

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed February 18, 2015, 12:00 a.m. through March 02, 2015, 11:59 p.m.

Number 2015-6
March 15, 2015

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

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <http://www.rules.utah.gov/publicat/bulletin.htm>. 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: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information and electronic versions of all administrative rule publications are available at <http://www.rules.utah.gov/>.

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

Division of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

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

I. Utah. Division of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

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SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for April 2015 Medicaid Rate Changes

Effective April 1, 2015, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

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

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution.

Governor's Executive Order EO/2015/002: Implementing the Utah Conservation Plan For Greater Sage-Grouse

EXECUTIVE ORDER

Implementing the Utah Conservation Plan For Greater Sage-Grouse

WHEREAS, the proper stewardship of Greater Sage-Grouse by wildlife managers, private landowners, ranchers, federal land management agencies and others, has caused the State of Utah to currently enjoy robust populations of Greater Sage-Grouse; and

WHEREAS, the State of Utah has management authority over Greater Sage-Grouse populations in Utah; and

WHEREAS, in 2010, the United States Fish and Wildlife Service determined that listing the Greater Sage-Grouse as a threatened or endangered species under the provisions of the Endangered Species Act was "warranted" over its entire 11 state range, including the naturally fragmented populations in Utah, but also that the listing was "precluded" by higher priorities; and

WHEREAS, the listing of the Greater Sage-Grouse would have a significant adverse effect on the economy, custom and culture of the State of Utah; and

WHEREAS, the U.S. Fish and Wildlife Service agreed, as part of the settlement of litigation, to determine whether the listing is warranted or not warranted by September 30, 2015; and

WHEREAS, in December 2011, Ken Salazar, Secretary of the Interior, invited Utah and the 10 other western states within the range of the Greater Sage-Grouse to develop state-specific programs to conserve Greater Sage-Grouse, and thereby preclude the need to list the species; and

WHEREAS, the Utah State Legislature and state agencies have dedicated significant state resources to the conservation of Greater Sage-Grouse in Utah, beginning in the mid 1990s; and

WHEREAS, the State of Utah, in 1996, through a cooperative agreement with Utah State University Extension, has facilitated an on-going community-based conservation program that has continuously engaged thousands of Utah stakeholders in sage-grouse Local Working Groups to develop, implement, and evaluate the effectiveness of local conservation actions based on knowledge generated from long-term research which have increased both the sage-grouse habitat base and populations; and

WHEREAS, the State of Utah, through researchers at Utah State University and Brigham Young University, has assembled and continues to add to a database of knowledge and research concerning the Greater Sage-Grouse that spans the last 20 years, which database is the best and only consistently reliable data set within the range of the species; and

WHEREAS, this research has led to the publication of numerous scholarly, peer-reviewed scientific papers, which have enriched and focused scientific knowledge about the bird; and

WHEREAS, based on these data sets, the State completed and implemented plans for the conservation of sage-grouse in 2005, 2009, and most recently, completed an updated Conservation Plan for Greater Sage-Grouse (Conservation Plan), as requested by Secretary Salazar, in 2013, which Plan is based upon the best scientific and commercial information available; and

WHEREAS, the U.S. Fish and Wildlife Service issued the final report of the Conservation Objectives Team (COT) in early 2013, which Report creates Priority Areas of Conservation (PAC) to focus conservation efforts, and contains recommendations to address each of the threats to the species mentioned in the Service's 2010 listing decision; and

WHEREAS, the State's Conservation Plan responds to the COT Report by focusing conservation efforts upon identified habitat and habitat-improvement areas within 11 specifically defined Sage-Grouse Management Areas (SGMAs), which correspond to the PAC identified in the COT Report, and which SGMAs protect about 94% of the birds in Utah; and

WHEREAS, the State's Conservation Plan contains five specific, measurable goals relating to population numbers and habitat, all of which have been met the first year, and is designed to address and ameliorate the threats to the species that were identified in the COT Report; and

WHEREAS, the Bureau of Land Management and the U.S. Forest Service have proposed various amendments to agency land management plans designed to promote the conservation of the species in a balanced manner, and the process to finalize those amendments is expected to conclude in early 2015; and

WHEREAS, the State, Bureau of Land Management, U.S. Forest Service and U.S. Fish and Wildlife Service have cooperatively created population and habitat triggers for each of the 11 SGMAs, which triggers will advise the need to consider future adjustments to management within each SGMA; and

WHEREAS, Utah is part of both the Great Basin and the Rocky Mountain Regions identified by the Bureau of Land Management and U.S. Forest Service as part of their sage-grouse plan amendment processes; and

WHEREAS, the Bureau of Land Management and the U.S. Forest Service are working to find solutions to the principal threat within each Region, which has been identified as wildfire and the resulting invasion of noxious or undesirable plant invasive species in burned areas in the Great Basin Region, and energy development in the Rocky Mountain Region; and

WHEREAS, the State has engaged in a detailed examination of the implementation of its Conservation Plan in relation to the threats identified in the COT Report, and has identified the actual scope and extent of the identified threats within the State, including the two principal threats identified for each Region; and

WHEREAS, more than 75% of all wildfires in Utah are suppressed before they exceed 10 acres, and 99.8% are suppressed before they exceed 10,000 acres; and

WHEREAS, in December 2013 the State finalized an overall review of wildfire suppression and management, and approved a wildfire plan, entitled the "Catastrophic Wildfire Reduction Strategy"; which Strategy established the protection of sage-grouse habitat as a priority; and

WHEREAS, the State has amended its Forestry Action Plan to include the SGMAs as part of the prioritization of forestry projects to reduce fuel load and the potential for large fires; and

WHEREAS, the State of Utah, through the Division of Forestry, Fire and State Lands, has executed a "Master Cooperative Wildland Fire Management and Stafford Act Response Agreement" (Agreement) in cooperation with the Bureau of Land Management, the U.S. Forest Service, and the U.S. Fish and Wildlife Service, among others; and

WHEREAS, the annual Operating Plan under the provisions of the Agreement provides for "Special Management Considerations" which allows fire suppression activities to be consistent with pre-planned objectives for an area; and

WHEREAS, under the terms of the Agreement, the State is responsible for the coordination of the counties' initial fire-attack capabilities "for the purpose of coordinated wildland fire management services within and beyond the boundaries of the State of Utah;" and

WHEREAS, pursuant to Utah Code, uncontrolled fire on unincorporated land is a "public nuisance," requiring the respective counties and the Division of Forestry, Fire and State Lands to abate the public nuisance on unincorporated private and state lands within the State; and

WHEREAS, fuel-treatment projects have been demonstrated to be very effective in stopping or significantly slowing the movement of fires, so that suppression activities can become effective more quickly, while also improving habitat for the benefit of the Greater Sage-Grouse and other species; and

WHEREAS, the State has identified specific pre-suppression fuel-treatment and habitat- improvement areas designed to maximize protections for the Greater Sage-Grouse habitat; and

WHEREAS, the State's SGMAs contain minimal amounts of oil and gas development and mining activity, and all such development and activities are properly authorized by and managed under federal or state permit; and

WHEREAS, the State collects a conservation fee from the production of oil and gas to implement the State's permitting program, and this fee collection schedule has been in place for over 10 years; and

WHEREAS, some of these fees are allocated to employ biologists within the Division of Wildlife Resources dedicated to minimize the effects of oil and gas operations upon wildlife, specifically including the Greater Sage-Grouse; and

WHEREAS, these coordination efforts have directly led to modifications to oil and gas projects to the benefit of Greater Sage-Grouse; and

WHEREAS, the U.S. Fish and Wildlife Service has indicated the State's Conservation Plan will be evaluated against the Service's Policy for the Evaluation of Conservation Efforts (PECE); and

WHEREAS, PECE requires a determination of the certainty of implementation and the certainty of effect of the conservation efforts; and

WHEREAS, a directive from the chief executive to state agencies has value in focusing the efforts and priorities of the state agencies toward coordinated conservation of the species, in order to satisfy the Service's PECE evaluation; and

WHEREAS, to reinforce and restate the State's longstanding commitment to the conservation of Greater Sage-Grouse;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the State, and to the extent such actions are consistent with the statutory obligations and authority of each individual state agency, including those obligations found in Title 63L, Chapter 3 of the Utah Code, otherwise cited as the Private Property Protection Act, I, Gary R. Herbert, Governor of the State of Utah, do hereby issue this Executive Order providing as follows:

1. State agencies whose operations affect Greater Sage-Grouse (State Agencies) will coordinate implementation of the Conservation Plan, as it may be amended by its own terms, with the Public Lands Policy Coordinating Office, Office of the Governor. The Division of Wildlife Resources will assist the Public Lands Policy Coordinating Office in this effort.

2. Management and policy decisions by State Agencies will maintain, improve and enhance Greater Sage-Grouse habitat, opportunity areas and the species' populations within the 11 SGMAs established by the Conservation Plan. It is expected that activities and facilities existing within the SGMAs prior to adoption of the Conservation Plan will be allowed to continue.

3. State Agencies will work with federal agencies, including the Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife Service and the Natural Resources Conservation Service, to identify the continuing conservation needs of Greater Sage-Grouse, and to seek necessary actions by the federal agencies to assure implementation of the conservation strategies, objectives and goals identified in the Conservation Plan.

4. Funding, legal assurance contracts, mapping, scientific research, habitat enhancement, improvement and reclamation efforts and other proactive efforts to assure viability of Greater Sage-Grouse in Utah will be focused and prioritized to take place within or near SGMAs, or be designed to facilitate implementation of the State's Conservation Plan.

5. Existing rights established on private, county, city, state and federal lands should be recognized and respected.

6. On-the-ground enhancements, monitoring and ongoing planning relative to Greater Sage-Grouse populations and habitat shall be coordinated through the existing Local Working Groups, whenever possible, and through the Division of Wildlife Resources.

7. The Division of Oil, Gas and Mining shall coordinate with the Division of Wildlife Resources on all regulatory actions proposed for issuance by the Division of Oil Gas and Mining within the SGMAs to assure compliance with the requirements of the State's Conservation Plan. The Division of Oil, Gas and Mining shall implement the recommendations of Wildlife Resources, subject to the statutory requirements to avoid waste of the mineral resource and protect correlative rights on private property during resource production. Both Divisions shall report the results of the coordination annually.

8. The Division of Parks and Recreation and the Office of Outdoor Recreation shall coordinate with the Division of Wildlife Resources to assure that recreational activities or recreational facilities sponsored or supported by each agency within the SGMAs will comply with the State's Conservation Plan.

9. The Departments of Natural Resources and Agriculture and Food shall coordinate all projects to improve, restore or enhance lands within the SGMAs with the Division of Wildlife Resources to implement the provisions of the State's Conservation Plan. The Departments should coordinate these efforts with the Utah Conservation Commission, and the relevant Local Working Groups. The Departments shall prioritize Greater Sage-Grouse habitat or opportunity areas within the SGMAs, to the maximum extent possible under the relevant funding authority. No state funding shall be approved for projects that materially eliminate sagebrush within SGMAs without consulting the Division of Wildlife Resources, and a finding that such a project will have a net conservation gain for the species.

10. The Department of Natural Resources shall expedite the completion and implementation of mitigation standards and conditions, including a conservation banking program, based upon such terms as the Department believes necessary. The Department should consult with interested parties as necessary.

11. The Division of Forestry, Fire, and State Lands will prioritize fuels-mitigation activities within or near SGMAs, and in consultation with federal land-management agencies, include SGMAs as a priority during pre-attack planning, second only to the protection of human life and structures. In cooperation with all other federal and local fire-suppression partners throughout the State, the Division will effectuate the pre-attack plans, subject to the need to adjust based on local tactical conditions at the time of a fire or series of fires.

12. The Department of Transportation will coordinate its plans for new or upgraded facilities and roads within SGMAs with the Division of Wildlife Resources to implement the provisions of the State's Conservation Plan. Existing roads and facilities shall not be subject to this review.

13. The Division of Wildlife Resources shall keep a record of all its consultations related to the proposed siting of activities or projects within SGMAs.

14. State Agencies shall coordinate the collection and storage of digital Greater Sage-Grouse habitat and population information, and work toward useful digital platforms to make the information accessible to the federal partners in Greater Sage-Grouse conservation, and the public, subject to the requirements of the Utah Government Records Access and Management Act (Utah Code Title 63G, Chapter 2). The Division of Wildlife Resources shall head the effort.

15. State Agencies shall work collaboratively with local governments and private landowners to maintain, improve and enhance Greater Sage-Grouse habitats and populations in a manner consistent with the provision of the Utah Conservation Plan and this Executive Order. The Division of Wildlife Resources shall keep track of and participate, or cause the participation by Local Working Group members, in relevant local government meetings affecting the land within SGMAs, to assure that the provisions of the Conservation Plan are presented for consideration by the relevant local authority.

16. State Agencies shall strive to maintain consistency with the items outlined in this Executive Order and the Utah Conservation Plan, subject to any necessary adjustments based upon local conditions and limitations, recognizing the objective of minimizing future disturbance within SGMAs by locating proposed disturbance in areas already disturbed or naturally unsuitable.

17. The Public Lands Policy Coordinating Office and the Division of Wildlife Resources will reevaluate the protective stipulations outlined in the State's Conservation Plan periodically as new science, information and data emerge regarding the SGMAs and the habitats and behaviors of the Greater Sage-Grouse.

18. State Agencies shall report to the Public Lands Policy Coordinating Office within 60 days after this Order is signed and annually thereafter detailing their actions to comply with this Executive Order.

This Executive Order replaces and supersedes Executive Order EO/2015/001.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 25th day of February, 2015.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer Cox
Lieutenant Governor

EO/2015/002

End of the Executive Documents Section

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 February 18, 2015, 12:00 a.m., and March 02, 2015, 11:59 p.m. are included in this, the March 15, 2015, 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 Division 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 Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least April 14, 2015. 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 July 13, 2015, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

Administrative Services, Finance
R25-25-7
Travel-Related Reimbursements for
State Employees

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 39160
 FILED: 02/26/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change will make the rule match the way the payroll system calculates when a state employee is eligible for a dinner per diem reimbursement based on the time returning to their home base.

SUMMARY OF THE RULE OR CHANGE: The rule changes the time state employees are eligible for dinner per diem.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-106 and Section 63A-3-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will potentially be an increased cost to the state as some employees will receive a dinner per diem because the time to reach home base has decreased by one hour. However, it cannot be determined exactly what the increase will be as that depends on the amount of travel by individuals eligible for dinner per diem.
- ◆ **LOCAL GOVERNMENTS:** There will not be costs to local governments because the rule only governs reimbursements by the state to individuals traveling on state business.
- ◆ **SMALL BUSINESSES:** Small business may see an increase in revenue. However, it cannot be determined exactly what the increase will be as that depends on the amount individuals spend when eligible for a dinner per diem.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Individuals eligible for a dinner per diem will see an increase in their reimbursement amount for food.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the amendment only changes per diem for dinner and does not require any new action on the part of persons applying for reimbursements, there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed the changes with the Division of Finance director and believe these changes are reasonable and warranted. Small business may see an increase in revenue. However, it cannot be determined exactly what the increase will be as that depends on the amount individuals spend when eligible for a dinner per diem.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 FINANCE
 ROOM 2110 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at rbeckstead@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: John Reidhead, Director

R25. Administrative Services, Finance.

R25-7. Travel-Related Reimbursements for State Employees.

R25-7-1. Purpose.

The purpose of this rule is to establish procedures to be followed by departments to pay travel-related reimbursements to state employees.

R25-7-2. Authority and Exemptions.

This rule is established pursuant to:

- (1) Section 63A-3-107, which authorizes the Division of Finance to make rules governing in-state and out-of-state travel expenses; and
- (2) Section 63A-3-106, which authorizes the Division of Finance to make rules governing meeting per diem and travel expenses for board members attending official meetings.

R25-7-3. Definitions.

- (1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.
- (2) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.
- (3) "Department" means all executive departments of state government.
- (4) "Finance" means the Division of Finance.
- (5) "Home-Base" means the location the employee leaves from and/or returns to.
- (6) "Per diem" means an allowance paid daily.
- (7) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures."
- (8) "Rate" means an amount of money.
- (9) "Reimbursement" means money paid to compensate an employee for money spent.

