situations; and

(q) written procedures governing the air ambulance provider's medical complaint resolution process and protocols.

(3)(a) At a minimum, the air ambulance provider shall designate personnel responsible for its dispute resolution process and provide protocols it shall follow when investigating, tracking, documenting, reviewing, and resolving the complaint.

(b) The air ambulance provider's complaint resolution procedures shall emphasize resolution of complaints and problems within a specified period.

R911-10-17. Medical Transport Plans.

To ensure proper patient care and the effective coordination of statewide emergency medical and trauma services, an air ambulance provider shall have an integrated medical transport plan for each air ambulance permitted by the department that describes:

(1) base location;

(2) hours of operation;

(3) emergency dispatch contact information;

(4) non-emergency business contact information;

(5) description of primary and secondary service areas;

(6) medical criteria for utilization;

(7) description of medical capabilities, including availability of specialized medical transport equipment;

(8) communications capabilities including radio frequencies and talk groups;

(9) procedures for communicating with the air medical crew; and

(10) mutual aid or backup procedures when the service is not available.

R911-10-18. Coordination with Regional and State Disaster Preparedness Plans.

To ensure coordinated response to local, regional, or statewide disaster, an air ambulance provider shall participate in regional and state disaster preparedness advisory groups, including preparedness planning meetings and scheduled exercises.

R911-10-19. Medically Related Dispatch Protocols.

When air ambulance transport is indicated, requests shall be coordinated through the local PSAP or 911 call center as part of an integrated response, when possible, for the PSAP to be able to coordinate communications among entities involved in the response.

R911-10-20. Ethical Practices and Conduct.

(1) An air ambulance provider shall have and follow a written code of conduct that demonstrates ethical practices including business, clinical operations, marketing, and professional conduct.

(2) An air ambulance provider is subject to disciplinary action and may be denied licensure for unethical practices or conduct which includes:

(a) misrepresentation of the availability or level of medical or patient related services offered or provided; and

(b) failing to take appropriate action in safeguarding the patient from incompetent or inappropriate health care practices of EMS personnel.

R911-10-21. Continuous Quality Improvement Program.

(1) An air ambulance provider shall establish a quality management team and a program that shall assess and improve patient care provided by the air ambulance provider.

(2) The quality management program shall include:

(a) a development of protocols, standing orders, training, policies, and procedures;

(b) approval of medications and techniques for field use by service personnel;

(c) direct observation, field instruction, in-service training, or other means available to assess the quality of field performance; and

(d) participation in local and regional performance improvement activities.

(3) An air ambulance provider shall have a written policy that outlines a process to identify, document, and analyze sentinel events, adverse medical events, or potentially adverse events with specific goals to improve patient medical safety and the quality of patient care.

(4) Policies and procedures shall include:

(a) a review of events for the effectiveness and efficiency of the organization, its support systems, and individuals within the organization;

(b) a method of information gathering developed for when a sentinel event is identified, including outcome studies, chart review, case discussion, or other methodology;

(c) a utilization review process;

(d) findings, conclusions, recommendations, actions, and follow-up made and recorded; and

(e) training and education needs, individual performance evaluations, equipment or resource acquisition, patient medical safety, and risk management issues.

(5) An air ambulance provider shall notify the department within 72 hours of the identification of any sentinel event, a change in accreditation status, an incident, an accident, or an outside investigation for patient care, patient safety, or provider safety.

R911-10-22. Staffing and Medical Personnel Requirements.

(1) Acceptable medical personnel include:

(a) physicians, including MD and DO;

(b) paramedics;

(c) registered nurses (RN);

(d) registered nurse practitioners;

(e) advanced practice nurses;

(f) physician assistants (PA);

(g) respiratory therapists (RRT); or

(h) other allied health professionals;

(2) At a minimum, an air ambulance provider shall have the following medical personnel:

(a) one primary medical attendant who is a licensed PA, RN, MD, or DO;

(b) a second medical attendant who is a paramedic, PA, respiratory therapist, RN, MD, or DO; and

(c) medically qualified Utah licensed or certified individuals appropriate to the scope and mission of the air ambulance provider, or EMS personnel recognized under an interstate compact of which Utah is a member.

R911-10-23. Air Ambulance Staffing and Personnel Qualifications.

(1) The air ambulance provider may modify composition of the medical team for specialty missions upon credentialing and approval by the air ambulance provider's medical director.

(2) The licensed nurse shall have appropriate specialty certification within two years of hire and must have pre-hire experience in the medications and interventions necessary for the air ambulance provider's scope of care. The licensed nurse also shall have three years critical care experience, which is no less than 4,000 hours experience in an ICU or emergency department.

(3) The paramedic shall have a FP-C or CCP-C within two years of hire in addition to at least three years, a minimum of 4,000 hours, of advanced life support experience.

(4) The RRT shall have a minimum of 4,000 hours of emergency department or ICU experience and appropriate specialty certification within two years of hire.

(5) Medical personnel shall have cognitive, affective, and psychomotor abilities sufficient to meet the clinical needs for the type of patient missions served.

(6) An air ambulance provider shall have a plan to assess and document the competency and proficiency of the personnel who provide medical services.

R911-10-24. Air Ambulance Personnel Training Requirements.

(1) An air ambulance provider shall have a documented, structured educational program which is required for air ambulance personnel, including the medical director.

(2) The educational program under Subsection (1) shall at a minimum contain program orientation and initial and recurrent training that adheres to the services scope of care, patient population, mission statement and medical direction.

(3) Each medical crew member shall complete and document training in mission specific procedures related to patient care as established by the air ambulance provider's medical director and such federal, state, or local agencies with authority to regulate air ambulance providers. For license renewal, the department may require documentation showing completion of initial and recurrent training.

(4) Clinical experiences shall include:

(a) experiences specific to the mission statement and scope of care of the medical transport service;

(b) measurable objectives developed and documented reflecting hands-on experience versus observation only;

(c) care of patients in the air medical environment including the impact of altitude and other stressors;

(d) advanced airway management;

(e) applicable medical device specific training, this includes:

(i) Automatic Implantable Cardioverter Defibrillator;

(ii) Extracorporeal Membrane Oxygenation;

(iii) Intra-Aortic Balloon Pump;

(iv) Left Ventricular Assist Device;

(v) medication pumps; and

(vi) ventilators;

(f) cardiology;

(g) mechanical ventilation and respiratory physiology for adult, pediatric, and neonatal patients as it relates to the mission statement and scope of care of the medical transport service specific to the equipment;

(h) high risk obstetric emergencies;

(i) basic care for pediatrics, neonatal, and obstetrics;

(j) emergency and critical care for patient populations to include special needs population;

(k) hazardous materials recognition and response;

(l) management of disaster and mass casualty events;

(m) infection control and prevention; and

(n) ethical and legal issues.

R911-10-25. Medical Staff and Patient Safety Welfare.

(1) Medical personnel scheduling and individual work schedules shall demonstrate strategies to minimize duty-time fatigue, length of shift, number of shifts per week, and day-to-night rotation.

(2) On-site scheduled shifts for a period to exceed 24 hours are not acceptable under most circumstances.

(3) The following criteria shall be met for shifts scheduled more than 12 hours:

(a) medical personnel are not required to routinely perform any duties beyond those associated with the transport services;

(b) medical personnel are provided with access to and permission for uninterrupted rest after daily medical personnel duties are met;

(c) the physical base of operations includes an appropriate place for uninterrupted rest;

(d) medical personnel shall have the right to call "time out" and be granted a reasonable rest period if the team member, or fellow team member, determines that the team member is unfit or unsafe to continue duty, no matter the shift length;

(e) there shall be no adverse personnel action or undue pressure to continue in a "time out" circumstance;

(f) licensed air ambulance management shall monitor transport volumes and personnel's use of a "time out" policy; and

(g) shifts extended over several days may be scheduled to address long commutes at programs with low volumes.

(4) An air ambulance provider shall clearly demonstrate and document it meets criteria listed in Subsection R911-10-26(3) for shifts over 12 hours.

(5) An air ambulance provider shall ensure medical staff have at least ten hours of rest in each 24-hour period.

(6) If the base location is remote and one-way commutes are more than two hours, transportation time shall be considered.

(7) An air ambulance provider shall utilize a fatigue risk management tool that is widely recognized in the industry.

(8) An air ambulance provider shall evaluate the scheduling of on-call shifts to address fatigue in a written policy based on monitoring of duty times by managers, quality management tracking, and fatigue risk management.

(9) An air ambulance provider shall establish safety and infection control protocols that comply with the Occupational Safety and Health Administration (OSHA).

(10) An air ambulance provider shall have an appropriate dress code that addresses mission specific hazards as well as jewelry, hair, and other personal items that medical personnel may possibly use that may interfere with patient care.

R911-10-26. Air Ambulance Provider Medical Director Qualifications.

(1) An air ambulance provider's medical director who oversees the practice of the EMS during patient transport shall be familiar with Utah medical practices and licensing requirements.

(2) An air ambulance provider's medical director shall be a Utah licensed physician in good standing to supervise the medical care provided in an air medical environment.

(3) A medical director shall:

(a) be board certified or board-eligible in EMS, emergency medicine, or other appropriate critical care specialty that services the patient population involved;

(b) have experience in the care of patients consistent with the licensing and mission profile of the air ambulance provider's service;

(c) designate other medical physician specialists for direction outside medical director's area of practice as appropriate to the air ambulance provider's service mission profile;

(d) have access to medical specialists for consultation regarding patients whose illness and care needs are outside the medical director's area of practice;

(e) have a current DEA registration; and

(f) have current credentials achieved through active participation in patient care and continuing medical education activities appropriate for the role of an air ambulance provider's medical director.

(4) An air ambulance provider's medical director shall have familiarity in the following areas:

(a) care of patients in the air medical environment, including the impact of altitude and other patient stressors, in-flight assessment and care, monitoring capabilities, and limitations of the flight environment;

(b) hazardous materials recognition and response;

(c) management of disaster and mass casualty events;

(d) infection control and prevention;

(e) advanced resuscitation and care of adult, pediatric, and neonatal patients with both traumatic and non-traumatic diagnoses;

(f) quality improvement theories and applications;

(g) principles of adult learning;

(h) capabilities and limitations of care in air ambulance;

(i) applicable federal, state, and local law, rules, and protocols related to air ambulance providers and state trauma rule guidelines;

(j) air ambulance dispatch and communications; and

(k) ethical and legal issues related to air medical transport.

(5) An air ambulance provider's medical director roles and responsibilities shall include:

(a) oversight of medical care provided by the air medical service provider;

(b) ensure competency and currency of medical personnel;

(c) active engagement in the evaluation, credentialing, initial training, and continuing education of personnel who provide patient care;

(d) development and approval of written patient care guidelines, policies and protocols, including those addressing the adverse impact of altitude on patient physiology and stressors of transport; and

(e) active engagement in quality management, utilization review, and safety reviews.

R911-10-27. Patient Compartment General Standards.

(1) An air ambulance provider shall ensure that a permitted air ambulance has the following:

(a) a climate control system to prevent temperature variations that would adversely affect patient care;

(b) the air ambulance shall have an adequate interior lighting system so that patient care can be given and the patient's status monitored;

(c) for each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating electrically powered medical equipment without compromising the operation of any electrical air ambulance equipment;

(d) a backup source of electrical power or batteries capable of operating electrically powered life support equipment for at least one hour;

(e) an appropriate power source which is sufficient to meet the requirements of the complete specialized equipment package without compromising the operation of any electrical air ambulance equipment;

(f) an entry that allows for patient loading and unloading without excessive maneuvering and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;

(g) if an isolette is used during patient transport, the operator shall ensure that the isolette can be opened from its secured in-flight position to provide full access to the patient;

(h) adequate access and necessary space to maintain the patient's airway and to provide adequate ventilatory support by an attendant from the secured, seat-belted position within the air ambulance;

(i) a configuration that allows for rapid exit of personnel and patients that will not allow obstruction from stretchers and medical equipment;

(j) an interior of the air ambulance that is sanitary and in good working order during use;

(k) secure positioning of cardiac monitors, defibrillators, and external pacers so that displays are visible to medical personnel; and

(l) procedures for medications to maintain temperatures within manufacturer recommendations.

(2) An air ambulance provider may not use glass containers unless required by medication specifications and be properly vented.

(3) Each air ambulance operator shall ensure that medical equipment is appropriate to the air medical service's scope and mission and maintained in working order according to the manufacturer's recommendations.

(4) Each permitted air ambulance shall be equipped to provide patient care according to approved medical protocols.