(10) "State employee" means any person who is paid on the state payroll system.

R25-7-4. Eligible Expenses.

(1) Reimbursements are intended to cover all normal areas of expense.

(2) Requests for reimbursement must be accompanied by original receipts for all expenses except those for which flat allowance amounts are established.

R25-7-5. Approvals.

(1) For insurance purposes, all state business travel, whether reimbursed by the state or not, must have prior approval by an appropriate authority. This also includes non-state employees where the state is paying for the travel expenses.

(2) Both in-state and out-of-state travel must be approved by the Executive Director or designee. The approval of in-state travel reimbursement forms may be considered as documentation of prior approval for in-state travel. Prior approval for out-of-state travel should be documented on form FI5 - "Request for Out-of-State Travel Authorization".

(3) Exceptions to the prior approval for out-of-state travel must be justified in the comments section of the Request for Out-of-State Travel Authorization, form FI 5, or on an attachment, and must be approved by the Department Director or the designee.

(4) The Department Director, the Executive Director, or the designee must approve all travel to out-of-state functions where more than two employees from the same department are attending the same function at the same time.

R25-7-6. Reimbursement for Meals.

(1) State employees who travel on state business may be eligible for a meal reimbursement.

(2) The reimbursement will include tax, tips, and other expenses associated with the meal.

(3) Allowances for in-state travel differ from those for out-of-state travel.

(a) The daily travel meal allowance for in-state travel is \$39.00 and is computed according to the rates listed in the following table.

.....

(b) The daily travel meal allowance for out-of-state travel is \$46.00 and is computed according to the rates listed in the following table.

.....

(4) When traveling to premium cities (New York, Los Angeles, Chicago, San Francisco, Washington DC, Boston, San Diego, Baltimore, and Arlington), the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed at the actual meal cost, with original receipts, up to \$62 per day.

(a) The traveler will qualify for premium rates on the day the travel begins and/or the day the travel ends only if the trip is of sufficient duration to qualify for all meals on that day.

(b) Complimentary meals of a hotel, motel and/or association and meals included in registration costs are deducted from the \$62 premium allowance as follows:

(i) If breakfast is provided deduct \$14, leaving a premium allowance for lunch and dinner of actual up to \$48.

(ii) If lunch is provided deduct \$19, leaving a premium allowance for breakfast and dinner of actual up to \$43.

(iii) If dinner is provided deduct \$29, leaving a premium allowance for breakfast and lunch of actual up to \$33.

(c) The traveler must use the same method of reimbursement for an entire day.

(d) Actual meal cost includes tips.

(e) Alcoholic beverages are not reimbursable.

(5) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed the actual meal cost, with original receipts, not to exceed the United States Department of State Meal and Incidental Expenses (M and IE) rate for their location.

(a) The traveler may combine the reimbursement methods during a trip; however, they must use the same method of reimbursement for an entire day.

(b) Actual meal cost includes tips.

(c) Alcoholic beverages are not reimbursable.

(6) The meal reimbursement calculation is comprised of three parts:

(a) The day the travel begins. The traveler's entitlement is determined by the time of day the traveler leaves their home base (the location the employee leaves from and/or returns to), as illustrated in the following table.

.....

(b) The days at the location.

(i) Complimentary meals of a hotel, motel, and/or association and meals included in the registration cost are deducted from the total daily meal allowance. However, continental breakfasts will not reduce the meal allowance. Please Note: For breakfast, if a hot food item is offered, it is considered a complimentary meal, no matter how it is categorized by the hotel/conference facility. The meal is considered a "continental breakfast" if no hot food items are offered.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day the traveler returns to their home base, as illustrated in the following table.

TABLE 4

The Day Travel Ends

1st Quarter a.m. 12:00-5:59 *no meals	2nd Quarter a.m. 6:00-11:59 *B	3rd Quarter p.m. 12:00-[6] 5:59 *B, L	4th Quarter p.m. [7] 6:00-11:59 *B, L, D
In-State \$0	\$10.00	\$22.00	\$39.00
Out-of-State \$0	\$10.00	\$24.00	\$46.00

*B=Breakfast, L=Lunch, D=Dinner

(7) An employee may be authorized by the Department Director or designee to receive a taxable meal allowance when the employee's destination is at least 100 miles from their home base and the employee does not stay overnight.

(a) Breakfast is paid when the employee leaves their home base before 6:00 a.m.

(b) Lunch is paid when the trip meets one of the following requirements:

(i) The employee is on an officially approved trip that warrants entitlement to breakfast and dinner.

(ii) The employee leaves their home base before 10 a.m. and returns after 2 p.m.

(iii) The Department Director provides prior written approval based on circumstances.

(c) Dinner is paid when the employee leaves their home base and returns at [7]6 p.m. or later.

(d) The allowance is not considered an absolute right of the employee and is authorized at the discretion of the Department Director or designee.

R25-7-7. Meals for Statutory Non-Salaried State Boards.

(1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where salaried employees of the State of Utah or other advisors or consultants must, of necessity, attend such a meeting in order to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether or not the presence of such employees, advisors, or consultants is necessary, the boards are requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

R25-7-8. Reimbursement for Lodging.

State employees who travel on state business may be eligible for a lodging reimbursement.

(1) For stays at a conference hotel, the state will reimburse the actual cost plus tax for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A or FI 51B.

(2) For in-state lodging at a non-conference hotel, the state will reimburse the actual cost up to \$70 per night for single occupancy plus tax except as noted in the table below:

.....

(3) State employees traveling less than 50 miles from their home base are not entitled to lodging reimbursement. Miles are calculated from either the departure home-base or from the destination to the traveler's home-base. The traveler may leave from one home-base and return to a different home-base. For example, if the traveler leaves from their residence, then the home-base for departure calculations is their residence. If the traveler returns to where they normally work (ie. Cannon Health Building), then the home-base for arrival calculations is the Cannon Health Building.

(a) In some cases, agencies must use judgement to determine a traveler's home-base. The following are some things to consider when determining a traveler's home-base.

(i) Is the destination less than 50 miles from the traveler's home or normal work location? If the destination is less than 50 miles

from either the traveler's home or from their normal work location, then generally the employee should not be reimbursed for lodging.

(ii) Is there a valid business reason for the traveler to go to the office (or to some other location) before driving to the destination?

(iii) Is the traveler required to work at the destination the next day?

(iv) Is the traveler going directly home after the trip, or is there a valid business reason for the traveler to first go to the office (or to some other location)?

(v) Even if "it is not specifically against policy", would the lodging be considered necessary, reasonable and in the best interest of the State?

(4) When the State of Utah pays for a person from out-of-state to travel to Utah, the in-state lodging per diem rates will apply.

(5) For out-of-state travel stays at a non-conference hotel, the state will reimburse the actual cost per night plus tax, not to exceed the federal lodging rate for the location. These reservations must be made through the State Travel Office.

(6) The state will reimburse the actual cost per night plus tax for in-state or out-of-state travel stays where the department/traveler makes reservations through the State Travel Office.

(7) Lodging is reimbursed at the rates listed in Table 5 for single occupancy only. For double state employee occupancy, add \$20, for triple state employee occupancy, add \$40, for quadruple state employee occupancy, add \$60.

(8) Exceptions will be allowed for unusual circumstances when approved in writing by the Department Director or designee prior to the trip.

(a) For out-of-state travel, the approval may be on the form FI 5.

(b) Attach the written approval to the Travel Reimbursement Request, form FI 51B or FI 51D.

(9) A proper receipt for lodging accommodations must accompany each request for reimbursement.

(a) The tissue copy of the charge receipt is not acceptable.

(b) A proper receipt is a copy of the registration form generally used by motels and hotels which includes the following information: name of motel/hotel, street address, town and state, telephone number, current date, name of person/persons staying at the motel/hotel, date(s) of occupancy, amount and date paid, signature of agent, number in the party, and (single, double, triple, or quadruple occupancy).

(10) When lodging is required, travelers should stay at the lodging facility nearest to the meeting/training/work location where state lodging per diem rates are accepted in order to minimize transportation costs.

(11) Travelers may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel.

(a) With proof of staying overnight away from home on approved state business, the traveler will be reimbursed the following:

(i) \$25 per night with no receipts required or

(ii) Actual cost up to \$40 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(12) Travelers who are on assignment away from their home base for longer than 90 days will be reimbursed as follows:

(a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.

(b) After 30 days - \$46 per day for lodging and meals. No receipt is required.

R25-7-9. Reimbursement for Incidentals.

State employees who travel on state business may be eligible for a reimbursement for incidental expenses.

(1) Travelers will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips and transportation costs.

(a) Tips for maid service, doormen, and meals are not reimbursable.

(b) No other gratuities will be reimbursed.

(c) Include an original receipt for each individual incidental item above \$19.99.

(2) The state will reimburse incidental ground transportation and parking expenses.

(a) Travelers shall document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.

(b) Personal use of such transportation to restaurants is not reimbursable.

(c) The maximum that airport parking will be reimbursed is the economy lot parking rate at the airport they are flying out of. A receipt is required for amounts of \$20 or more.

(3) Registration should be paid in advance on a state warrant.

(a) A copy of the approved FI 5 form must be included with the Payment Voucher for out-of-state registrations.

(b) If a traveler must pay the registration when they arrive, the agency is expected to process a Payment Voucher and have the traveler take the state warrant with them.

(4) Telephone calls related to state business are reimbursed at the actual cost.

(a) The traveler shall list the amount of these calls separately on the Travel Reimbursement Request, form FI 51A or FI 51B.

(b) The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls made during stays of five nights or more.

(5) Allowances for personal telephone calls made while out of town on state business overnight will be based on the number of nights away from home.

(a) Four nights or less - actual amount up to \$2.50 per night (documentation is not required for personal phone calls made during stays of four nights or less)

(b) Five to eleven nights - actual amount up to \$20.00

(c) Twelve nights to thirty nights - actual amount up to \$30.00

(d) More than thirty days - start over

(6) Actual laundry expenses up to \$18.00 per week will be allowed for trips in excess of six consecutive nights, beginning after the sixth night out.

(a) The traveler must provide receipts for the laundry expense.

(b) For use of coin-operated laundry facilities, the traveler must provide a list of dates, locations, and amounts.

(7) An amount of \$5 per day will be allowed for travelers away in excess of six consecutive nights beginning after the sixth night out.

(a) This amount covers miscellaneous incidentals not covered in this rule.

(b) This allowance is not available for travelers going to conferences.

(8) Travel on a Weekend during Trips of More Than 10 Nights' Duration - A department may provide for employees to return home on a weekend when a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.

R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the department director or designee.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage and because of federal security regulations, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the economy lot parking rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51B for amounts of \$20 or more.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 38 cents per mile or 56 cents per mile if a state vehicle is not available to the employee.

(i) To determine which rate to use, the traveler must first determine if their department has an agency vehicle (long-term leased vehicle from Fleet Operations) that meets their needs and is reasonably available for the trip (does not apply to special purpose vehicles). If reasonably available, the employee should use an agency vehicle. If an agency vehicle that meets their needs is not reasonably available, the agency may approve the traveler to use either a daily pool fleet vehicle or a private vehicle. If a daily pool fleet vehicle is not reasonably available, the traveler may be reimbursed at 56 cents per mile.

(ii) If a trip is estimated to average 100 miles or more per day, the agency should approve the traveler to rent a daily pool fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency approves the traveler

to take a private vehicle, the employee will be reimbursed at the lower rate of 38 cents per mile.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

(d) Exceptions must be approved in writing by the Director of Finance.

(e) Mileage will be computed using Mapquest or other generally accepted map/route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(f) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51B, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if preapproved by the Department Director or designee.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 38 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director or designee.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(d) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director or designee.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the State Travel Office must be approved in advance by the Department Director or designee.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director or designee that the pilot is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, the pilot must certify the existence of at least \$500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

(d) Reimbursement will be made at 56 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 20 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Executive Director of the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowances, state employees, transportation

Date of Enactment or Last Substantive Amendment: [~~October 8, 2014~~2015]

Notice of Continuation: April 15, 2013

Authorizing, and Implemented or Interpreted Law: 63A-3-107; 63A-3-106

Agriculture and Food, Plant Industry

R68-22

Industrial Hemp Research

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39148

FILED: 02/18/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Industrial Hemp Research Act (Title 4, Chapter 41) authorizes the Department of Agriculture and Food to make rules regulating the growth of industrial hemp by universities. This rule establishes the criteria for a certificate to grow and sets up standards for testing and maintaining their certificate.

SUMMARY OF THE RULE OR CHANGE: The rule establishes the criteria certifications, terms for maintenance of the certificate, and the terms of renewal of the certificate. It also requires testing and who will conduct the tests.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 41

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be a cost for the Department of Agriculture and Food to administer the program. There is cost associated with reviewing the applications, monitoring during production, taking samples, analyzing samples, and ensuring proper disposal.

◆ **LOCAL GOVERNMENTS:** There will be no cost to local government associated with this rule. The costs will be placed on higher education institutions who want to conduct academic or agricultural research.

◆ **SMALL BUSINESSES:** There will be no cost to small businesses. Under the current law and proposed rule, small businesses are not allowed to participate in the growing of industrial hemp.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The only cost associated with this rule will be placed on the Department or the institutes of higher learning who elect to participate in the agricultural research program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Currently there are no compliance costs for individuals affected by the rule as no fees are built into the fee schedule. In the future, there maybe costs for the Department to conduct inspections and analysis at the chemistry lab.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department anticipates no fiscal impact to small businesses, local governments, or individuals from implementation of this rule. The costs will be to higher education institutions who participate. The rule is to comply with H.B. 103 that was passed in the 2014 General Session.

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

AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Clark Burgess by phone at 801-538-7188, by FAX at 801-538-7189, or by Internet E-mail at cburgess@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: LuAnn Adams, Commissioner

R68. Agriculture and Food, Plant Industry.**R68-22. Industrial Hemp Research.****R68-22-1. Authority and Purpose.**

Pursuant to Section 4-41-103, this rule establishes the standards, practices, and procedures of the Industrial Hemp Certificate.

R68-22-2. Definitions.

(1) "Academic Research": means growth of industrial hemp for the purpose of discovering and enabling development of useful processes, information, and products.

(2) "Agricultural Research": means growth of industrial hemp for seed stock from parent material intended for varietal development, phytoremediation, and agronomic practices.

(3) "Applicant(s)": means a person, or group of persons from a higher education institution who apply for an Industrial Hemp Certificate from the Utah Department of Agriculture and Food.

(4) "Department": means the Utah Department of Agriculture and Food

(5) "Growing Area": means the area on which the hemp is grown, inside or outside.

(6) "Industrial Hemp": means the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(7) "Industrial Hemp Certificate": means a certificate issued by the department to a higher education institution granting authorization to grow and/or cultivate industrial hemp for research purposes.

(8) "Research Plan": means a plan stating the objective(s) and purpose(s) of the research being proposed, methods and procedures for carrying out the research, the name(s) and telephone number(s) for the faculty adviser(s), the institution's name and address, and the names of all applicant(s) involved in the project.

(9) "Security Plan": means a plan to control and limit unauthorized access to industrial hemp, whether in seed, plant, or harvested form, and methods used to prevent the inadvertent dissemination of industrial hemp.

R68-22-3. Application for Industrial Hemp Certificate.

(1) Applicant(s) seeking certification shall submit the following to the Department:

- a. A research plan.
- b. A description of the industrial hemp varieties to be planted on the growing area(s).
- c. The legal description of the growing area(s).
- d. Physical address.
- e. The global positioning coordinates for the center of the outdoor growing area(s).
- f. Maps of the growing area showing the boundaries and dimensions of the growing area(s) in acres or square feet, and the location of the different varieties within the growing area(s), and
- g. a security plan.

(2) Applicant(s) acknowledge and agree to the following:

- a. Applicant(s) will comply with all the terms and conditions of certificate, state, and federal laws, and
- b. Applicant(s) will allow department officials on the growing area(s) during normal business hours.

R68-22-4. Terms of the Certificate.

(1) The term of the Certificate is one calendar year beginning in January and ending in December. A person seeking more than one year shall reapply for certification each year.

(2) Prior to each planting, applicant(s) shall provide the department with a statement verifying:

- a. That the type and varieties to be planted in the growing area(s).
- b. The location of all growing area(s), and
- c. The amount to be planted in each location.

(3) 7 days prior to harvest, applicant(s) shall provide the department with a statement of the intended disposition of the crop.

(4) Applicant(s) shall take all necessary measure to avoid the inadvertent dissemination of industrial hemp.

R68-22-5. Inspection and Revocation of Certification.

(1) Growing area(s) are subject to random sampling to verify the THC concentration does not exceed 0.3% on a dry weight basis by department officials.

(2) Department shall have complete and unrestricted access to all industrial hemp plants and seeds whether growing or harvested, all land, buildings and other structures used for the cultivation and storage of industrial hemp, during normal business hours.

(3) Samples of each variety of industrial hemp may be sampled from each growing area(s) at the department's discretion.

(4) The department will conduct the laboratory testing on the samples to determine the THC concentration on a dry weight basis.

(5) The department shall test each of the growing area(s) two weeks prior to harvest.

a. The Applicant shall notify the department at least 3 weeks prior to harvest.

(6) Any laboratory test result of greater than 0.3% may be considered a violation of the terms of the certificate. Upon receipt of such a test the department may revoke the certificate.

(7) Upon a test result of greater than 0.3% the department shall:

- a. Notify the faculty advisor of all test results.

b. Allow for additional testing to be done at the request of the faculty advisor.

i. Faculty advisor shall notify the department, in writing, within ten days if they are seeking additional testing.

c. Supervise the destruction of the industrial hemp crop, and

d. Send notification of revocation to the faculty advisor within 30 days if a determination is reached to suspend the certificate.

(8) Any laboratory test with a result of 1.0% or greater will be turned over to the appropriate law enforcement agency and revocation of the certificate will be immediate, unless:

a. applicant(s) declared in the research plan the possibility of exceeding 1% THC level.

b. an explanation for why the THC level may exceed 0.3%, and

c. additional measures that may need to be taken to control access to the Industrial Hemp.

R68-22-6. Renewal.

(1) Certification shall be renewed on a year to year basis.

(2) Applicant(s) seeking renewal of the Industrial Hemp Certification shall resubmit all documents required for certification, with any updated information, 30 days prior to the expiration of the current year certificate.

KEY: hemp, research

**Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 4-41**

Alcoholic Beverage Control, Administration **R81-1-3** General Policies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39156

FILED: 02/25/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section replaces Sections R81-2-1 and R81-3-5 which outline procedures for special orders by the general public. This amendment will allow the department to outline procedures in policy. The change is necessary to allow flexibility for department operations to adapt administration of the program to accommodate advances in technology and changes in market demand.

SUMMARY OF THE RULE OR CHANGE: This section replaces Sections R81-2-1 and R81-3-5. The removal of those sections are being filing simultaneously with this amendment. (DAR NOTE: The proposed amendment to Section R81-2-1 is under DAR No. 39154 and the proposed

amendment to Section R81-3-5 is under DAR No. 39155 in this issue, March 15, 2015, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-2-204(1) and Subsections 32B-2-202(1)(b) and (k) and Subsections 32B-2-206(1)(a), (2) and (5)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: None--This section is necessary to authorize the director to make internal department policies regarding a special order program for products not kept for sale by the department. Any cost or savings to the state is included in our normal course of business.

◆ LOCAL GOVERNMENTS: None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public and does not affect local government. Therefore this amendment will not incur any cost or savings to local government.

◆ SMALL BUSINESSES: None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow for adaptation of the program to adjust for advancement in technology and market demand. There will be no anticipated cost or savings for small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow for adaptation of the program to adjust for advancement in technology and market demand. There will be no anticipated cost or savings for persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This section is necessary to authorize the director to make internal department policies regarding a special order program by the general public. The change would allow for the department to make adjustments to the program for advances in technology and changes in market demand. Any changes to the program will not have compliance costs passed on to the consumer without going through the fee assessment processes outlined in Section 63J-1-504.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow the department to make adjustments to the program for advancement in technology and changes in market demand and does not have any fiscal impacts.

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

ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
- ◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-3. General Policies.

(1) Labeling.

No licensee or permittee shall sell or deliver any alcoholic beverage in containers not marked, branded or labeled in conformity with regulations enacted by the agencies of the United States government pertaining to labeling and advertising.

(2) Manner of Paying Fees.

Payment of all fees for licenses, permits, certificates of approval, or renewals thereof, shall be made in legal tender of the United States of America, certified check, bank draft, cashier's check, United States post office money order, or personal check.

(3) Copy of Commission Rules.

Copies of the commission rules shall be available at the department's office, 1625 South 900 West, P. O. Box 30408, Salt Lake City, Utah 84130-0408 for an administrative cost of \$20 per copy, or on the department's website at <http://www.abc.utah.gov>.

(4) Interest Assessment on Delinquent Accounts.

The department may assess the legal rate of interest provided in Sections 15-1-1 through -4 for any debt or obligation owed to the department by a licensee, permittee, package agent, or any other person.

(5) Returned Checks.

(a) The department will assess a \$20 charge for any check payable to the department returned for the following reasons:

- (i) insufficient funds;
- (ii) refer to maker; or
- (iii) account closed.

(b) Receipt of a check payable to the department which is returned by the bank for any of the reasons listed in Subsection (5)(a) may result in the immediate suspension of the license, permit, or operation of the package agency of the person tendering the check until legal tender of the United States of America, certified check, bank draft, cashier's check, or United States post office money order is received at the department offices, 1625 South 900 West, Salt Lake City, Utah, plus the \$20 returned check charge. Failure to make good the returned check and pay the \$20 returned check charge within thirty days after the license, permit, or operation of the package agency is

suspended, is grounds for revocation of the license or permit, or termination of the package agency contract, and the forfeiture of the licensee's, permittee's, or package agent's bond.

(c) In addition to the remedies listed in Subsection (5)(b), the department may require that the licensee, permittee, or package agent transact business with the department on a "cash only" basis. The determination of when to put a licensee, permittee, or package agency operator on "cash only" basis and how long the licensee, permittee, or package agency operator remains on "cash only" basis shall be at the discretion of the department and shall be based on the following factors:

- (i) dollar amount of the returned check(s);
- (ii) the number of returned checks;
- (iii) the length of time the licensee, permittee, or package agency operator has had a license, permit, or package agency with the department;
- (iv) the time necessary to collect the returned check(s); and
- (v) any other circumstances.

(d) A returned check received by the department from or on behalf of an applicant for or holder of a single event permit or temporary special event beer permit may, at the discretion of the department, require that the person or entity that applied for or held the permit be on "cash only" status for any future events requiring permits from the commission.

(e) In addition to the remedies listed in Subsections (5)(a), (b), (c) and (d), the department may pursue any legal remedies to effect collection of any returned check.

(6) Disposition of unsaleable merchandise.

The department, after determining that certain alcoholic products are distressed or unsaleable, but consumable, may make those alcoholic products available to the Utah Department of Public Safety for education or training purposes.

All merchandise made available to the Utah Department of Public Safety must be accounted for as directed by the Department of Alcoholic Beverage Control.

(7) Administrative Handling Fees.

(a) Pursuant to 32B-4-414(1)(b) a person, on a one-time basis, who moves the person's residence to this state from outside of this state may have or possess for personal consumption and not for sale or resale, liquor previously purchased outside the state and brought into this state during the move if the person obtains department approval before moving the liquor into the state, and the person pays the department a reasonable administrative handling fee as determined by the commission.

(b) Pursuant to 32B-4-414(1)(c) a person who as a beneficiary inherits as part of an estate liquor that is located outside the state, may have or possess the liquor and transport or cause the liquor to be transported into the state if the person obtains department approval before moving the liquor into the state, the person provides sufficient documentation to the department to establish the person's legal right to the liquor as a beneficiary, and the person pays the department a reasonable administrative handling fee as determined by the commission.

(c) The administrative handling fee to process any request for department approval referenced in subsections (7)(a) and (7)(b) is \$20.00.

(8) Case Handling Markup

(a) For purposes of the landed case cost defined in Section 32B-2-304, "cost of the product" includes a case handling markup determined by the department.

(b) If a manufacturer and the Department have agreed to allow the manufacturer to ship an alcoholic beverage directly to a state store or package agency without being received and stored by the Department in the Department's warehouse, the manufacturer shall receive a credit equaling the case handling markup for the product that is not warehoused by the Department.

(c) The Department shall collect and remit the case handling markup as outlined in Utah Code Ann. Section 32B-2-304.

(9) Listing and Delisting Product: Pursuant to 32B-2-202(1)(b) and (k), this rule authorizes the director to make internal department policies in accordance with 32B-2-206(1)(2) and (5) for department duties as defined by 32B-2-204(1) for listing and delisting products to include a program to place orders for products not kept for sale by the department.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~April 29, 2014~~2015

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-3-203(3)(c); 32B-2-204; 32B-2-206; 32B-5-304; 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

Alcoholic Beverage Control, Administration **R81-1-6** Violation Schedule

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39158
FILED: 02/25/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment increases the maximum employee fine for violations in the serious category by \$200. This amendment was recommended by the Department of Alcoholic Beverage Control (DABC) Advisory Board as part of a review of the violation schedule and grid in relation to an increase in referrals of violations for Sale to Minors, a serious violation. The proposal was approved by the DABC Commission for rulemaking as it would allow more flexibility in assessing employee fines depending on aggravating and mitigating factors. Additionally, it would foster accountability on the part of the employee.

SUMMARY OF THE RULE OR CHANGE: This rule amends the Violation Schedule by increasing the upper limit of fines that may be assessed in the serious category for officers, employees, or agents of DABC Licensees or Permittees by \$200.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-2-202(1)(b) and Subsection 32B-3-202(2)(b)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--The cost to the state is in holding a violation pre-hearing. The cost is the same regardless of the assessed penalty of the violation.

◆ **LOCAL GOVERNMENTS:** None--This rule amendment affects DABC's adjudication of violations. These proceedings take place on the state level and do not affect local governments.

◆ **SMALL BUSINESSES:** Though it is not possible to determine an exact dollar amount, this amendment may affect DABC licensees and permittees, including those with fewer than 50 employees. The small business would be affected if the business owner was cited and fined at the higher rate or if the business owner chose to pay the fine of an officer, employee, or agent who is cited and fined at the higher amount.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Though it is not possible to determine an exact dollar amount, this amendment will affect officers, employees, or agents of licensees and permittees who are cited and fined at a higher amount.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There are no compliance costs involved in this proposed amendment to the violation schedule. The amendment increases the upper limit of fines that may be assessed in the serious category for officers, employees, or agents of DABC Licensees or Permittees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to the Violation Schedule by increasing the upper limit of fines that may be assessed in the serious category for officers, employees, or agents of DABC Licensees or Permittees may negatively affect those individuals if they are cited and fined at the higher rate.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov

◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-6. Violation Schedule.

(1) **Authority.** This rule is pursuant to Sections 32B-2-202(1)(c)(i), 32B-2-202(1) and (3), 32B-2-202(2)(b) and (c), and 32B-3-101 to -207. These provisions authorize the commission to establish criteria and procedures for imposing sanctions against licensees and permittees and their officers, employees and agents who violate statutes and commission rules relating to alcoholic beverages. For purposes of this rule, holders of certificates of approval are also considered licensees. The commission may revoke or suspend the licenses or permits, and may impose a fine against a licensee or permittee in addition to or in lieu of a suspension. The commission also may impose a fine against an officer, employee or agent of a licensee or permittee. Violations are adjudicated under procedures contained in Section 32B-3-101 to -207 and disciplinary hearing Section R81-1-7.

(2) **General Purpose.** This rule establishes a schedule setting forth a range of penalties which may be imposed by the commission for violations of the alcoholic beverage laws. It shall be used by department decision officers in processing violations, and by presiding officers in charging violations, in assisting parties in settlement negotiations, and in recommending penalties for violations. The schedule shall be used by the commission in rendering its final decisions as to appropriate penalties for violations.

(3) **Application of Rule.**

(a) This rule governs violations committed by all commission licensees and permittees and their officers, employees and agents except single event permittees. Violations by single event permittees and their employees and agents are processed under Section 32B-9-204 and -305.

(b) This rule does not apply to situations where a licensee or permittee fails to maintain the minimum qualifications provided by law for holding a license or permit. These might include failure to maintain a bond or insurance, or a conviction for a criminal offense that disqualifies the licensee or permittee from holding the license or permit. These are fundamental licensing and permitting requirements and failure to maintain them may result in immediate suspension or forfeiture of the license or permit. Thus, they are not processed in accordance with the Administrative Procedures Act, Title 63G, Chapter 4 or Section R81-1-7. They are administered by issuance of an order to show cause requiring the licensee or permittee to provide the commission with proof of qualification to maintain their license or permit.

(c) If a licensee or permittee has not received a letter of admonishment, as defined in Sections R81-1-2 and R81-1-7(2)(b), or been found by the commission to be in violation of Utah statutes or

commission rules for a period of 36 consecutive months, its violation record shall be expunged for purposes of determining future penalties sought. The expungement period shall run from the date the last offense was finally adjudicated by the commission.

(d) In addition to the penalty classifications contained in this rule, the commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of any licensee or permittee;

(ii) prohibit an officer, employee or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee or permittee for a period determined by the commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded, encouraged, or intentionally aided another to engage in the violation.

(iv) require a licensee to have a written responsible alcohol service plan as provided in R81-1-24.

(e) When the commission imposes a fine or administrative costs, it shall establish a date on which the payment is due. Failure of a licensee or permittee or its officer, employee or agent to make payment on or before that date shall result in the immediate suspension of the license or permit or the suspension of the employment of the officer, employee or agent to serve, sell, distribute, manufacture, wholesale, warehouse or handle alcoholic beverages with any licensee or permittee until payment is made. Failure of a licensee or permittee to pay a fine or administrative costs within 30 days of the initial date established by the commission shall result in the issuance of an order to show cause why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited. The commission shall consider the order to show cause at its next regularly scheduled meeting.

(f) Violations of any local ordinance are handled by each individual local jurisdiction.

(4) Penalty Schedule. The department and commission shall follow these penalty range guidelines:

(a) Minor Violations. Violations of this category are lesser in nature and relate to basic compliance with the laws and rules. If not corrected, they are sufficient cause for action. Penalty range: Verbal warning from law enforcement or department compliance officer(s) to revocation of the license or permit and/or up to a \$25,000 fine. A record of any letter of admonishment shall be included in the licensee's or permittee's and the officer's, employee's or agent's violation file at the department to establish a violation history.

(i) First occurrence involving a minor violation: the penalty shall range from a verbal warning from law enforcement or department compliance officer(s), which is documented to a letter of admonishment to the licensee or permittee and the officer, employee or agent involved. Law enforcement or department compliance officer(s) shall notify management of the licensee or permittee when verbal warnings are given.

(ii) Second occurrence of the same type of minor violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a \$100 to \$500 fine for the licensee or

permittee, and a letter of admonishment to a \$25 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of minor violation: a one to five day suspension of the license or permit and employment of the officer, employee or agent, and/or a \$200 to \$500 fine for the licensee or permittee and up to a \$50 fine for the officer, employee or agent.

(iv) More than three occurrences of the same type of minor violation: a six day suspension to revocation of the license or permit and a six to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$25,000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the monetary penalties for each of the charges in their respective categories. If other minor violations are discovered during the same investigation, a verbal warning shall be given for each violation on a first occurrence. If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(b) Moderate Violations. Violations of this category demonstrate a general disregard for the laws or rules. Although the gravity of the acts are not viewed in the same light as in the serious and grave categories, they are still sufficient cause for action. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a letter of admonishment to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a moderate violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a letter of admonishment to a \$1000 fine for the licensee or permittee, and a letter of admonishment to a \$50 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of moderate violation: a three to ten day suspension of the license or permit and a three to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$1000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of moderate violation: a ten to 20 day suspension of the license or permit and a ten to 20 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$2000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee or agent.