KEY: emergency medical services, air

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-2d-101.1

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, 2024.

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, 2024, 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.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	R317-16	Filing ID: 56312
Date of Previous Publication:	02/15/2024	

Agency Information

1. Department:	Environmental Quality	
Agency:	Water Quality	
Room number:	DEQ, 3rd 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, UT 84114-4870	
Contact persons:		
Name:	Phone:	Email:
James Harris	801-541-3069	jamesharris@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval
3. Reason for this change:
The changes are proposed in response to comments received during the public comment period.
4. Summary of this change:
The changes in the proposed rule include refinements to definitions, minor additions to the feasibility assessment requirements, changes to citations to ensure compatibility with related rules and general edits for clarity. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the February 15, 2024, issue of the Utah State Bulletin, on page 4. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule 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:
There is no anticipated cost or savings impact to the state budget since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
B) Local government:
There is no anticipated cost or savings impact to local governments since proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule modification is not anticipated to impact small businesses' costs or savings, since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule modification is not anticipated to impact non-small businesses' costs or savings, since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
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):
Persons other than small businesses, non-small businesses, or state or local government entities will not be financially affected, since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
F) Compliance costs for affected persons:
These changes are in response to comments received during the initial comment period and intended to provide clarification and consistency with related rules. There are no additional anticipated compliance costs for affected persons due to the proposed 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

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this table. Inestimable impacts will be included in narratives above.)

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 Environmental Quality, Kimberly Shelley, 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 65A-6-4(6)(b)		
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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: 06/17/2024

9. This rule change MAY become effective on: 06/26/2024

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:	04/30/2024
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R317. Environmental Quality, Water Quality.

R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval.

R317-16-1. Purpose and Authority.

(1) Authority. This rule is promulgated pursuant to Section 65A-6-4.

(2) Purpose. To implement administrative rules for approval of operator certification according to Section 65A-6-4 and to protect the biota and chemistry of Great Salt Lake from possible negative impacts in connection with brine processing and mineral extraction activities.

R317-16-2. Definitions.

The following definitions apply for purposes of this rule only:

(1) "Application for Operator Certification Approval" or "Application" means a request for approval of an operator's certification that its operations will not negatively impact biota or chemistry of Great Salt Lake, and includes the specific information detailed in Sections R317-16-3 and R317-16-5.

(2) "Biota" means all plants, fungi, animals, protists, bacteria, and archaea in Great Salt Lake.

(3) "Brine Depletion" means the volume of brine water consumed through processing and operations, calculated by subtracting the volume of returned water from the volume of brine water.

(4) "Brine Water" means water diverted from Great Salt Lake.

(5) "Certification Decision" includes the following:

(a) "Operator Certification Approval" means a permit order, as defined in Subsection 19-1-301.5(1)(f)(i), indicating the director's approval of an operator's certification.

(b) "Operator Certification Denial" means a permit order, as defined in Subsection 19-1-301.5(1)(f)(i), indicating the director's denial of an operator's certification.

(6) "Chemistry" means the properties, composition, and structure of the elements and compounds, and interactions thereof, making up the waters, brines, and substrate of Great Salt Lake.

(7) "Director" means the director of the Utah Division of Water Quality.

(8) "Discharge" means any water, substance, or pollution placed into a receiving water; which may include any combination of treated, processed, [~~mitigation,~~] or returned waters.

(9) "Division" means the Utah Division of Water Quality.

(10) "Draft Certification Decision" means a document indicating the director's preliminary decision to approve or deny an operator's certification. A draft certification decision is not a permit order.

(11) "Externally Sourced Water" means water diverted from sources other than Great Salt Lake and used for processing and operations.

(12) "Feasibility Assessment" means the same as that term defined in [~~Section~~ Title R652[~~21-200~~].

(13) "FFSL" means the Utah Department of Natural Resources, Division of Forestry, Fire, and State Lands.

(14) "Foreign materials" means materials added to a discharge or a commercial process.

(15) "GSL" means Great Salt Lake.

(16) [~~"Mitigation Water" means the water diverted from sources other than Great Salt Lake and delivered to Great Salt Lake to compensate for brine depletion, pursuant to Section 65A-6-4. Mitigation water may not include wastewater reuse.~~

~~_____ (17)]~~ "Negative Impact" includes any activity or action that:

(a) causes pollution, or negatively alters the salinity or other aspects of water chemistry in Great Salt Lake;

(b) negatively alters the volume or timing of water flows to Great Salt Lake, or water levels in Great Salt Lake or Great Salt Lake wetlands;

(c) reduces, degrades, or otherwise negatively alters habitat in and around Great Salt Lake; or

(d) results in harmful physiological impacts to Great Salt Lake biota, including disruptions to survival, reproduction, or growth.

(17[8]) "Operator" means a person submitting an application for operator certification approval to pursue extraction of Great Salt Lake elements or minerals to the Division of Water Quality.

(18[9]) "Operator Certification" means a statement by an operator that its operation will not negatively impact the biota or chemistry of Great Salt Lake.

(19[20]) "Pollution" means the same as that term is used in Section 19-5-102.

(20[1]) "Returned Water" means any water discharged into Great Salt Lake from commercial operations.

(21[2]) "Total Water" means the sum of externally sourced water and brine water.

(22[3]) "UPDES" means Utah Pollutant Discharge Elimination System.

(23[4]) "Water Depletion" means the volume of total water consumed through processing and operations, calculated by subtracting the volume of returned water from the volume of [~~brine~~]total water.

R317-16-3. Feasibility Assessment -- Certification Approval by Rule.

(1) The operator shall request a pre-filing meeting with the division and with FFSL at least 30 days before submitting a feasibility application with FFSL. The division and FFSL may

jointly waive or shorten the requirement for a pre-filing meeting request.

(2) For the feasibility assessment only, a UPDES permit is considered a feasibility assessment certification approval by rule.

(a) The term of a UPDES permit issued for the feasibility assessment shall be the duration of the feasibility assessment.

(b) If the operation is non-discharging during the feasibility assessment and does not require a UPDES permit, the operator shall nonetheless comply with Subsection R317-16-3(3).

(i) The director will issue a certification decision using the procedures listed in Sections R317-16-6 and R317-16-7.

(ii) The term of a feasibility assessment certification approval shall be the duration of the feasibility assessment.