(iv) More than three occurrences of the same type of moderate violation: a 15 day suspension to revocation of the license or permit and a 15 to 30 day suspension of the employment of the officer, employee or agent, and/or a \$2000 to \$25,000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(vi) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(c) Serious Violations. Violations of this category directly or indirectly affect or potentially affect the public safety, health and welfare, or may involve minors. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a five day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a serious violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a five to 30 day suspension of the license or permit and a five to 30 day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$3000 fine for the licensee or permittee and up to a \$[100]300 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of serious violation: a ten to 90 day suspension of the license or permit and a ten to 90 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$9000 fine for the licensee or permittee and up to a \$[150]350 fine for the officer, employee or agent.

(iii) More than two occurrences of the same type of serious violation: a 15 day suspension to revocation of the license or permit and a 15 to 120 day suspension of the employment of the officer, employee or agent, and/or a \$9000 to \$25,000 fine for the licensee or permittee and up to a \$[500]700 fine for the officer, employee or agent.

(iv) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(v) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(d) Grave Violations. Violations of this category pose or potentially pose, a grave risk to public safety, health and welfare, or may involve lewd acts prohibited by title 32B, fraud, deceit, willful concealment or misrepresentation of the facts, exclusion of competitors' products, unlawful tied house trade practices, commercial bribery, interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the department and military installations. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a ten day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a grave violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a ten day suspension to revocation of the license or permit and a 10 to 120 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$25,000 fine to the licensee or permittee and up to a \$300 fine for the officer, employee or agent.

(ii) More than one occurrence of the same type of grave violation: a fifteen day suspension to revocation of the license or permit, and a 15 to 180 day suspension of the employment of the officer, employee or agent and/or a \$3000 to \$25,000 fine for the licensee or permittee and up to a \$500 fine for the officer, employee or agent.

(iii) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(iv) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(e) The following table summarizes the penalty ranges contained in this section of the rule for licensees and permittees.

TABLE

Violation Degree and Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days	Revoke License
Minor				
1st	X X			
2nd		100 to 500		
3rd		200 to 500	1 to 5	
Over 3		500 to 25,000	6 to	X
Moderate				
1st		to 1,000		
2nd	X	500 to 1,000	3 to 10	
3rd		1,000 to 2,000	10 to 20	
Over 3		2,000 to 25,000	15 to	X
Serious				
1st		500 to 3,000	5 to 30	
2nd		1,000 to 9,000	10 to 90	
Over 2		9,000 to 25,000	15 to	X
Grave				
1st		1,000 to 25,000	10 to	X
Over 1		3,000 to 25,000	15 to	X

(f) The following table summarizes the penalty ranges contained in this section of the rule for officers, employees or agents of licensees and permittees.

TABLE

Violation Degree and Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days
Minor			
1st	X X		
2nd	X	to 25	
3rd		to 50	1 to 5
Over 3		to 75	6 to 10
Moderate			
1st		to 50	
2nd	X	to 75	3 to 10
3rd		to 100	10 to 20
Over 3		to 150	15 to 30
Serious			
1st		to [100]300	5 to 30
2nd		to [150]350	10 to 90
Over 2		to [500]700	15 to 120
Grave			
1st		to 300	10 to 120
Over 1		to 500	15 to 180

(5) Aggravating and Mitigating Circumstances. The commission and presiding officers may adjust penalties within penalty ranges based upon aggravating or mitigating circumstances.

(a) Examples of mitigating circumstances are:

(i) no prior violation history;

(ii) good faith effort to prevent a violation;

(iii) existence of written policies governing employee conduct;

(iv) extraordinary cooperation in the violation investigation that shows the licensee or permittee and the officer, employee or agent of the licensee or permittee accepts responsibility; and

(v) there was no evidence that the investigation was based on complaints received or on observed misconduct of others, but was based solely on the investigating authority creating the opportunity for a violation.

(b) Examples of aggravating circumstances are:

(i) prior warnings about compliance problems;

(ii) prior violation history;

(iii) lack of written policies governing employee conduct;

(iv) multiple violations during the course of the investigation;

(v) efforts to conceal a violation;

(vi) intentional nature of the violation;

(vii) the violation involved more than one patron or employee;

(viii) the violation involved a minor and, if so, the age of the minor; and

(ix) whether the violation resulted in injury or death.

(6) Violation Grid. Any proposed substantive change to the violation grid that would establish or adjust the degree of seriousness of a violation shall require rulemaking in compliance with title 63G-3, the Utah Administrative Rulemaking Act. A violation grid describing each violation of the alcoholic beverage control laws, the statutory and rule reference, and the degree of seriousness of each violation is available for public inspection in the department's administrative office. A copy will be provided upon request at reproduction cost. It is entitled "Alcoholic Beverage Control Commission Violation Grid" (January 2012 edition) and is incorporated by reference as part of this rule.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~April 29, 2014~~]**2015**

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-3-203(3)(c); ~~32B-3-205(2)(b)~~; 32B-5-304; 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

**Alcoholic Beverage Control,
Administration
R81-2-1
Special Orders of Liquor by Public**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39154

FILED: 02/25/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section outlines procedures for special orders by the general public. Subsection R81-1-3(9) will allow the department to outline procedures in policy. The change is necessary to allow flexibility for department operations to adapt administration of the program to accommodate advances in technology and changes in market demand.

SUMMARY OF THE RULE OR CHANGE: This section will be replaced by Subsection R81-1-3(9). An amendment on Subsection R81-1-3(9) is being simultaneously filed with this change. (DAR NOTE: The proposed amendment to Section R81-1-3 is under DAR No. 39156 in this issue, March 15, 2015, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-2-204(1) and Subsections 32B-2-202(1)(b) and (k) and Subsections 32B-2-206(1)(a), (2) and (5)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for products not kept for sale by the department. Any cost or savings to the state is included in our normal course of business.

◆ **LOCAL GOVERNMENTS:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public and does not affect local government. Therefore this change will not incur any cost or savings to local government.

◆ **SMALL BUSINESSES:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow for adaptation of the program to adjust for advancement in technology and market demand. There will be no anticipated cost or savings for small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow for adaptation of the program to adjust for advancement in technology and market demand. There will be no anticipated cost or savings for persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This section is necessary to authorize the director to make

internal department policies regarding a special order program by the general public. The change would allow for the department to make adjustments to the program for advances in technology and changes in market demand. Any changes to the program will not have compliance costs passed on to the consumer without going through the fee assessment processes outlined in Section 63J-1-504.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow the department to make adjustments to the program for advancement in technology and changes in market demand and does not have any fiscal impacts.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-2. State Stores.

R81-2-1. [Special Orders of Liquor by Public.]Reserved.

~~Reserved.~~(1) Purpose. A special order product is any product not listed on the department's product/price list. This rule outlines the procedures for accepting, processing, ordering and disbursing special orders.

~~(2) Application of Rule.~~

~~(a) Any state store may process special order requests.~~

~~(b) Any individual may place a special order at any state liquor store. Special orders may be placed by groups of individuals, organizations, or retail licensees either at a state liquor store or with the purchasing division of the department. A special order shall be processed as follows:~~

~~(i) A special order form must be filled out and signed by the customer for each special order product purchased. The state liquor store shall forward the form to the department's purchasing division.~~

~~(ii) Special orders may be ordered only by the case, not by the bottle. There is no handling fee on special orders.~~

~~(iii) Customers should be advised to allow at least two months between processing and delivery of a special order.~~

~~(iv) Special orders for beer will be subject to availability and according to the distributor's shipping criteria.~~

~~(v) If a group, organization, or retail licensee places a special order, they may designate a particular package agency or state store to which they want the special order items to be sent. They shall include the name and telephone number of the individual who will pick up and pay for the special order product at that location.~~

~~(vi) A special order must include the product name and distributor or shipper.~~

~~(vii) The department's special order buyer shall obtain a retail bottle price and call the customer and/or state liquor store for clearance to proceed with the order.~~

~~(viii) When the special order arrives, the package agency or state store to which the special order has been sent shall immediately notify the customer, and the customer shall pick up the order as soon as possible after notification. The customer shall pay for and pick up the entire special order. The package agency or state store is not allowed to warehouse special ordered products. All merchandise must be cleared from the system before a reorder on that special order item is allowed.~~

~~(ix) Special orders may only be placed by customers. State stores may not place a special order unrelated to a particular customer as a means to sell unlisted products to the general public.~~

~~(x) Special orders of beer, wine or spirits with lower prices than quoted to the department on products handled by or similar to products handled by the department will be allowed only on two conditions:~~

~~(A) the department has the opportunity to purchase the same product at the same price; or~~

~~(B) the individual, group of individuals, organization, or retail licensee name is part of the design of the front label found on the product.~~

~~]~~

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [April 30, 2013]2015

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-202

**Alcoholic Beverage Control,
Administration
R81-3-5
Special Orders of Liquor by Public**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39155

FILED: 02/25/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section outlines procedures for special orders by the general public. Subsection R81-1-3(9) will allow the

department to outline procedures in policy. The change is necessary to allow flexibility for department operations to adapt administration of the program to accommodate advances in technology and changes in market demand.

SUMMARY OF THE RULE OR CHANGE: This section will be replaced by Subsection R81-1-3(9). An amendment to Subsection R81-1-3(9) is being simultaneously filed with this change. (DAR NOTE: The proposed amendment to Section R81-1-3 is under DAR No. 39156 in this issue, March 15, 2015, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-2-204(1) and Subsection 32B-2-206(1)(a) and Subsections 32B-2-206(1)(2) and (5)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for products not kept for sale by the department. Any cost or savings to the state is included in our normal course of business.

♦ **LOCAL GOVERNMENTS:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public and does not affect local government. Therefore, this change will not incur any cost or savings to local government.

♦ **SMALL BUSINESSES:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow for adaptation of the program to adjust for advancement in technology and market demand. There will be no anticipated cost or savings for small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would allow for adaptation of the program to adjust for advancement in technology and market demand. There will be no anticipated cost or savings for persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This section is necessary to authorize the director to make internal department policies regarding a special order program by the general public. The change would allow for the department to make adjustments to the program for advances in technology and changes in market demand. Any changes to the program will not have compliance costs passed on to the consumer without going through the fee assessment processes outlined in Section 63J-1-504.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This section is necessary to authorize the director to make internal department policies regarding a special order program for use by the general public. The change would

allow the department to make adjustments to the program for advancement in technology and changes in market demand and does not have any fiscal impacts.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-3. Package Agencies.

R81-3-5. ~~[Special Orders of Liquor by Public.]Reserved.~~

~~Reserved.~~ (1) ~~Purpose.~~ A special order product is any product not listed on the department's product/price list. This rule outlines the procedures for accepting, processing, ordering and disbursing special orders.

~~(2) Application of Rule:~~

~~(a) Only type 2 and 3 package agencies may process special order requests.~~

~~(b) Any individual may place a special order at any type 2 or 3 package agency. Special orders may be placed by groups of individuals, organizations, or retail licensees either at a type 2 or 3 package agency or with the purchasing division of the department. A special order shall be processed as follows:~~

~~(i) A special order form must be filled out and signed by the customer for each special order product purchased. The package agency shall forward the form to the department's purchasing division.~~

~~(ii) Special orders may be ordered only by the case, not by the bottle. There is no handling fee on special orders.~~

~~(iii) Customers should be advised to allow at least two months between processing and delivery of a special order.~~

~~(iv) Special orders for beer will be subject to availability and according to the distributor's shipping criteria.~~

~~(v) If a group, organization, or retail licensee places a special order, they may designate a particular package agency or state store to which they want the special order items to be sent. They shall include the name and telephone number of the individual who will pick up and pay for the special order product at that location.~~

~~(vi) A special order must include the product name and distributor or shipper.~~

~~(vii) The department's special order buyer shall obtain a retail bottle price and call the customer and/or package agent for clearance to proceed with the order.~~

~~(viii) When the special order arrives, the package agency or state store to which the special order has been sent shall immediately notify the customer, and the customer shall pick up the order as soon as possible after notification. The customer shall pay for and pick up the entire special order. The package agency or state store is not allowed to warehouse special ordered products. All merchandise must be cleared from the system before a reorder on that special order item is allowed.~~

~~(ix) Special orders may only be placed by customers. Package agencies may not place a special order unrelated to a particular customer as a means to sell unlisted products to the general public.~~

~~(x) Special orders of beer, wine or spirits with lower prices than quoted to the department on products handled by or similar to products handled by the department will be allowed only on two conditions:~~

~~(A) the department has the opportunity to purchase the same product at the same price; or~~

~~(B) the individual, group of individuals, organization, or retail licensee name is part of the design of the front label found on the product.~~

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~[July 17, 2012]~~**2015**

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-202

**Commerce, Occupational and
Professional Licensing
R156-71-202
Naturopathic Physician Formulary**

**NOTICE OF PROPOSED RULE
(Amendment)**

**DAR FILE NO.: 39151
FILED: 02/24/2015**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Naturopathic Formulary Peer Committee determined that the following changes need to be made to the Naturopathic Physician Formulary rule. The Naturopathic Physicians Licensing Board reviewed the recommendations and affirmed that the subsequent modifications need to be made. It should also be noted that a licensed physician (MD) was added to the peer committee by the legislature under S.B. 193 in the 2014 General Session to ensure the physician-prescribing perspective was included in discussions.

SUMMARY OF THE RULE OR CHANGE: Proposed amendments to this section add the following noncontrolled substance legend medications to the Naturopathic Physician Formulary: 1) antibacterials, limited to oral, topical and intramuscular administration; 2) miscellaneous antimycobacterials; 3) heparins; 4) selective serotonin- and norepinephrine-reuptake inhibitors; 5) mast-cell stabilizers; 6) expectorants; 7) mydriatics; 8) anti-inflammatory agents; 9) heavy metal antagonists, limited to Dimercaprol, Edetate Calcium Disodium and Succimer; and 10) oxytocics, limited to Oxytocin.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-71-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

♦ **LOCAL GOVERNMENTS:** The proposed amendments apply only to licensed naturopathic physicians. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments apply only to licensed naturopathic physicians. Licensees may work in a small business; however, the proposed amendments would not directly affect the business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to licensed naturopathic physicians. As a result, the proposed amendments do not apply to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments should have no increased compliance cost or impact for licensed naturopathic physicians. There may be cost savings to the patients because they may need to see fewer doctors for treatment. Also, there will be a possible increase in revenue to the naturopathic physician, but these savings and revenue increases cannot be estimated due to wide range of circumstances.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing expands the list of noncontrolled substance legend medications that are within the scope of practice of naturopathic physicians. No compliance costs or other fiscal impact to businesses is anticipated.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Maria Skedros (Lohse) by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at mskedros@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 03/30/2015 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-71. Naturopathic Physician Practice Act Rule.

R156-71-202. Naturopathic Physician Formulary.