(3) To obtain feasibility assessment certification approval by rule, the operator shall submit, on a form provided by the division:

(a) information listed in this section pertaining to the feasibility assessment; and

(b) an application for a UPDES permit.

(4) Feasibility assessment information required:

(a) project information:

(i) mass balance of principal GSL salinity constituents, including all target and non-target minerals across the principal mineral processing steps;

(ii) a water balance at design flow, low flow conditions, and across a range of lake levels;

(iii) generated waste containment and disposal infrastructure descriptions, including residuals and disposal methods;

(iv) location and acreage of lakebed used for project facilities during the feasibility assessment and operations phases, if different;

(v) supporting documentation submitted to federal agencies, including maps, plans, specifications, project dimensions, copies of associated federal applications, biological and engineering studies, environmental assessment or environmental impact statements, or alternative analyses, as applicable;

(vi) estimated water depletion and brine depletion; and

(vii) plan to determine rate of extraction for the targeted and non-targeted minerals or elements and estimated rate of depletion of the targeted and non-targeted minerals or elements in GSL;

(b) withdrawal information:

(i) names and locations of the brine water and externally sourced water where withdrawals will occur, including the precise latitude and longitude to the fifth decimal place in decimal degrees and to the tenth of a degree in degrees-minutes-seconds notation;

(ii) detailed information on the quantity of brine water and externally sourced water withdrawn; [~~and~~]

(iii) detailed information on the timing of the withdrawals; and

(iv) detailed description of the operator's plan for measuring the amount of brine water, externally sourced water, and returned water.

(c) discharge information:

(i) characterization of the physical, chemical, biological, thermal, and other pertinent properties of the discharge; at a minimum: pH, total alkalinity, total dissolved solids, total suspended solids, sulfate, nitrate, nitrite, carbonate, bicarbonate, chloride, hydroxide, chemical oxygen demand, biological oxygen demand, silica, zinc, magnesium, sodium, calcium, potassium, boron, bromine, aluminum, iron, and silicon; range of temperatures

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expected in effluent; density range of effluent to be discharged; and quantity of foreign materials that would be discharged to the GSL on an annual basis;

(ii) for operations that are non-discharging during the feasibility assessment, a determination of whether discharge will occur during the operations phase and an evaluation of how the operator will obtain information to characterize its operations discharge during the feasibility assessment.

(d) impacted habitat:

(i) description of existing GSL habitat and biota in and around the area of operation;

(ii) description of the potential physical impact to habitat and biota in and around the withdrawal and discharge locations;

(iii) evaluation of the least degrading reasonable alternatives;

(iv) plan to mitigate any negative impacts of the proposed operation; and

(v) plan to ensure existing beneficial uses will be maintained and protected.

(e) monitoring and inspection plan:

(i) a description of the methods and means to monitor the quality and characteristics of the discharge and the operation of the equipment or facilities employed in control of any proposed discharge;

(ii) plan to monitor and address long-term cumulative effects of withdrawals and discharges associated with the operation on the biota and chemistry of the GSL including available baseline data; and

(iii) a map showing the locations of proposed monitoring points.

(f) evidence supporting the operator certification:

(i) consideration of both short-term effects and long-term impacts of the project;

(ii) examples of evidence supporting a certification may include:

(A) a quantitative comparison of influent and effluent volume and chemical composition;

(B) modeled annual impacts to salinity or concentrations of other ~~important~~ chemical parameters in GSL;

(C) evaluation of impacts to GSL biota including:

(I) a quantitative comparison of effluent chemical concentrations to applicable water quality standards; or

(II) other scientifically defensible biological response thresholds;

(D) other scientifically defensible means for evaluating project impacts on GSL chemistry and biota.

R317-16-4. Operations Application Procedures.

(1) The operator shall request a pre-filing meeting with the division and with FFSL at least 30 days before submitting an application for operator certification approval. The division and FFSL may jointly waive or shorten the requirement for a pre-filing meeting request.

(2) The operator shall submit an application for operator certification approval simultaneously with the application to FFSL pursuant to Subsection 65A-6-4(6)(b)(iii).

(3) Applications for operator certification approval shall be submitted on the form provided by the division. Unless extended in writing by the division, the operator must obtain all information

submitted with the application within one year of filing the application.

(4) The operator shall submit a UPDES application simultaneously with the application for operator certification approval. UPDES permit approval is not a certification decision. The director shall issue a certification decision separate from a UPDES permit.

(5) Within 45 days of receiving the application for operator certification approval, the division will notify the operator whether the application is complete. If an application is incomplete, the division shall notify the operator of the missing information.

(a) An operator may submit the missing information within 45 days after the division's notice of incompleteness.

(b) The division may administratively deny an incomplete application not remedied within 45 days, and the operator must resubmit a new application for operator certification approval.

(6) The operator shall notify the director in writing of changes that may affect the application for operator certification.

(7) If an operator who is required to obtain an operator certification approval fails to do so, the director may process an application for operator certification approval after-the-fact. An application after-the-fact shall be reviewed under the same standards as a timely application for operator certification approval. The director may require full restoration or other actions as a pre-condition of processing the application. An operator submitting an after-the-fact application shall have the burden of proving what the original baseline conditions were, and an application may be denied in the absence of such proof.

(8) The operator is responsible for payment of hourly fees, established pursuant to Subsection 19-1-201(6)(i). The operator shall submit a fee retainer, specified in the application form, together with its application for certification approval. The division will not begin review of the application for certification approval until it has received the fee retainer. The division will invoice the operator on a routine basis, and may stop review of the application for nonpayment.

R317-16-5. Operations Application Content.

Unless otherwise determined in writing by the director, the application for operator certification approval shall include the following:

(1) all information required under Subsection R317-16-3(4), revised and updated to reflect the scale of the operations design;

(2) a summary of any changes made as a result of the feasibility assessment;

(3) a summary of findings establishing the operator's feasibility assessment had no negative impact on the biota or chemistry of GSL;

(4) all data and data analysis related to GSL biota and chemistry derived from the feasibility assessment;

(5) a UPDES permit application;

(6) any other information related to the operation's impact to the biota or chemistry of GSL, as requested by the director; and

(7) a statement that the proposed project will not negatively impact the biota or chemistry of GSL.

R317-16-6. Draft Certification Decision.

(1) Within 60 days of receiving a complete application for operator certification approval, the director shall issue a draft certification decision.

(2) The draft certification decision shall be subject to a public notice and comment period of at least 30 days.