(1) In accordance with Subsections 58-71-102(8) and (12)(a) and Section 58-71-202, the naturopathic physician formulary which consists of noncontrolled substance legend medications deemed appropriate for the primary health care of patients within the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee, consists of the following legend drugs, listed by category, with reference numbers identified in the American Hospital Formulary Service (AHFS), published by the American Society of Health System Pharmacists, 2008 edition; including the monographs available on AHFS Drug Information website, which is <http://www.ahfsdruginformation.com>:

4:00 Antihistamines

8:08 Anthelmintics

8:12 Antibacterials, limited to oral, [and] topical and intramuscular administration[forms only]

8:14 Antifungals, oral and topical forms

8:16.92 Miscellaneous Antimycobacterials

8:18 Antivirals limited to oral and topical dosage forms, excluding:

8:18:08 Antiretrovirals

8:18:20 Interferons

8:18:24 Monoclonal Antibodies

8:18:32 Nucleosides and Nucleotides

8:30.04 Amebicides

8:30.92 Miscellaneous Antiprotozoals excluding those whose primary indication is the treatment of infection in immunosuppressed patients (i.e. Pentamidine and Trimetrexate)

8:36 Urinary anti-infectives

12:12.08.12 Selective Beta 2 Adrenergic Agonists

12:12.12 Alpha and Beta Adrenergic Agonists

12:16 Sympatholytic (Adrenergic Blocking) Agents, limited to ergot derivatives

12:20 Skeletal Muscle Relaxants, excluding scheduled medications

20:12.04.16 Heparins

20:24 Hemorrhologic Agents

24:04.08 Cardiotonic Agents - limited to Digoxin

24:06 Antilipemic Agents

24:08 Hypotensive Agents - limited to oral dosage forms

24:20 Alpha Adrenergic Blocking Agents

24:24 Beta Adrenergic Blocking Agents - limited to oral dosage forms

24:28 Calcium Channel Blocking Agents - limited to oral dosage forms

24:32 Renin-Angiotensive-Aldosterone System Inhibitors - limited to oral dosage forms

28:08 Analgesics and Antipyretics, excluding scheduled medications

28:16.04.16 Selective Serotonin - and Norepinephrine-Reuptake Inhibitors

28:16.04.20 Selective-Serotonin Reuptake Inhibitors

28:16.04.24 Serotonin Modulators

28:16.04.28 Tricyclics and Other Norepinephrine-Reuptake Inhibitors

28:16.04.92 Antidepressants, Miscellaneous

40:00 Electrolytic, Caloric, and Water Balance

40:28 Diuretics

44:00 Enzymes, limited to digestive and proteolytic

48:10.24 Leukotriene Modifiers

48:10.32 Mast-Cell Stabilizers

48:16 Expectorants

52:08 Corticosteroids (oral, topical, and injectable), Anti-Inflammatory Agents [~~except Ophthalmologic Preparations,~~] and DMARDS

52:24 Mydriatics

56:22 Antiemetics

56:28 H₂ Blockers, Anti-ulcer Agents and Acid Suppressants

56:36 Anti-inflammatory Agents

64:00 Heavy Metal Antagonists, limited to Dimercaprol, Edetate Calcium Disodium and Succimer

68:12 Contraceptives, except implants and injections

68:16.04 Estrogens

68:18 Gonadotropins; limited to Gonadotropin, Chorionic

68:20.02 Alpha-Glucosidase Inhibitors

68:20.04 Biguanides

68:20.08 Insulins

68:20.20 Sulfonylureas

68:24 Parathyroid

68:32 Progestins

68:36[~~04~~] Thyroid and Antithyroid Agents, including Thyroid of glandular extract

72:00 Local Anesthetics

76:00 Oxytocics, limited to Oxytocin

80:00 Serums, Toxoids, Vaccines

84:00 Skin and Mucous Membrane Agents, excluding Depigmenting and Pigmenting Agents (reference number 84:50)

84:92 Skin and Mucous Membrane Agents,

Miscellaneous, excluding Isotretinoin

88:00 Vitamins

92:00 Miscellaneous Therapeutic Agents, limited to Antigout, and Bone-Resorption Inhibitors (limited to Raloxifene), and Botulinum Toxin type A (limited to superficial injections)

(2) In addition, the following items or substances, although not listed in Subsection (1), are approved for primary health care:

- (a) Amino Acids;
- (b) Minerals;
- (c) Oxygen;
- (d) Silver Nitrate;
- (e) DHEA (dihydroepiandrosterone);
- (f) Pregnenolone; and
- (g) Allergy Testing Agents.

(3) In accordance with Subsections 58-71-102(8) and (12)(a) and Section 58-71-202, the naturopathic physician formulary includes a single controlled substance with the reference number identified in the AHFS, published by the American Society of Health System Pharmacists, 2008 edition:

68:08 Testosterone.

(4) New categories or classes of drugs will need to be approved as part of the formulary prior to prescribing/administering.

(5) The licensed naturopathic physician has the responsibility to be knowledgeable about the medication being prescribed or administered.

KEY: licensing, naturopaths, naturopathic physician
Date of Enactment or Last Substantive Amendment: [August 16, 2010] 2015
Notice of Continuation: October 20, 2011
Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

**Health, Disease Control and
 Prevention, Environmental Services
 R392-600
 Illegal Drug Operations
 Decontamination Standards**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39161

FILED: 03/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is authorized by Section 19-6-906. This section authorizes the Department of Health to adopt rules and enforce minimum standards for testing, sampling, and decontamination of interior surfaces, furnishing, outside property soils, and septic tanks, associated with buildings contaminated with hazardous wastes resulting from the illicit production of methamphetamine.

SUMMARY OF THE RULE OR CHANGE: This rule establishes pre-assessment requirements, sampling and decontamination methodologies, decontamination standards, and final report requirements for the clean-up of illegal drug laboratories. The rule addresses safety and exposure to toxic chemicals concerns of present and future occupants of homes, vehicles, etc., previously used in the illegal production of drugs.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-906

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds U.S. Environmental Protection Agency, Region 9: Superfund Preliminary Remediation Goals Table, published by U.S. Environmental Protection Agency, 10/01/2004

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the Utah Department of Health; rulemaking costs are absorbed by existing programs.

◆ **LOCAL GOVERNMENTS:** The anticipated increase in workload will likely be absorbed by existing programs. The cost in helping to assist with the rule making process will be absorbed by existing programs. The cost to enforce the rule will be absorbed by existing programs.

◆ **SMALL BUSINESSES:** For a 2,000 square foot home, the average cost of decontamination is approximately \$5,000. (NOTE: This is a rough estimate. Actual prices depend on many variables including amount of debris in home, level of contamination, number of rooms, square footage, materials in home, location of home, and others. Actual bids for this size of home have ranged from \$3,000 - \$13,500).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** For a 2,000 square foot home, the average cost of decontamination is approximately \$5,000. (NOTE: This is a rough estimate. Actual prices depend on many variables including amount of debris in home, level of contamination, number of rooms, square footage, materials in home, location of home, and others. Actual bids for this size of home have ranged from \$3,000 - \$13,500).

COMPLIANCE COSTS FOR AFFECTED PERSONS: For a 2,000 square foot home, the average cost of decontamination is approximately \$5,000. (NOTE: This is a rough estimate. Actual prices depend on many variables including amount of debris in home, level of contamination, number of rooms, square footage, materials in home, location of home, and others. Actual bids for this size of home have ranged from \$3,000 - \$13,500).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on business because it does not change any requirements from the recently expired rule or EPA recommendations.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Sam LeFevre by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at slefevre@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R392. Health, Disease Control and Prevention, Environmental Services.

R392-600. Illegal Drug Operations Decontamination Standards.

R392-600-1. Authority and Purpose.

(1) This rule is authorized under Section 19-6-906.

(2) This rule sets decontamination and sampling standards and best management practices for the inspection and decontamination of property contaminated by illegal drug operations.

R392-600-2. Definitions.

The following definitions apply in this rule:

(1) "Background concentration" means the level of a contaminant in soil, groundwater or other media up gradient from a facility, practice or activity that has not been affected by the facility, practice or activity; or other facility, practice or activity.

(2) "Decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has a currently valid certificate issued by the Solid and Hazardous Waste Control Board, as defined under Utah Code Subsection 19-6-906(2).

(3) "Chain-of-custody protocol" means a procedure used to document each person that has had custody or control of an environmental sample from its source to the analytical laboratory, and the time of possession of each person.

(4) "Characterize" means to determine the quality or properties of a material by sampling and testing to determine the concentration of contaminants, or specific properties of the material, such as flammability or corrosiveness.

(5) "Combustible" means vapor concentration from a liquid that has a flash point greater than 100 degrees F.

(6) "Confirmation sampling" means collecting samples during a preliminary assessment or upon completion of decontamination activities to confirm that contamination is below the decontamination standards outlined in this rule.

(7) "Contaminant" means a hazardous material.

(8) "Contamination" or "contaminated" means polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards.

(9) "Corrosive" means a material such as acetic acid, acetic anhydride, acetyl chloride, ammonia (anhydrous), ammonium hydroxide, benzyl chloride, dimethylsulfate, formaldehyde, formic acid, hydrogen chloride/hydrochloric acid, hydrobromic acid, hydriodic acid, hydroxylamine, methylamine, methylene chloride (dichloromethane, methylene dichloride), methyl methacrylate, nitroethane, oxalylchloride, perchloric acid, phenylmagnesium bromide, phosphine, phosphorus oxychloride, phosphorus pentoxide, sodium amide (sodamide), sodium metal, sodium hydroxide, sulfur trioxide, sulfuric acid, tetrahydrofuran, thionyl chloride or any other substance that increases or decreases the pH of a material and may cause degradation of the material.

(10) "Decontamination" means treatment or removal of contamination by a decontamination specialist or owner of record to reduce concentrations of contaminants below the decontamination standards.

(11) "Decontamination standards" means the levels or concentrations of contaminants that must be met to demonstrate that contamination is not present or that decontamination has successfully removed the contamination.

(12) "Delineate" means to determine the nature and extent of contamination by sampling, testing, or investigating.

(13) "Easily cleanable" means an object and its surface that can be cleaned by detergent solution applied to its surface in a way that would reasonably be expected to remove dirt from the object when rinsed and to be able to do so without damaging the object or its surface finish.

(14) "Ecstasy" means 3,4-methylenedioxy-methamphetamine (MDMA).

(15) "EPA" means the United States Environmental Protection Agency.

(16) "EPA Method 8015B" means the EPA approved method for determining the concentration of various non-halogenated volatile organic compounds and semi-volatile organic compounds by gas chromatography/flame ionization detector.

(17) "EPA Method 6010B" means the EPA approved method for determining the concentration of various heavy metals by inductively coupled plasma.

(18) "EPA Method 8260B" means the EPA approved method for determining the concentration of various volatile organic compounds by gas chromatograph/mass spectrometer.

(19) "FID" means flame ionization detector.

(20) "Flammable" means vapor concentration from a liquid that has a flash point less than 100 degree F.

(21) "Grab Sample" means one sample collected from a single, defined area or media at a given time and location.

(22) "Hazardous materials" has the same meaning as "hazardous or dangerous materials" as defined in Section 58-37d-3; and includes any illegally manufactured controlled substances.

(23) "Hazardous waste" means toxic materials to be discarded as directed in 40 CFR 261.3.

(24) "HEPA" means high-efficiency particulate air and indicates the efficiency of an air filter or air filtration system.

(25) "Highly suggestive of contamination" means the presence of visible or olfactory signs indicative of contamination.

locations in and around where illegal drug production occurred, where hazardous materials were stored or suspected of being used to manufacture illegal drugs, or areas that tested positive for contamination or other portions of the property that may be linked to processing and storage areas by way of the ventilation system or other activity that may cause contamination to be distributed across the property.

(26) "Impacted groundwater" means water present beneath ground surface that contains concentrations of a contaminant above the UGWQS.

(27) "Impacted soil" means soil that contains concentrations of a contaminant above background or EPA residential Risk Based Screening Concentrations as contained in the document listed in R392-600-8.

(28) "LEL/O2" means lower explosive limit/oxygen.

(29) "Negative pressure enclosure" means an air-tight enclosure using a local exhaust and HEPA filtration system to maintain a lower air pressure in the work area than in any adjacent area and to generate a constant flow of air from the adjacent areas into the work area.

(30) "Non-porous" means resistant to penetration of liquids, gases, powders and includes non-permeable substance or materials, that are sealed such as, concrete floors, wood floors, ceramic tile floors, vinyl tile floors, sheet vinyl floors, painted drywall or sheet rock walls or ceilings, doors, appliances, bathtubs, toilets, mirrors, windows, counter-tops, sinks, sealed wood, metal, glass, plastic, and pipes.

(31) "Not Highly Suggestive of Contamination" means areas outside of the main locations(s) where illegal drugs were produced and hazardous materials were stored or suspected of being used that do not reveal obvious visual or olfactory signs of contamination, but may, however, be contaminated by residue from the manufacture or storage of illegal drugs or hazardous materials.

(32) "Owner of record" means (a) The owner of property as shown on the records of the county recorder in the county where the property is located; and (b) may include an individual, financial institution, company, corporation, or other entity.

(33) "Personal protective equipment" means various types of clothing such as suits, gloves, hats, and boots, or apparatus such as facemasks or respirators designed to prevent inhalation, skin contact, or ingestion of hazardous chemicals.

(34) "PID" means photo ionization detector.

(35) "Porous" means material easily penetrated or permeated by gases, liquids, or powders such as carpets, draperies, bedding, mattresses, fabric covered furniture, pillows, drop ceiling or other fiber-board ceiling panels, cork paneling, blankets, towels, clothing, and cardboard or any other material that is worn or not properly sealed.

(36) "Preliminary assessment" means an evaluation of a property to define all areas that are highly suggestive of contamination and delineate the extent of contamination. The preliminary assessment consists of an on-site evaluation conducted by the decontamination specialist or owner of record to gather information to demonstrate that contamination is not present above the decontamination standards or to enable development of a workplan outlining the most appropriate method to decontaminate the property.

(37) "Properly disposed" means to discard at a licensed facility in accordance with all applicable laws and not reused or sold.

(38) "Property" means: (a) any property, site, structure, part of a structure, or the grounds, surrounding a structure; and (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

(39) "Return air housing" means the main portion of an air ventilation system where air from the livable space returns to the air handling unit for heating or cooling.

(40) "Sample location" means the actual place where an environmental sample was obtained, including designation of the room, the surface (wall, ceiling, appliance, etc), and the direction and distance from a specified fixed point (corner, door, light switch, etc).

(41) "Services" means the activities performed by decontamination specialist in the course of decontaminating residual contamination from the manufacturing of illegal drugs or from the storage of chemicals used in manufacturing illegal drugs and includes not only the removal of any contaminants but inspections and sampling.

(42) "Toxic" means hazardous materials in sufficient concentrations that they can cause local or systemic detrimental effects to people.

(43) "UGWQS" means the Utah Ground Water Quality Standards established in R317-6-2.

(44) "VOA" means volatile organic analyte.

(45) "VOCs" means volatile organic compounds or organic chemicals that can evaporate at ambient temperatures used in the manufacture illegal drugs such as acetone, acetonitrile, aniline, benzene, benzaldehyde, benzyl chloride, carbon tetrachloride, chloroform, cyclohexanone, dioxane, ethanol, ethyl acetate, ethyl ether, Freon 11, hexane, isopropanol, methanol, methyl alcohol, methylene chloride, naphtha, nitroethane, petroleum ether, petroleum distillates, pyridine, toluene, o-toluidine, and any other volatile organic chemical that may be used to manufacture illegal drugs.

(46) "Waste" means refuse, garbage, or other discarded material, either solid or liquid.

R392-600-3. Preliminary Assessment Procedures.

(1) The decontamination specialist or owner of record shall determine the nature and extent of damage and contamination of the property from illegal drug operations by performing a preliminary assessment prior to decontamination activities. Contamination may be removed prior to approval of the work plan as necessary to abate an imminent threat to human health or the environment. If there was a fire or an explosion in the contaminated portion of the property that appears to have compromised its structural integrity, the decontamination specialist or owner of record shall obtain a structural assessment of the contaminated portion of the property prior to initiating the preliminary assessment.

(2) To conduct the preliminary assessment, the decontamination specialist or owner of record shall:

(a) request and review copies of any law enforcement, state agency or other report regarding illegal drug activity or suspected illegal drug activity at the property;

(b) evaluate all information obtained regarding the nature and extent of damage and contamination;

(c) determine the method of illegal drug manufacturing used;

_____ (d) determine the chemicals involved in the illegal drug operation;

_____ (e) determine specific locations where processing and illegal drug activity took place or was suspected and where hazardous materials were stored and disposed;

_____ (f) use all available information to delineate areas highly suggestive of contamination;

_____ (g) develop procedures to safely enter the property in order to conduct a preliminary assessment;

_____ (h) wear appropriate personal protective equipment for the conditions assessed;

_____ (i) visually inspect all portions of the property, including areas outside of any impacted structure to document where stained materials or surfaces are visible, drug production took place, hazardous materials were stored, and burn pits or illegal drug operation trash piles may have been or are currently present;

_____ (j) determine whether the property contains a septic system on-site and if there has been a release to the system as a result of the illegal drug operations;

_____ (k) determine the locations of the ventilation system components in the areas highly suggestive of contamination;

_____ (l) conduct and document appropriate testing for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property using instruments such as a LEL/O₂ meter, pH paper, PID, FID, or equivalent equipment; and

_____ (m) if decontamination is not anticipated due to the lack of supporting evidence of decontamination, collect confirmation samples to demonstrate compliance with the decontamination standards using the methodology specified in this rule.

(3) If the preliminary assessment does not reveal the presence of contamination above the decontamination standards specified in this rule, the decontamination specialist or owner of record may request that the property be removed from the list of contaminated properties as specified in 19-6-903 provided that:

_____ (a) a final report documenting the preliminary assessment is submitted to the local health department by the owner of record and decontamination specialist if one was involved in conducting the preliminary assessment; and

_____ (b) the local health department concurs with the recommendations contained in the report specified in (a).

(4) If the preliminary assessment reveals the presence of contamination, the decontamination specialist or owner of record shall proceed according to R392-600-4 through R392-600-7. The contaminated portions of the property shall be kept secure against unauthorized access until the work plan has been submitted, any required permit is issued, and the property has been decontaminated to the standards established in this rule.

R392-600-4. Work Plan.

(1) Prior to performing decontamination of the property, the decontamination specialist or owner of record shall prepare a written work plan that contains:

_____ (a) complete identifying information of the property, such as street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home, trailer or boat;

_____ (b) if applicable, the certification number of the decontamination specialist who will be performing decontamination services on the contaminated portion of the property;

_____ (c) copies of the decontamination specialist's current certification;

_____ (d) photographs of the property;

_____ (e) a description of the areas highly suggestive of contamination, and areas that are considered not highly suggestive of contamination, including any information that may be available regarding locations where illegal drug processing was performed, hazardous materials were stored and stained materials and surfaces were observed;

_____ (f) a description of contaminants that may be present on the property;

_____ (g) results of any testing conducted for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property, such as by a LEL/O₂ meter, pH paper, PID, FID, or equivalent equipment;

_____ (h) a description of the personal protective equipment to be used while in or on the contaminated portion of the property;

_____ (i) the health and safety procedures that will be followed in performing the decontamination of the contaminated portion of the property;

_____ (j) a detailed summary of the decontamination to be performed based on the findings and conclusions of the Preliminary Assessment, which summary shall include:

_____ (i) all surfaces, materials or articles to be removed;

_____ (ii) all surfaces, materials and articles to be cleaned on-site;

_____ (iii) all procedures to be employed to remove or clean the contamination, including both areas highly suggestive of contamination as well as those areas that are not highly suggestive of contamination;

_____ (iv) all locations where decontamination will commence;

_____ (v) all containment and negative pressure enclosure plans; and

_____ (vi) personnel decontamination procedures to be employed to prevent the spread of contamination;

_____ (k) the shoring plan, if an assessment of the structural integrity was conducted and it was determined that shoring was necessary, including a written description or drawing that shows the structural supports required to safely occupy the building during decontamination;

_____ (l) a complete description of the proposed post-decontamination confirmation sampling locations, parameters, techniques and quality assurance requirements;

_____ (m) the names of all individuals who gathered samples, the analytical laboratory performing the testing, and a copy of the standard operating procedures for the analytical method used by the analytical laboratory;

_____ (n) a description of disposal procedures and the anticipated disposal facility;

_____ (o) a schedule outlining time frames to complete the decontamination process; and

_____ (p) all available information relating to the contamination and the property based on the findings and conclusions of the preliminary assessment.

(2) Prior to implementing the work plan, it must first be:

_____ (a) approved in writing by the owner of record and, if one is involved, the decontamination specialist who will execute the work plan; and

_____ (b) submitted to the local health department with jurisdiction over the county in which the property is located.

(3) The owner of record, and any decontamination specialist involved in executing the work plan shall retain the work plan for a minimum of three years after completion of the work plan and the removal of the property from the contaminated-properties list.

(4) All information required to be included in the work plan shall be keyed to or contain a reference to the appropriate subsection of this rule.

R392-600-5. Decontamination Procedures.

(1) The decontamination specialists, and owner of record shall comply with all applicable federal, state, municipal, and local laws, rules, ordinances, and regulations in decontaminating the property.

(2) The decontamination specialist or owner of record shall be present on the property during all decontamination activities.

(3) The decontamination specialist or owner of record shall conduct the removal of the contamination from the property, except for porous materials from areas not highly suggestive of contamination that may be cleaned as outlined in sub-section R392-600-5(12).

(4) The decontamination specialist or owner of record shall see that doors or other openings from areas requiring decontamination shall be partitioned from all other areas with at least 4-mil plastic sheeting or equivalent before beginning decontamination to prevent contamination of portions of the property that have not been impacted by illegal drug operations.

(5) Ventilation Cleaning Procedures.

(a) Air registers shall be removed and cleaned as outlined in subsection R392-600-5(12).

(b) All air register openings shall be covered by temporary filter media.

(c) A fan-powered HEPA filter collection machine shall be connected to the ductwork to develop negative air pressure in the ductwork.

(d) Air lances, mechanical agitators, or rotary brushes shall be inserted into the ducts through the air register openings to loosen all dirt, dust and other materials.

(e) The air handler units, including the return air housing, coils, fans, systems, and drip pan shall be cleaned as required in subsection R392-600-5(12).

(f) All porous linings or filters in the ventilation system shall be removed and properly disposed.

(g) The ventilation system shall be sealed off at all openings with at least 4-mil plastic sheeting, or other barrier of equivalent strength and effectiveness, to prevent recontamination until the contaminated portion of the property meets the decontamination standards in R392-600-6(2) and(3).

(6) Procedures for Areas Highly Suggestive of Contamination.

(a) All porous materials shall be removed and properly disposed. On site cleaning of this material is not allowed.

(b) All stained materials from the illegal drug operations shall be removed and properly disposed, unless the decontamination specialist or owner of record determines that cleaning and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the materials meet the decontamination standards contained in subsections R392-600-6(2) and (3). Only smooth and easily cleanable drug operation material surfaces may be decontaminated on site and only in accordance with R392-600-5(12).

(c) All non-porous surfaces may be cleaned to the point of stain removal and left in place or removed and properly disposed. Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance subsection R392-600-5(12). After on-site cleaning, the decontamination specialist or owner of record shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3).

(d) All exposed concrete surfaces shall be thoroughly cleaned as outlined in R392-600-5(12) and tested to meet the decontamination standards contained in R392-600-6(2) and (3) or may be removed and properly disposed.

(e) All appliances shall be removed and properly disposed, unless the decontamination specialist or owner of record determines that cleaning and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the materials meet the decontamination standards contained in subsections R392-600-6(2) and (3). Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance subsection R392-600-5(12). After on-site cleaning, the decontamination specialist or owner of record shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3). For appliances such as ovens that have insulation, a 100 square centimeter portion of the insulation shall also be tested. If the insulation does not meet the decontamination standards contained in R392-600-6(2) and R392-600-6(3), the insulated appliances shall be removed and properly disposed.

(7) Structural Integrity and Security Procedures.

If, as a result of the decontamination, the structural integrity or security of the property is compromised, the decontamination specialist or owner of record shall take measures to remedy the structural integrity and security of the property.

(8) Procedures for Plumbing, Septic, Sewer, and Soil.

(a) All plumbing inlets to the septic or sewer system, including sinks, floor drains, bathtubs, showers, and toilets, shall be visually assessed for any staining or other observable residual contamination. All plumbing traps shall be assessed for VOC concentrations with a PID or FID in accordance with Section R392-600-6(7). All plumbing traps shall be assessed for mercury vapors in accordance with Section R392-600-6(10) by using a mercury vapor analyzer unless the results of the preliminary assessment indicate that contamination was unlikely to have occurred. If VOC concentrations or mercury vapor concentrations exceed the decontamination standards contained in R392-600-6(2) and (3), the accessible plumbing and traps where the excess levels are found shall be removed and properly disposed, or shall be cleaned and tested to meet the decontamination standards contained in R392-600-6(2) and (3).

(b) The decontamination specialist or owner of record shall obtain documentation from the local health department or the local waste water company describing the sewer disposal system for the dwelling and include it in the final report. If the dwelling is connected to an on-site septic system, a sample of the septic tank liquids shall be obtained and tested for VOC concentrations unless the results of the preliminary assessment indicate that contamination was unlikely to have occurred.

(c) If VOCs are not found in the septic tank sample or are found at concentrations less than UGWQS and less than 700 micrograms per liter for acetone, no additional work is required in the septic system area, unless requested by the owner of the property.

(d) If VOCs are found in the septic tank at concentrations exceeding the UGWOS or exceeding 700 micrograms per liter for acetone the following applies:

(i) The decontamination specialist or owner of record shall investigate the septic system discharge area for VOCs, lead, and mercury unless there is clear evidence that mercury or lead was not used in the manufacturing of illegal drugs at the illegal drug operation;

(ii) The horizontal and vertical extent of any VOCs, mercury, and lead detected in the soil samples shall be delineated relative to background or EPA residential risk based screening concentrations contained in the document listed in R392-600-8.

(iii) If any of the VOCs, mercury, and lead used in the illegal drug operations migrated down to groundwater level, the decontamination specialist or owner of record shall delineate the vertical and horizontal extent of the groundwater contamination.

(iv) After complete characterization of the release, the decontamination specialist or owner of record shall remediate the impacted soils to concentrations below background or EPA residential risk based screening concentrations as contained in the document listed in R392-600-8 and any impacted groundwater to concentrations below the UGWOS and below 700 micrograms per liter for acetone.

(v) The contents of the septic tank shall be removed and properly disposed.

(e) The decontamination specialist or owner of record shall also notify the Utah Department of Environmental Quality, Division of Water Quality, if a release has occurred as a result of illegal drug operations to a single family septic system or a multiple family system serving less than 20 people.

(f) All sampling and testing pursuant to this section shall be performed in accordance with EPA sampling and testing protocol.

(9) Procedures for burn areas, trash piles and bulk wastes.

(a) The decontamination specialist or owner of record shall characterize, remove, and properly dispose of all bulk wastes remaining from the activities of the illegal drug operations or other wastes impacted by compounds used by the illegal drug operations.

(b) The decontamination specialist or owner of record shall examine the property for evidence of burn areas, burn or trash pits, debris piles, and stained areas suggestive of contamination. The decontamination specialist or owner of record shall test any burn areas, burn or trash pits, debris piles or stained areas with appropriate soil sampling and testing equipment, such as a LEL/O2 meter, pH paper, PID, FID, mercury vapor analyzer, or equivalent equipment to determine if the area is contaminated.

(c) If the burn areas, burn or trash pits, debris piles, or stained areas are not in a part of the property that has otherwise been determined to be highly suggestive of contamination, the decontamination specialist shall recommend to the owner of the property that these areas be investigated.

(d) If the burn areas, burn or trash pits, debris piles or stained areas are part of the contaminated portion of the property, the decontamination specialist or owner of record shall investigate and remediate these areas.

(e) The decontamination specialist or owner of record shall investigate burn areas, burn or trash pits, debris piles, or stained areas for the VOCs used by the illegal drug operations and lead and mercury, unless there is clear evidence that mercury or lead was not used in the manufacturing of illegal drugs at the illegal drug operations.

(f) The decontamination specialist or owner of record shall delineate the horizontal and vertical extent of any VOCs, lead, or

mercury detected in the soil samples relative to background concentrations or EPA residential risk based screening concentrations as contained in the document listed in R392-600-8.

(g) If any of the compounds used by the illegal drug operation migrated into groundwater, the decontamination specialist or owner of record shall delineate the vertical and horizontal extent of the groundwater contamination relative to the UGWOS and relative to the maximum contaminant level of 700 micrograms per liter for acetone.

(h) After complete characterization of the release, the decontamination specialist or owner of record shall remediate contaminated soils to background or EPA residential risk based screening concentrations as contained in the document listed in R392-600-8, and contaminated groundwater to concentrations at or below the UGWOS and at or below 700 micrograms per liter for acetone.

(i) All sampling and testing conducted under this section shall be performed in accordance with current EPA sampling and testing protocol.

(10) Procedures for areas not highly suggestive of contamination.

(a) Porous materials with no evidence of staining or contamination may be cleaned by HEPA vacuuming and one of the following methods:

(i) Steam cleaning: Hot water and detergent shall be injected into the porous materials under pressure to agitate and loosen any contamination. The water and detergent solution shall then be extracted from the porous material by a wet vacuum.

(ii) Detergent and water solution: porous materials shall be washed in a washing machine with detergent and water for at least 15 minutes. The porous materials shall be rinsed with water. This procedure shall be repeated at least two additional times using new detergent solution and rinse water.

(b) All non-porous surfaces such as floors, walls, ceilings, mirrors, windows, doors, appliances, and non-fabric furniture shall be cleaned as outlined in subsection R392-600-5(12).

(c) Doors or other openings to areas with no visible contamination shall be partitioned from all other areas with at least 4-mil plastic sheeting or equivalent after being cleaned to avoid recontamination.

(d) Spray-on acoustical ceilings shall be left undisturbed, and shall be sampled and tested for asbestos and for contamination to determine whether ceilings meet the decontamination standards contained in R392-600-6(2) and (3), and if in need of removal, whether asbestos remediation protocols are applicable. If the materials exceed the standards, the decontamination specialist or owner of record shall properly remove and dispose of them.

(e) All exposed concrete surfaces shall be thoroughly cleaned as outlined in subsection R392-600-5(12).

(11) Decontamination procedures for motor vehicles.

If an illegal drug operation is encountered in a motor vehicle, the decontamination specialist or owner of record shall conduct a Preliminary Assessment in the manner described in this rule to determine if the vehicle is contaminated. If it is determined that the motor vehicle is contaminated and the vehicle cannot be cleaned in a manner consistent with this rule, the motor vehicle may no longer be occupied. The vehicle shall also be properly disposed.

(12) Cleaning Procedure.

For all items, surfaces or materials that are identified as easily cleanable and for which the work plan indicates they will be decontaminated on site, the decontamination specialist or owner of

record shall wash them with a detergent and water solution and then thoroughly rinse them. This procedure shall be repeated at least two additional times using new detergent solution and rinse water. The decontamination specialist or owner of record shall test all surfaces where decontamination on site has been attempted to verify compliance with the decontamination standards in R392-600-6(2) and R392-600-6(3).

(13) Waste Characterization and Disposal Procedures.

The Hazardous Waste Rules of R315-1 through R315-101, the Solid Waste Rules of R315-301 through R315-320 and the Illegal Drug Operations Decontamination Standards regulate the management and disposal of hazardous waste and contaminated debris generated during decontamination of an illegal drug operations. The decontamination specialist and owner of record shall comply with these rules and meet the following criteria.

(a) No waste, impacted materials or contaminated debris from the decontamination of illegal drug operations may be removed from the site or waste stream for recycling or reuse without the written approval of the local Health Department.

(b) All items removed from the illegal drug operations and waste generated during decontamination work shall be properly disposed.

(c) All liquid waste, powders, pressurized cylinders and equipment used during the production of illegal drugs shall be properly characterized by sampling or testing prior to making a determination regarding disposal or the waste shall simply be considered hazardous waste and properly disposed, except the waste shall not be deemed to be household hazardous waste.

(d) All impacted materials and contaminated debris that are not determined by the decontamination specialist or owner of record to be a hazardous waste may be considered a solid waste and properly disposed.

(e) All Infectious Waste shall be managed in accordance with Federal, State and local requirements.

(f) The disturbance, removal and disposal of asbestos must be done in compliance with all Federal, State, and local requirements including the requirements for Asbestos Certification, Asbestos Work Practices and Implementation of Toxic Substances Control Act, Utah Administrative Code R307-801.

(g) The removal and disposal of lead based paint must be done in compliance with all Federal, State, and local requirements including the requirements for Lead-Based Paint Accreditation, Certification and Work Practice Standards, Utah Administrative Code R307-840.

(h) The decontamination specialist and owner of record shall comply with all Federal, State, Municipal, County or City codes, ordinances and regulations pertaining to waste storage, manifesting, record keeping, waste transportation and disposal.

R392-600-6. Confirmation Sampling and Decontamination Standards.