(3) The division will publish the public notice using the following methods:

(a) Utah Department of Environmental Quality website; and

(b) the Utah Public Notices website.

(4) The director may, at the director's discretion, hold a public hearing to take oral comments if:

(a) the director receives a request in writing not more than 15 days after the publication date of the draft certification decision; and

(b) the request is from:

(i) another state agency;

(ii) ten interested persons; or

(iii) an interested association having not fewer than ten members.

(5) Public notice of a public hearing shall be given at least seven days in advance of the hearing. Public notice of a hearing may be combined and provided at the same time as public notice of any of the following:

(a) a draft certification decision issued under this rule;

(b) a draft UPDES permit issued under Rule R317-8; or

(c) a draft water quality certification issued under Rule R317-15.

(6) The director shall consider the comments received during the public notice and comment period in finalizing the certification decision.

R317-16-7. Certification Decision.

(1) After review of the application for operator certification approval and consideration of comments received during the public notice period, the director shall issue one of the following certification decisions:

(a) operator certification approval; or

(b) operator certification denial.

(i) If the director issues an operator certification denial, the denial shall include reasons for denial.

(ii) If the director issues an operator certification denial, the director will notify FFSL of the denial.

(2) The certification decision shall include a summary of the comments received during the public notice and comment period and state whether any changes were made to the certification decision as a result of the comments.

R317-16-8. Term of Operator Certification Approval.

(1) An operator certification approval shall be effective for a term of ten years.

(2) An operator shall submit an application for operator certification approval to renew its operator certification approval no later than 180 days before the expiration of the certification approval.

(a) If an operator certification approval lapses before the director issues a certification decision on a timely renewal application, the operator certification approval will continue until the director issues a certification decision on the renewal application.

(b) Review of the operator's application to renew its operator certification approval will follow all procedures specified in this rule.

(c) Failure to submit an application for operator certification approval to renew shall, on the certification approval's expiration date, result in a lapse of the operator certification approval.

(d) The director will notify the operator and FFSL of the lapse. The director's notification is not a permit order.

R317-16-9. Reevaluation of Operator Certification Approval.

(1) If any of the following occur, the director may notify the operator that it must resubmit, within 60 days, an application for operator certification approval for reevaluation:

(a) the operator's failure to fully disclose all relevant facts in the application;

(b) the operator's misrepresentation of any relevant fact at any time;

(c) existence of evidence that the operation is negatively impacting the biota or chemistry of GSL;

(d) request for a major modification in the operator's UPDES permit as defined by Subsection R317-8-5[~~6~~](6);

(e) lapse of the operator's certification approval; or

(f) the emergency trigger as defined in Subsection 65A-17-101(5)[~~R652-21-1403~~].

(2) The reevaluation will follow all procedures specified in this rule.

R317-16-10. Transfer of Operator Certification Approval For Non-Discharging Operations.

(1) For non-discharging operations, the operator shall give written notice to the director of any transfer of the operator certification approval at least 30 days in advance of the effective date of the transfer.

(2) The notice shall include a written agreement between the existing and new operator establishing a specific date for transfer of certification responsibility.

(3) The notice shall contain the following contact information:

(a) legal name, permanent address and telephone number;

(b) name and permanent address of the operator's registered agent in Utah;

(c) name, address, email address and telephone number of the primary contact for the application, including the person to whom requests for additional information should be addressed; and

(d) signature of the operator; a corporate application must be signed by an officer of the corporation.

R317-16-11. Effect of Operator Certification Approval on Other Required Permits.

(1) Operator certification approval does not exempt the operator from complying with or obtaining any other permits required by federal, state, or local law.

(2) An operator certification approval is required in addition to a UPDES permit for facilities subject to this rule; however, reporting required by the operator certification approval may also be required through the UPDES permit, at the director's discretion.

KEY: Water Quality

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 65A-6-4

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	R990-200-4	Filing ID: 56283
Date of Previous Publication:	02/15/2024	

Agency Information

1. Department:	Workforce Services	
Agency:	Housing and Community 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 persons listed above.		

General Information

2. Rule or section catchline:
R990-200-4. Applicant Qualifications
3. Reason for this change:
The purpose of this change is to clarify the procedure and timeline for submission of additional materials in support of a private activity bond project application.
4. Summary of this change:
This change clarifies that the Private Activity Bond Review Board will accept additional documentation in support of a project application only if program staff request additional documentation and that program staff will establish the timeline for submission.
(EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the February 15, 2024, issue of the Utah State Bulletin, on page 36. 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 change is not expected to have any fiscal impact on state revenues or expenditures.
No additional state employees or resources will be needed to oversee this rule change. This rule change will not increase workload and can be carried out with existing budget.
B) Local government:
This rule change is not expected to have a 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):
This rule change may have an indirect fiscal impact on small businesses because it requires authorization from program staff before an applicant may submit corrected or updated documentation for an existing application.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule change may have an indirect fiscal impact on non-small businesses because it requires authorization from program staff before an applicant may submit corrected or updated documentation for an existing application.
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):
This rule change does not have a fiscal impact on other persons. This rule change requires no action or compliance by a person other than an applicant to the Board of Review.
F) Compliance costs for affected persons:
There are no compliance costs for affected persons because this rule change does not create new administrative fees.
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	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 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-8-2104		

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:	06/14/2024
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9. This rule change MAY become effective on:	06/21/2024
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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:	04/29/2024
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R990. Workforce Services, Housing and Community Development.

R990-200. Private Activity Bonds.

R990-200-4. Applicant Qualifications.

(1) An application will be presented to the Board of Review only if each project applicant, owner, developer, and manager:

- (a) is in good standing;
- (b) has not been in default or breach of any mortgage or project-related contract within the previous five years;
- (c) is not the subject, in either a personal or professional capacity as a partner, director, or other officer exercising managerial control over any business entity, of a pending fair-housing or civil-rights investigation; and
- (d) in the ten years preceding the filing date of the application, has not been:

(i) the subject of a negative fair-housing or civil-rights determination;

(ii) disbarred or otherwise sanctioned in any way by any state or federal agency or professional self-regulatory body; or

(iii) a partner, director, or other officer exercising managerial control over any business entity, including a corporation, limited liability company, or professional limited liability company, when the business entity initiated bankruptcy proceedings.

(2) An application shall include documentation:

(a) executed by each applicant, owner, developer, and manager certifying that each signatory meets each requirement identified in Subsection R990-200-4(1); and

(b) supporting and verifying the accuracy of each certification.