(1) The decontamination specialist or owner of record shall take and test confirmation samples after decontamination to verify that concentrations are below the decontamination standards prior to the submittal of a final report. Samples are not required if a contaminated surface has been removed and replaced, unless there is evidence that the area has been re-contaminated. All decontaminated areas and materials, areas not highly suggestive of contamination, and surfaces

that have not been removed shall be sampled for compliance with the standards in Table 1.

(2) If the decontamination standards are not achieved, the decontamination specialist or owner of record shall perform additional decontamination and re-sample to confirm the surface or area meets the decontamination standards specified in Table 1.

TABLE 1

COMPOUND	DECONTAMINATION STANDARD
Red Phosphorus	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Iodine Crystals	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Methamphetamine	Less than or equal to 1.0 microgram Methamphetamine per 100 square centimeters
Ephedrine	Less than or equal to 0.1 microgram Ephedrine per 100 square centimeters
Pseudoephedrine	Less than or equal to 0.1 microgram Pseudoephedrine per 100 square centimeters
VOCs in Air	Less than or equal to 1 ppm
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 microgram Ecstasy per 100 square centimeters

(3) The decontamination specialist or owner of record shall also conduct sampling and testing for all of the metals listed in Table 2 unless there is clear evidence that these metals were not used in the illegal drug operations. If Table 2 contaminants are present, the decontamination specialist or owner of record shall decontaminate the affected areas and sample until they meet the decontamination standards in Table 2.

TABLE 2

COMPOUND	DECONTAMINATION STANDARD
Lead	Less than or equal to 4.3 micrograms Lead per 100 square centimeters
Mercury	Less than or equal to 3.0 micrograms Mercury per cubic meter of air

(4) Confirmation sampling procedures.

(a) All sample locations shall be photographed.

(b) All samples shall be obtained from areas representative of the materials or surfaces being tested. Samples shall be collected from materials or surfaces using wipe samples and shall be biased toward areas where contamination is suspected or confirmed or was known to be present prior to decontamination.

(c) All samples shall be obtained, preserved, and handled and maintained under chain-of-custody protocol in accordance with

industry standards for the types of samples and analytical testing to be conducted.

(d) The individual conducting the sampling shall wear a new pair of gloves to obtain each sample.

(e) All reusable sampling equipment shall be decontaminated prior to sampling.

(f) All testing equipment shall be properly equipped and calibrated for the types of compounds to be analyzed.

(g) Cotton gauze, 3" x 3" 12-ply, in sterile packages, shall be used for all wipe sampling. The cotton gauze shall be wetted with analytical grade methanol for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

(h) After sampling, each wipe sample shall be placed in a new clean sample container and capped tightly. Recommended containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags shall not be used. The sample container shall be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container shall be refrigerated until delivered to an analytical laboratory.

(i) Each sample shall be analyzed for methamphetamine, ephedrine, pseudoephedrine, and ecstasy depending upon the type of illegal drug operations using NIOSH Manual of Analytical Method (NMAM) 9106 (or the proposed 9106 method if it is not yet approved) or equivalent method approved by the Utah Department of Health.

(5) Confirmation sampling from areas highly suggestive of contamination.

(a) Samples collected from areas highly suggestive of contamination shall be by grab samples that are not combined with other samples.

(b) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from each room of the property where illegal drug operations occurred, hazardous materials were stored and where staining or contamination are or were present. The three samples shall be obtained from a nonporous section of the floor, one wall, and the ceiling in each room or any other location where contamination is suspected.

(c) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from different areas of the ventilation system, unless the system serves more than one unit or structure. If the system serves more than one unit or structure, samples shall be collected from a representative distribution of the system as well as the corresponding areas that it serves until the contamination is delineated, decontaminated, and determined to be below the decontamination standards established in this rule.

(d) If there is a kitchen, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated including the counter top, sink, or stove top, and from the floor in front of the stove top or any other location where contamination is suspected.

(e) If there is a bathroom, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated including the counter top, sink, toilet, or the shower/bath tub and any other location where contamination is suspected.

(f) If there are any appliances, one 10 cm. x 10 cm. area (100 square centimeters) shall be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, each

wipe sample may be a composite of up to three 100 square centimeter areas on three separate appliances, provided that the surfaces most likely to be contaminated are tested.

(g) If there is any other enclosed space where illegal drug operations occurred, hazardous materials were stored, or where staining or contamination is present, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated.

(h) Each wipe sample shall be placed in a new clean sample container and capped tightly. Recommended containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags shall not be used.

(6) Confirmation sampling from areas not highly suggestive of contamination.

Samples shall be collected in a manner consistent with the confirmation sampling described in Section R392-600-6(5). The samples may be combined together to form one sample per room or sampling area.

(7) VOC sampling and testing procedures.

(a) A properly calibrated PID or FID capable of detecting VOCs shall be used for testing. The background concentration of VOCs shall be obtained by testing three exterior areas outside the areas highly suggestive of contamination and in areas with no known or suspected sources of VOCs. All VOC readings shall be recorded for each sample location.

(b) At least three locations in areas highly suggestive of contamination shall be tested for VOC readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

(c) All accessible plumbing traps shall be tested for VOCs by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

(8) Testing procedures for corrosives.

(a) Surface pH measurements shall be made using deionized water and pH test strips with a visual indication for a pH between 6 and 8. The pH reading shall be recorded for each sample location.

(b) For horizontal surfaces, deionized water shall be applied to the surface and allowed to stand for at least three minutes. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

(c) For vertical surfaces, a cotton gauze, 3" x 3" 12-ply, in sterile packages, shall be wetted with deionized water and wiped over a 10 cm. x 10 cm. area at least five times in two perpendicular directions. The cotton gauze shall then be placed into a clean sample container and covered with clean deionized water. The cotton gauze and water shall stand in the container for at least three minutes prior to testing. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

(d) pH testing shall be conducted on at least three locations in each room within the areas highly suggestive of contamination.

(9) Lead Sampling and Testing Procedures.

(a) Unless there is clear evidence that lead was not used in the manufacturing of methamphetamine, or ecstasy at the illegal drug operations, lead sampling shall be conducted as follows:

(i) Cotton gauze, 3" x 3" 12-ply, in sterile packages shall be used for wipe sampling. The cotton gauze shall be wetted with analytical grade 3 per cent nanograde nitric acid for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

(ii) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be sampled in each room within the areas highly suggestive of contamination; and

(b) After sampling, each wipe sample shall be placed in a new clean sample container and capped tightly. The sample container shall be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container shall be delivered to an analytical laboratory that uses EPA Method 6010B or an equivalent method approved by the Utah Department of Health.

(c) The sample shall be analyzed for lead using EPA Method 6010B or equivalent.

(10) Mercury Sampling and Testing Procedures.

(a) A properly calibrated mercury vapor analyzer shall be used for evaluating the decontaminated areas for the presence of mercury. All mercury readings shall be recorded for each sample location.

(b) At least three locations in each room within the areas highly suggestive of contamination shall be tested for mercury vapor readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

(c) All accessible plumbing traps shall be tested for mercury by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

(11) Septic tank sampling and testing procedures.

(a) All sampling and testing shall be performed in accordance with current EPA sampling and testing protocol.

(b) The liquid in the septic tank shall be sampled with a new clean bailer or similar equipment.

(c) The liquid shall be decanted or poured with minimal turbulence into three new VOA vials properly prepared by the analytical laboratory.

(d) The VOA vials shall be filled so that there are no air bubbles in the sealed container. If air bubbles are present, the vial must be emptied and refilled.

(i) The sample vials shall be properly labeled with at least the date, time, and sample location.

(ii) The sample vials shall be refrigerated until delivered to the analytical laboratory.

(iii) The sample shall be analyzed using EPA Method 8260 or equivalent.

(12) Confirmation sampling by Local Health Departments.

The local health department may also conduct confirmation sampling after decontamination is completed and after the final report is submitted to verify that the property has been decontaminated to the standards outlined in this rule.

R392-600-7. Final Report.

(1) A final report shall be:

(a) prepared by the decontamination specialist or owner of record upon completion of the decontamination activities;

(b) submitted to the owner of the decontaminated property and the local health department of the county in which the property is located; and

(c) retained by the decontamination specialist and owner of record for a minimum of three years.

(2) The final report shall include the following information and documentation:

(a) complete identifying information of the property, such as street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home or motorized vehicle;

(b) the name and certification number of the decontamination specialist who performed the decontamination services on the property;

(c) a detailed description of the decontamination activities conducted at the property, including any cleaning performed in areas not highly suggestive of contamination;

(d) a description of all deviations from the approved work plan;

(e) photographs documenting the decontamination services and showing each of the sample locations;

(f) a drawing or sketch of the areas highly suggestive of contamination that depicts the sample locations and areas that were decontaminated;

(g) a description of the sampling procedure used for each sample;

(h) a copy of the testing results from testing all samples, including testing for VOCs, corrosives, and if applicable, lead and mercury, and testing performed by an analytical laboratory;

(i) a written discussion interpreting the test results for all analytical testing on all samples;

(j) a copy of any asbestos sampling and testing results;

(k) a copy of the analytical laboratory test quality assurance data on all samples and a copy of the chain-of-custody protocol documents;

(l) a summary of the waste characterization work, any waste sampling and testing results, and transportation and disposal documents, including bills of lading, weight tickets, and manifests for all materials removed from the property;

(m) a summary of the decontamination specialist or owner of record's observation and testing of the property for evidence of burn areas, burn or trash pits, debris piles, or stained areas;

(n) a written discussion and tables summarizing the confirmation sample results with a comparison to the decontamination standards outlined in this rule; and

(o) an affidavit from the decontamination specialist and owner of record that the property has been decontaminated to the standards outlined in this rule.

(3) All information required to be included in the final report shall be keyed to or contain a reference to the appropriate subsection of this rule.

R392-600-8. Reference.

The document: U.S. Environmental Protection Agency, Region 9: Superfund Preliminary Remediation Goals (PRG) Table, October 2004, is incorporated by reference.

KEY: illegal drug operations, methamphetamine decontamination

Date of Enactment or Last Substantive Amendment: 2015

Authorizing, and Implemented or Interpreted Law: 19-6-906

**Transportation, Operations,
Maintenance
R918-7
Highway Sponsorship Programs**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39150

FILED: 02/20/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based upon comments received from interested parties during the comment period, the agency determined that one minor, but substantive, change is needed. (DAR NOTE: The original proposed new Rule R918-7 was published in the January 1, 2015, Bulletin under DAR No. 39004 and was made effective 02/20/2015).

SUMMARY OF THE RULE OR CHANGE: This filing changes the distance that acknowledgement signs and acknowledgement plaques for traveler service programs or safety programs, or other operational elements that are not roadside facilities, such as 511 Traveler Information (accessed by phone), the UDOT (Utah Department of Transportation) Traffic Application, and the UDOT Traffic Web Site may be from each other from three miles to one mile.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-201 and Section 72-6-403

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This change is technical and does not require any person or government entity to take any action. Additionally the effect of the change will not cause a change in the revenue streams, or in the expenses of any person or government entity. The state's budget will not be affected by this change.

◆ **LOCAL GOVERNMENTS:** This change is technical and does not require any person or government entity to take any action. Additionally the effect of the change will not cause a change in the revenue streams, or in the expenses of any person or government entity. Local governments will not be affected.

◆ **SMALL BUSINESSES:** This change is technical and does not require any person or government entity to take any action. Additionally the effect of the change will not cause a change in the revenue streams, or in the expenses of any person or government entity. Small businesses will not be affected.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This change is technical and does not require any person or government entity to take any action. Additionally the effect of the change will not cause a change in the revenue streams, or in the expenses of any person or government

entity. Persons other than small businesses, businesses, or local governments will not be affected by the change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change is technical and does not require any person or government entity to take any action. Additionally the effect of the change will not cause a change in the revenue streams, or in the expenses of any person or government entity. Affected persons will not experience any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The agency is making this minor change to the original proposed new rule after considering a suggestion that was received from a person who has more experience working with the subject matter of the rule than anyone with the agency has. The suggestion was discussed by the members of the team responsible for writing the new rule, and they were in agreement that the change should be made.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/22/2015

AUTHORIZED BY: Carlos Braceras, Executive Director

R918. Transportation, Operations, Maintenance.

R918-7. Highway Sponsorship Programs.

R918-7-1. Authority.

This rule is authorized by Utah Code Section 72-6-403 and is promulgated pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act and Transportation Code Section 72-1-201.

R918-7-2. Purpose and Background.

Sections 72-6-401, 72-6-402, and 72-6-403 enact the "Highway Sponsorship Programs", and define the parameters around which sponsorship programs may be operated by the Department. Section 72-6-403 directs the Department to make and enforce rules governing certain aspects of such programs. Sponsorship programs allow for private sponsorship of Department operational activities, facilities or highway-related services and

programs. The purpose of the sponsorship of a roadside facility or traveler service program is to provide a product, service, or monetary contribution which will generate an ongoing revenue stream or cost savings to support the operation and maintenance of the Department's network of roadside facilities and/or of its traveler service programs.

R918-7-3. Definitions.

(1) "Acknowledgement plaque" means a plaque that is intended only to inform the traveling public that a highway-related service, product, or monetary contribution has been sponsored by a person, firm, or entity. Acknowledgment plaques are installed only in the same sign assembly below a primary sign that provides the road user specific information on accessing the service being sponsored. Consistent with the MUTCD, a plaque legend is displayed on a separate substrate from that of the sign below which it is mounted.

(2) "Acknowledgement Sign" has the same meaning as defined in Section 72-6-402.

(3) "Advertisement/advertising sign" means a sign or other device that promotes commercial products or services through slogans, information on where to obtain the products and services, or other means.

(4) "Department" and "UDOT" both mean the Utah Department of Transportation.

(5) "Facility within a Rest Area" means an enclosed building, or freestanding bulletin board or partial enclosure within a Rest Area or Welcome Center, constructed by the Department for the purpose of providing specific information to the motorist as to services, places of interest within the State and other such information as the Department may consider desirable. This definition is intended to be consistent with 23 C.F.R. 752.7, which is hereby incorporated and made a part of this Rule R918-7-3(5).

(6) "FHWA" means the Federal Highway Administration

(7) "Legend" has the same meaning as in the MUTCD.

(8) "Main Traveled Way" means the portion of the roadway for the movement of vehicles, exclusive of the shoulders, ramps, berms, sidewalks, and parking lanes.

(9) "MUTCD" means the Manual on Uniform Traffic Control Devices, most recent edition as adopted by the Department in accordance with Section 41-6a-301, and Utah Administrative Rule R920-1, commonly called the Utah MUTCD.

(10) "Recipient agency" means an organization that directly receives the highway-related service, product, or monetary contribution from the sponsor entity. The recipient agency might be the Department, or a contractor engaged by the Department to administer the highway-related service and/or manage the sponsorship program.

(11) "Roadside Facility" means a facility constructed to support the highway system. Examples include Rest Areas, Welcome Centers, View Areas, Scenic Overlooks, Ports of Entry, Chain-Up Areas, etc.

(12) "RWIS" means Road Weather Information System.

(13) "Sponsor" means a person, firm, or entity that provides a monetary contribution, or highway-related service or product, to the recipient agency, in return for recognition in some form for doing so (such as logo display on an acknowledgement sign or plaque).

(14) "Sponsorship agreement" has the same meaning as defined in Section 72-6-402.

(15) "Sponsorship program" means a program that allows a person, a firm, or an entity to sponsor an element of the Department's highway operation through the provision of highway-related services, products, or monetary contributions.

(16) "Traveler Service Programs" means systems developed to support the collection, analysis, and distribution of information about UDOT's highway network, or programs used to positively impact traffic operations and maintenance. These include systems such as UDOT's Internet web pages, UDOT Traffic Mobile Application (UDOT Traffic App), Traveler Information 511 System, Express Lanes, Zero Fatalities, and others.

(17) "Visible" means the sign legend is capable of being seen by the viewer from the main traveled way

R918-7-4. Allowable Sponsorship Programs.