(3) An applicant shall provide all required materials and supporting documents at least 55 calendar days before the Board of Review meeting at which the application will be considered.

(4) Application forms and materials are available on the Department of Workforce Services Housing and Community Development website.

(5) A partial application will be denied.

(6) Upon review of a complete application, staff will work with the applicant to ensure documentation accuracy.

(a) Program staff may request that the [The] applicant [may] correct [a defect] defects or provide additional documentation within a timeline specified by staff.

NOTICES OF CHANGES IN PROPOSED RULES

(b) ~~[All]An applicant may not submit corrections or additional documentation after the deadline in Subsection R990-200-4(3) unless requested to do so by program staff must be submitted no later than 15 calendar days before the date of the Board of Review meeting scheduled to review the application].~~

KEY: allocation, private activity bond, volume cap

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 35A-8-2104

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:	R13-2	Filing ID: 53850
Effective Date:	04/30/2024	

Agency Information

1. Department:	Government Operations	
Agency:	Administration	
Room number:	3rd Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W, Floor 3	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141002	
City, state and zip:	Salt Lake City, UT 84114-1002	
Contact persons:		
Name:	Phone:	Email:
Marvin Dodge	801-957-7171	govopsinfo@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:	R13-2. Management of Records and Access to Records
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	As this rule is being renewed, the original statutory provisions authorizing this rule still apply.

Subsection 63G-2-204(3) grants rulemaking authority to government agencies in general on how to access records.

Subsection 63A-12-104 grants the state archivist authority to make rules for an executive branch agency regarding records access.

Subsection 63A-1-105.5 grants the executive director of government operations rulemaking authority in general.

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 comments received in the last 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:

Rules regarding records access within the agencies of government operations continue to be contemplated by the authorizing statutes. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Marvin Dodge, Executive Director	Date:	04/29/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R156-60a	Filing ID: 56210
Effective Date:	04/16/2024	

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Jana Johansen	801-530-6628	janajohansen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R156-60a. Social Worker Licensing Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 60, Part 2, provides for the licensure and regulation of various classifications of social workers.
Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58.
Subsection 58-1-202(1)(a) provides that the Social Worker Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules.
This rule was enacted to clarify the provisions of Title 58, Chapter 60, Part 2, with respect to social workers.
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:
Since this rule was last reviewed in June 2019, this rule has been amended three times.
The Division has received no written comments with respect to this rule or any of the proposed rule filings done in 2020, 2023, and 2024.
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 provides a mechanism to inform potential licensees of the requirements for licensure

as allowed under statutory authority provided in Title 58, Chapter 60, Part 2.

It also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	04/16/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R156-60b	Filing ID:	56211
Effective Date:	04/16/2024		

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Jana Johansen	801-530-6628	janajohansen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R156-60b. Marriage and Family Therapist Licensing Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 60, Part 3, provides for the licensure and regulation of marriage and family therapists and associate marriage and family therapists.

Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58.

Subsection 58-1-202(1)(a) provides that the Marriage and Family Therapist Licensing Board's duties, functions and responsibilities includes recommending to the director appropriate rules.

This rule was enacted to clarify the provisions of Title 58, Chapter 60, Part 3, with respect to marriage and family therapists and associate marriage and family therapists.

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:

Since this rule was last reviewed in June 2019, it has been amended four times.

The Division received, January 2022, written comments from approximately 40 marriage and family therapist (MFT) licensees and MFT students who were opposing proposed rule amendments, but specifically the reduction in clinical hours from 500 hours to 300 hours.

The written comments were reviewed by the Division and Marriage and Family Therapist Licensing Board and the proposed amendments were eventually made effective on March 7, 2022, with no further amendments.

The Division has received no other written comments with respect to this rule beyond the written comments identified above.

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 provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 60, Part 3.

This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	04/16/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R156-60c	Filing ID:	56216
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Effective Date:	04/16/2024
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Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Jana Johansen	801-530-6628	janajohansen@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:
R156-60c. Clinical Mental Health Counselor Licensing Act Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 60, Part 4, provides for the licensure and regulation of clinical mental health counselors and associate clinical mental health counselors.

Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58.

Subsection 58-1-202(1)(a) provides that the Clinical Mental Health Counselors Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules.

This rule was enacted to clarify the provisions of Title 58, Chapter 60, Part 4, with respect to clinical mental health counselors and associate clinical mental health counselor.

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:

Since this rule was last reviewed in September 2019, this rule has been amended three times.

The only written comment the Division received with respect to this rule was a November 3, 2020, email from Trent Landon/Utah State University in which he summarized his comments made during an October 5,

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

2020, rule hearing. Mr. Landon confirmed that changes were being made in the clinical mental health counselor program at Utah State University which would be in line with the proposed 2020 amendments to this rule.

Mr. Landon's written public comment also discussed Code of Ethics being identified in this rule and what surrounding states were using for clinical mental health counselor Code of Ethics. The Division and Clinical Mental Health Counselor Licensing Board considered Mr. Landon's written comments and eventually made the proposed amendments to the rule effective on November 10, 2020, with no further changes to this rule.

No other written comments have been received by the Division with respect to 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 provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 60, Part 4.

This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	04/16/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R527-10	Filing ID:	55581
Effective Date:	04/22/2024		

Agency Information

1. Department:	Health and Human Services		
Agency:	Recovery Services		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129		
Mailing address:	PO Box 45033		
City, state and zip:	Salt Lake City, UT 84145-0033		
Contact persons:			
Name:	Phone:	Email:	

Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R527-10. Disclosure of Information to the Office of Recovery Services

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Sections 26B-1-202 and 26B-9-108 give the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities.

Subsection 26B-9-105(2) requires ORS to specify, by rule, the type of health insurance and financial record information financial institutions and insurance companies are required to provide.

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:

There have been no comments in support or opposition received since the last five-year review of 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 for ORS to comply with Subsection 26B-9-105(2). Information from financial institutions and insurance companies helps ORS successfully collect child support and provide insurance information to families. Therefore, this rule should be continued.

Tere have been no comments in opposition to this rule.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/19/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R527-332	Filing ID:	55571
Effective Date:	04/22/2024		

Agency Information

1. Department:	Health and Human Servicers	
Agency:	Recovery Services	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact persons:		
Name:	Phone:	Email:
Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:
R527-332. Unreimbursed Assistance
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Sections 26B-1-202 and 26B-9-108 give the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities.
45 CFR 302.32 requires ORS to refund collections in excess of the unreimbursed assistance (URA) amount to the family within two calendar days of the end of the months that assistance was received. 45 CFR 302.32 further requires that ORS define URA and the process for making a URA calculation.
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:
There have been no comments in support or opposition received since the last five-year review of 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 to comply with federal regulations under which this rule was enacted are still in effect.

In addition, this rule provides the necessary information for ORS to calculate unreimbursed assistance (URS). Therefore, this rule should be continued.

There have been no comments in opposition to this rule.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/19/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R527-450	Filing ID:	55576
Effective Date:	04/22/2024		

Agency Information

1. Department:	Health and Human Services	
Agency:	Recovery Services	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact persons:		
Name:	Phone:	Email:
Jodi Witte	801-471-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:
R527-450. Federal Tax Refund Intercept

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Sections 26B-1-202 and 26B-9-108 give the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibility.

42 USC 664 authorizes the Secretary of Treasury to determine whether any past-due child support amounts are payable to an individual upon receiving a notice from the state agency administering a plan for collecting child support.

45 CFR 303.72 outlines federal requirements for requesting collection of past-due support by federal tax refund intercept and how collections received by ORS shall be distributed.

As authorized under these laws, this rule provides the certification criteria for federal tax intercept, the notice requirements, the conditions under which an earned income credit may be refunded, the requirement for distribution of funds collected through this process, and when ORS is required to delete or modify a previously certified debt.

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:

There have been no comments in support or opposition received since the last five-year review of 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 provides the information necessary for certifying a support debt for federal tax refund intercept, for making necessary refunds and adjustments, and for distributing collected amounts.

The federal statutory provisions upon which this rule is based are still in effect. Therefore, this rule should be continued.

There have been no comments in opposition to this rule.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/19/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-280	Filing ID:	55050
Effective Date:	04/16/2024		

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 persons listed above.

General Information

2. Rule catchline:
R590-280. Counting Short-Term Funds

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-18-105 authorizes the insurance commissioner to write rules to permit specific investments as a part of a company's capital requirements.

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:

To operate in Utah, insurers are required to meet certain capital reserve levels to ensure their ongoing solvency. These reserves can be made of several different classes of financial instrument including investments, cash, and property.

This rule allows an insurer to count short-term funds as part of its investment portfolio that is used to meet capital reserve requirements. This rule is used to help insurers maintain solvency. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	04/16/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R661-13	Filing ID:	56272
Effective Date:	04/30/2024		

Agency Information

1. Department:	Navajo Trust Fund		
Agency:	Trustees		
Street address:	151 E 500 N		
City, state and zip:	Blanding, UT 84511		
Contact persons:			
Name:	Phone:	Email:	
Maury Bergman	435 678-1461	mbergman@utah.gov	
Tony Dayish	435 678-1468	tdayish@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R661-13. Veteran's Housing 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:
Statutory provisions are under Subsection 51-10-205(4): The Trust Administrator shall make rules in accordance with Subsection 51-10-205(6) that establish policies and criteria for expenditure of fund money.
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 comments have been received since the last five-year review of this rule from interested persons.
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 enables the Utah Navajo Trust Fund to honor veterans by providing funding for new housing construction or remodeling projects. Therefore, this rule should be continued.

No comments in opposition to this rule have been received.

Agency Authorization Information

Agency head or designee and title:	Tony Dayish, Administrator	Date:	04/30/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R909-2	Filing ID:	54997
Effective Date:	04/30/2024		

Agency Information

1. Department:	Transportation		
Agency:	Motor Carrier		
Room no.:	Administrative Suite, 1st Floor		
Building:	Calvin Rampton Bldg.		
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:	Name:	
Leif Elder	801-580-8296	lelder@utah.gov	
Marlene Galindo	801-965-4026	mgalindo1@utah.gov	
James Godin	801-573-7181	jamesjgodin@agutah.gov	
Lori Edwards	801-965-4048	loriedwards@agutah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R909-2. Utah Size and Weight Rule
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 41-1a-231 requires the Department of Transportation (Department) to make rules for application, identification, approval, denial, and appeal of special mobile equipment status.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Section 72-7-406 requires the Department to make rules governing the issuance and revocation of all permits for oversized and escort vehicles, etc.

Section 72-9-502 requires the Department to make rules for the issuance of a temporary port-of-entry by-pass permit.

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 were received during and 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 still serving its same purpose it did five years ago. Therefore, this rule should be continued.

The Department is planning to make some amendments to this rule, but those amendments will not be finalized before the forthcoming five-year review deadline.

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	Date:	04/30/2024
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their 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. 56256 (Amendment) R58-11: Slaughter of Livestock and Poultry

Published: 01/01/2024

Effective: 04/22/2024

No. 56256 (Change in Proposed Rule) R58-11: Slaughter of Livestock and Poultry

Published: 03/15/2024

Effective: 04/22/2024

Medical Cannabis and Industrial Hemp

No. 56340 (New Rule) R66-1: Cannabis Cultivation

Published: 04/01/2024

Effective: 05/13/2024

No. 56365 (New Rule) R66-2: Cannabis Processing

Published: 04/01/2024

Effective: 05/13/2024

No. 56342 (New Rule) R66-5: Medical Cannabis Pharmacy

Published: 04/01/2024

Effective: 05/13/2024

No. 56344 (New Rule) R66-6: Home Delivery and Courier

Published: 04/01/2024

Effective: 05/13/2024

No. 56346 (New Rule) R66-7: Educational Event and Educational Material Rules

Published: 04/01/2024

Effective: 05/13/2024

No. 56348 (New Rule) R66-8: Academic Medical Cannabis Research

Published: 04/01/2024

Effective: 05/13/2024

No. 56350 (New Rule) R66-9: Cannabis Licensing Process

Published: 04/01/2024

Effective: 05/13/2024

No. 56352 (New Rule) R66-30: Industrial Hemp Program - Cannabinoid Product Processors

Published: 04/01/2024

Effective: 05/13/2024

No. 56354 (New Rule) R66-31: Industrial Hemp Cannabinoid Product Testing

Published: 04/01/2024

Effective: 05/13/2024

No. 56356 (New Rule) R66-32: Industrial Hemp Testing Laboratory

Published: 04/01/2024

Effective: 05/13/2024

No. 56358 (New Rule) R66-33: Industrial Hemp Producer Registration

Published: 04/01/2024

Effective: 05/13/2024

No. 56360 (New Rule) R66-34: Industrial Hemp Retailer Permit

Published: 04/01/2024

Effective: 05/13/2024

No. 56362 (New Rule) R66-35: Cannabinoid Product Registration and Labeling

Published: 04/01/2024

Effective: 05/13/2024

Plant Industry

No. 56351 (Repeal) R68-25: Industrial Hemp Program - Cannabinoid Product Processors

Published: 04/01/2024

Effective: 05/13/2024

NOTICES OF RULE EFFECTIVE DATES

No. 56361 (Repeal) R68-26: Cannabinoid Product Registration and Labeling
Published: 04/01/2024
Effective: 05/13/2024

No. 56339 (Repeal) R68-27: Cannabis Cultivation
Published: 04/01/2024
Effective: 05/13/2024

No. 56364 (Repeal) R68-28: Cannabis Processing
Published: 04/01/2024
Effective: 05/13/2024

No. 56334 (Amendment) R68-30: Independent Cannabis Testing Laboratory
Published: 03/15/2024
Effective: 05/06/2024

No. 56359 (Repeal) R68-33: Industrial Hemp Retailer Permit
Published: 04/01/2024
Effective: 05/13/2024

No. 56345 (Repeal) R68-34: Educational Event and Educational Material Rules
Published: 04/01/2024
Effective: 05/13/2024

No. 56347 (Repeal) R68-35: Academic Medical Cannabis Research
Published: 04/01/2024
Effective: 05/13/2024

No. 56368 (Repeal) R68-36: Industrial Hemp Testing Laboratory
Published: 04/01/2024
Effective: 05/13/2024

No. 56353 (Repeal) R68-37: Industrial Hemp Cannabinoid Product Testing
Published: 04/01/2024
Effective: 05/13/2024

No. 56349 (Repeal) R68-38: Cannabis Licensing Process
Published: 04/01/2024
Effective: 05/13/2024

No. 56357 (Repeal) R68-39: Industrial Hemp Producer Registration
Published: 04/01/2024
Effective: 05/13/2024

No. 56341 (Repeal) R68-40: Medical Cannabis Pharmacy
Published: 04/01/2024
Effective: 05/13/2024

No. 56343 (Repeal) R68-41: Home Delivery and Courier
Published: 04/01/2024
Effective: 05/13/2024

Auditor
Administration
No. 56331 (Amendment) R123-6: Allocation of Money in the Property Tax Valuation Agency Fund
Published: 03/15/2024
Effective: 05/03/2024

Commerce
Professional Licensing
No. 56322 (Amendment) R156-1: General Rule of the Division of Occupational and Professional Licensing
Published: 03/15/2024
Effective: 04/23/2024

Real Estate
No. 56336 (Amendment) R162-2e: Appraisal Management Company Administrative Rules
Published: 03/15/2024
Effective: 04/24/2024

Education
Administration
No. 56385 (Amendment) R277-302: Educator Licensing Renewal
Published: 04/01/2024
Effective: 05/08/2024

No. 56386 (Amendment) R277-305: School Leadership License Areas of Concentration and Programs
Published: 04/01/2024
Effective: 05/08/2024

No. 56387 (Amendment) R277-310: International Guest Teachers
Published: 04/01/2024
Effective: 05/08/2024

No. 56388 (Amendment) R277-472: Charter School Student Enrollment and Transfers and School District Capacity Information
Published: 04/01/2024
Effective: 05/08/2024

Environmental Quality
Waste Management and Radiation Control, Waste Management
No. 56319 (Amendment) R315-320: Waste Tire Transporter and Recycler Requirements
Published: 03/01/2024
Effective: 04/15/2024

Health and Human Services
Administration
No. 56036 (Amendment) R380-70: Standards for Electronic Exchange of Clinical Health Information
Published: 11/15/2023
Effective: 05/08/2024

No. 56036 (Change in Proposed Rule) R380-70: Standards for Electronic Exchange of Clinical Health Information
Published: 04/01/2024
Effective: 05/08/2024

Population Health, Environmental Health
No. 56391 (Repeal and Reenact) R392-100: Food Service Sanitation
Published: 04/01/2024
Effective: 05/08/2024

Population Health, Emergency Medical Services
No. 56323 (Amendment) R426-7: Emergency Medical Services Prehospital Data System Rules
Published: 03/01/2024
Effective: 04/22/2024

Patient Safety Program
No. 56263 (Repeal) R429-3: Adverse Events from the Administration of Sedation or Anesthesia; Recording and Reporting
Published: 01/01/2024
Effective: 04/15/2024

Health Care Facility Licensing
No. 56270 (Amendment) R432-40: Long-Term Care Facility Immunizations
Published: 01/15/2024
Effective: 04/15/2024

Data, Systems and Evaluation, Vital Records and Statistics
No. 55961 (Amendment) R436-7: Death Registration
Published: 11/15/2023
Effective: 04/15/2024

No. 55961 (Change in Proposed Rule) R436-7: Death Registration
Published: 02/15/2024
Effective: 04/15/2024

Administration (Human Services)
No. 56261 (Repeal) R495-890: Department of Human Services Conflict Investigation Procedure
Published: 01/01/2024
Effective: 04/15/2024

Human Services Program Licensing
No. 56269 (Amendment) R501-15: Therapeutic Schools
Published: 01/15/2024
Effective: 04/15/2024

Substance Use and Mental Health
No. 56215 (Amendment) R523-14: Suicide Prevention
Published: 01/01/2024
Effective: 04/15/2024

Judicial Performance Evaluation Commission Administration
No. 56378 (New Rule) R597-6: Judicial Performance Evaluations
Published: 04/01/2024
Effective: 05/14/2024

Natural Resources
Water Resources
No. 56335 (New Rule) R653-13: Acquisition and Disposal of Real Property Interests
Published: 03/15/2024
Effective: 04/29/2024

No. 56338 (New Rule) R653-14: Capital Asset Management Plans
Published: 04/01/2024
Effective: 05/09/2024

Navajo Trust Fund
Trustees
No. 56272 (Amendment) R661-13: Veteran's Housing Program Policy
Published: 01/15/2024
Effective: 04/23/2024

End of the Notices of Rule Effective Dates Section