(1) The following elements of the Department's operation are eligible for sponsorship:

(a) Roadside Facilities, physical facilities directly adjacent to highway infrastructure including:

- (i) Rest Areas,
- (ii) Welcome Centers,
- (iii) View Areas,
- (iv) Scenic Overlooks,
- (v) Ports of Entry,
- (vi) Chain-Up Areas, and
- (vii) Runaway Truck ramps;

(b) Litter control;

(c) Traveler services, including:

- (i) 511 Traveler Information system,
- (ii) UDOT Traffic App,
- (iii) UDOT Web Site,
- (iv) RWIS stations,
- (v) Traffic cameras; and
- (vi) Express Lanes;

(d) Safety programs, including:

- (i) Zero Fatalities,
- (ii) Student Neighborhood Access Program (SNAP),
- (iii) Bicycle Safety,
- (iv) Truck Safety;

(e) Other programs that positively impact traffic operations and maintenance.

R918-7-5. Acknowledgement Signs and Plaques - Size, Placement, and Content Restrictions.

(1) The placement of acknowledgement signs or plaques for Roadside Facility sponsorship is prohibited on the main traveled way. Such acknowledgement signs or plaques are permissible within the Roadside Facility, provided that they are placed such that their legend is not visible from any main traveled way, and such that they do not pose safety risks to Roadside Facility users. Acknowledgement signs or plaques acknowledging sponsorship of Traveler Service Programs may be placed along the main traveled way, as long as they conform to the design, size, and spacing requirements set forth in this Rule.

(2) All acknowledgment signs shall meet the general principles and specific criteria prescribed in the MUTCD, including

the provisions for acknowledgment signs in Section 2H.08. Furthermore, these acknowledgment signs shall not be placed at key decision points where a driver's attention is more appropriately focused on traffic control devices, roadway geometry, or traffic conditions.

(3) Acknowledgment signs and acknowledgment plaques:

(a) Shall meet all design and placement criteria for acknowledgment signs as covered in Part 2 of the MUTCD and all sign design principles covered in the Standard Highway Signs and Markings Book;

(b) When located on a bikeway or shared-use path, should also be appropriately sized commensurate with the legibility needs of the bikeway or path user;

(c) Shall be placed near the site(s) being sponsored, consistent with the purpose and principles of traffic control devices in Parts 1 and 2 of the MUTCD;

(d) May not display any directional information, in accordance with Section 2H.08 of the MUTCD;

(e) May not display telephone numbers, Internet addresses, or other legends prohibited by the MUTCD (consistent with Section 2H.08 of the MUTCD) for the purpose of contacting the sponsoring entity or to obtain information on the sponsorship program, such as how to become a sponsor at an available site; and

(f) In accordance with the provisions of the MUTCD, the acknowledgment signs shall not be appended to any other sign, sign assembly, or other traffic control device.

(g) Acknowledgment signs and acknowledgment plaques shall remain in place only for the duration of the agreement.

(4) For sponsorship of travel service programs that are not site-specific, such as 511 Traveler Information, Radio-Weather, and Radio-Traffic, an acknowledgment plaque may be mounted in the same sign assembly below the General Service signs for these programs. The acknowledgment plaque is a horizontally oriented rectangle, with the horizontal dimension longer than the vertical dimension. The size of the acknowledgment plaque shall not exceed the lesser of 1/3 of the area of the General Service sign below which it is mounted or 24 square feet. An acknowledgment plaque shall not exceed 1/3 of the area of the largest size prescribed in the MUTCD for a specified standard sign below which the acknowledgment plaque is mounted, even where the standard sign is enlarged in accordance with Sections 2A.11 and 2I.01 of the MUTCD or where the size of a standard sign used is designated as Oversized in the MUTCD for its application. Where the legend of a standard sign is modified based on the Utah MUTCD, and results in a sign size larger than that of the standard sign in the National MUTCD, the size of the corresponding acknowledgment plaque is governed by the size of the standard sign in the National MUTCD with the standard, unmodified legend. The sponsor legend on an acknowledgment plaque shall not exceed 1/3 of the area of the plaque.

(5) The provision of highway-related services, products, or monetary contributions that occurs through naming sponsorship (sometimes referred to as "naming rights") of officially mapped named or numbered highways is, by definition, sponsorship. Consistent with Section 2H.08 of the MUTCD, an unofficial overlay or secondary designation in the name of a sponsor on the official highway name or number through proclamation, contract, agreement, or other means, may be acknowledged within the highway right-of-way only with an acknowledgment sign. An

acknowledgment sign may not display a legend that states, either explicitly or by implication, that the highway is named for the sponsor.

(6) In accordance with Section 2H.08 of the MUTCD, in order to maintain the recognition value of official devices used for traffic control, acknowledgment signs and acknowledgment plaques shall only take the form of static, non-changeable, non-electronic legends.

(7) Except as provided for acknowledgment plaques in Paragraph R918-7-5(4) of this Rule, acknowledgment sign and acknowledgment plaque messages shall not be interspersed, combined, or alternated with other official traffic control messages, either in the same display space, by adjacency in the same assembly, or by adjacency of multiple assemblies whose longitudinal separation does not meet the placement criteria contained in the MUTCD, including when placed on opposite sides of the roadway facing the same direction of travel.

(8) Consistent with the provisions of Section 2H.08 of the MUTCD, due to the limit on their maximum overall size, acknowledgment signs and acknowledgment plaques may not be overhead installations. Only roadside, post-mounted installations of acknowledgment signs and acknowledgment plaques are allowed.

(9) In order that the focus remains on the service provided rather than the sponsoring entity, the sponsor logo area on an acknowledgment sign or acknowledgment plaque shall be a horizontally oriented rectangle, consistent with the MUTCD provisions on business logos in Chapter 2J of the MUTCD. The width of this rectangle shall be at least 1.67 times its height, the total area of which may not exceed the maximum referenced or specified elsewhere in this Rule and in the MUTCD. The word legend describing the activity, such as "SPONSORED BY," shall be composed of upper-case lettering of the FHWA Standard Alphabets at least 3 inches high on conventional roads and at least 4 inches high on expressways and freeways.

(10) When a graphic logo is used to represent the sponsor (instead of a word legend using the FHWA Standard Alphabets), the logo shall be the principal trademarked official logo that represents the corporate name of the sponsor. Secondary logos or representations, even if trademarked, copyrighted, or otherwise protected, are classified as promotional advertising and may not be allowed in accordance with Section 1A.01 of the MUTCD.

(11) An alternative business name whose sole or primary purpose appears to be to circumvent the provisions of the MUTCD is classified as promotional advertising rather than an acknowledgment of a sponsoring entity of a highway-related service. In accordance with Section 1A.01 of the MUTCD, promotional advertising shall not be allowed on any traffic control device or its supports.

(12) Acknowledgment signs or acknowledgment plaques that include displays mimicking advertising shall not be allowed. The determination of whether a sign mimics or constitutes advertising lies with the FHWA. In accordance with Section 2H.08 of the MUTCD, a brief Department-wide slogan may be displayed on an acknowledgment sign. The slogan displayed is that of the program name, such as "ADOPT-A-HIGHWAY." Slogans for companion, supplementary, or other programs unrelated to the service being sponsored shall not be displayed on any acknowledgment sign or acknowledgment plaque.

(13) Acknowledgement signs and acknowledgement plaques for Traveler Service Programs or safety programs, or other operational elements that are not Roadside Facilities, such as 511 Traveler Information, UDOT Traffic App, and UDOT Traffic Web Site, shall not be placed any closer than ~~three~~one (1~~[3]~~) mile[s] from any other acknowledgement sign or acknowledgement plaque in the same direction on the main traveled way. The ~~three~~one-mile restriction applies regardless of which travel service program or safety program sponsorship is being acknowledged, with the exception that Sponsor-A-Highway litter control recognition signs may be placed independently of signs acknowledging any other program. Sponsor-A-Highway litter control recognition signs may be placed as close as one (1) mile from each other if facing in the same direction.

(14) The acknowledgement sign or acknowledgement plaque shall not:

- (a) Create a safety concern, or
- (b) Interfere with the free and safe flow of traffic.

(15) No acknowledgement sign or plaque shall promote or acknowledge sponsorship of:

- (a) Any substance or activity that is illegal for minors, such as alcohol, tobacco, drugs, or gambling,
- (b) Any political party, candidate, purpose, or issue; or,
- (c) Sexual material.

R918-7-6. Advertising - Size, Placement, and Content Restrictions.

(1) The placement of any advertising within the right of way, except in a Facility within a Rest Area or Welcome Center, is prohibited. Any advertisement within Rest Areas and Welcome Centers facilities shall meet all of the following:

(a) The advertising legend shall not be visible from the main traveled way; and,

(b) The advertisement shall not resemble any traffic control device; and,

(c) Signed advertisement shall only consist of printed or electronic media affixed within the interior of the building, or if the facility is in the form of a bulletin board or a partial enclosure, on the side facing away from any main traveled way; and,

(d) Any audio advertisement shall only be inside of a doored building so that the sound shall not be heard outside of building when the door is closed; and,

(e) Individual mounted signs and electronic displays are limited to four (4) feet by eight (8) feet in either portrait or landscape format.

(2) Any advertising sign or other advertisement shall not:

- (a) Create a safety concern, or
- (b) Interfere with the free and safe flow of traffic.

(3) No advertising sign or other advertisement shall promote:

- (a) Any substance or activity that is illegal for minors, such as alcohol, tobacco, drugs, or gambling;
- (b) Any political party, candidate, purpose, or issue; or,
- (c) Sexual material.

KEY: maintenance, rest area, sponsorships, traveler services
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 72-6-401;
72-6-402; 72-6-403; 23 CFR 752.7

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 April 14, 2015.

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 Division 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 Division of Administrative Rules.

From the end of the 30-day waiting period through July 13, 2015, an agency may notify the Division 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 Division 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

**Commerce, Occupational and
Professional Licensing
R156-47b
Massage Therapy Practice Act Rule**

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 38915
FILED: 02/23/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a 11/18/2014 rule hearing, public comments, and further review of the proposed rule amendments by the Board of Massage Therapy and the Division, additional amendments are being proposed.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-47b-102(2), minor wording changes were made to the definition of "body wrap". In Subsection R156-47b-102(8), an additional industry organization of "Butterfly Expressions, LLC" has been added. In Subsection R156-47b-102(13), the definition for "ortho-bionomy" is being deleted in this filing. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the November 15, 2014, issue of the Utah State Bulletin, on page 16. 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 change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-47b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No additional costs or saving are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed amendment under DAR No. 38915.
- ◆ **LOCAL GOVERNMENTS:** No additional costs or saving are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed amendment under DAR No. 38915.
- ◆ **SMALL BUSINESSES:** No additional costs or saving are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed amendment under DAR No. 38915.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No additional costs or saving are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed amendment under DAR No. 38915.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs or saving are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed amendment under DAR No. 38915.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing establishes definitions for the terms "body wrap" and "industry organization" and removes an examination that is currently required for licensure. The definitions add clarity to existing rules governing the scope of practice for massage therapists. A business that has been operating beyond the permissible scope will be required to change its practices. It is possible that such a business will experience decreased revenue; any such impact is anticipated to be minimal and cannot be estimated. Businesses will not be affected by the amended licensing requirements, which apply only to individuals.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov
- ◆ Maria Skedros (Lohse) by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at mskedros@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2015

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-47b. Massage Therapy Practice Act Rule.
R156-47b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 47b, as used in Title 58, Chapters 1 and 47b, or this rule:

- (1) "Accrediting agency" means an organization, association or commission nationally recognized by the United States Department of Education as a reliable authority in assessing the quality of education or training provided by the school or institution.
- (2) "Body wrap" means a body treatment [which] that:
 - (a) may include one or more therapeutic preparations;
 - (b) is not for cosmetic purposes; and

(c) ~~[involves covering the body fully or partially with material]~~ maintains modesty by draping the body fully or partially.

(3) "Clinic" means performing the techniques and skills learned as a student under the curriculum of a registered school or an accredited school on the public, while in a supervised student setting.

(4) "Direct supervision" as used in Subsection 58-47b-302(3)(e) means that the apprentice supervisor, acting within the scope of the supervising licensee's license, is in the facility where massage is being performed and directs the work of an apprentice pursuant to this chapter under Subsection R156-1-102a(4)(a) while the apprentice is engaged in performing massage.

(5) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, outside a school of massage meeting the standards in Section R156-47b-302 including internet, audio/visual recordings, mail or other correspondence.

(6) "FSMTB" means the Federation of State Massage Therapy Boards.

(7) "Hands on instruction" means direct experience with or application of the education or training in either a school of massage therapy or apprenticeship.

(8) "Industry organization", as used in Subsection 58-47b-304(1)(m), means any of the following organizations:

(a) American FootZonology Practitioners Association (AFZPA);

(b) American Reflexology Certification Board (ARCB);

~~(c) Butterfly Expressions, LLC;~~

~~(d)~~ Reflexology Association of America (RAA);

~~(e)~~ Society of Ortho-Bionomy International; or

~~(f)~~ Utah Foot Zone Association.

(9) "Lymphatic massage" means a method using light pressure applied by the hands to the skin in specific maneuvers to promote drainage of the lymphatic fluid from the tissue.

(10) "Manipulation", as used in Subsection 58-47b-102(6)(b), means contact with movement, involving touching the clothed or unclothed body.

(11) "Massage client services" means practicing the techniques and skills learned as an apprentice on the public in training under direct supervision.

(12) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.

~~(13) ["Ortho-Bionomy" means a structural and neurological system of healing exempt from licensure in accordance with Subsection 58-47b-3034(1)(m) limited to:~~

~~(a) non-invasive, gentle movement;~~

~~(b) comfortable positioning;~~

~~(c) brief compression; and~~

~~(d) subtle contact to stimulate self-correcting reflexes to:~~

~~(i) relax muscles;~~

~~(ii) release tension;~~

~~(iii) relieve joint and muscle pain;~~

~~(iv) reduce stress; and~~

~~(v) re-establish structural alignment.~~

~~(14)~~ "Recognized school" means a school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that jurisdiction.

~~(15)~~ "Unprofessional conduct" as defined in Title 58, Chapters 1 and 47b, is further defined, in accordance with Subsection 58-1-203(1)(e) in Section R156-47b-502.

.....

KEY: licensing, massage therapy, massage therapist, massage apprentice

Date of Enactment or Last Substantive Amendment: ~~2014~~2015

Notice of Continuation: May 1, 2012

Authorizing, Implemented, or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101

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 <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

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

Environmental Quality, Environmental Response and Remediation

R311-500

Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39146
FILED: 02/18/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 19, Chapter 6, Part 9, the Illegal Drug Operations Site Reporting and Decontamination Act, was enacted May 2004. The statute requires the Department of Environmental Quality (DEQ), Solid and Hazardous Waste Control Board to establish within the DEQ/Division of Environmental Response and Remediation (DERR): a) certification standards for any private person, firm, or entity involved in the decontamination of contaminated property; and b) a process for revoking the certification of a decontamination specialist who fails to maintain the certification standards.

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

regarding Rule R311-500 since the last five-year review of the rule conducted in 2010.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R311-500 should continue since Title 19, Chapter 6, Part 9, requires the DEQ/DERR to develop and maintain a certification program for decontamination specialists. The statute also provides a mechanism for certified decontamination specialists to help remove property from the contamination list.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND
REMEDICATION
FIRST FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Bill Rees by phone at 801-536-4167, by FAX at 801-536-4242, or by Internet E-mail at brees@utah.gov

AUTHORIZED BY: Brent Everett, Director

EFFECTIVE: 02/18/2015

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-309

Medicare Drug Benefit Low-Income Subsidy Determination

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39145
FILED: 02/18/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department the authority to adopt, amend, or rescind rules as necessary to implement the Medicaid program, and Section 26-18-3 requires the Department to implement the Medicaid program through administrative rules. In addition, 42 CFR 423.904 requires the Department to make eligibility determinations and redeterminations for low-income premium and cost-sharing subsidies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it sets forth the requirements for completing eligibility determinations for the Medicare Part D low-income subsidies as required by the Medicare Modernization Act.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 02/18/2015

Insurance, Administration

R590-140

Reference Filings of Rate Service
Organization Prospective Loss Costs

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39147
FILED: 02/18/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 31A-2-201(1) and 31A-2-201(3)(a) provide general rulewriting authority to the commissioner to adopt rules that will implement provisions of the insurance code. This rule focuses on the requirements for a rate service organization filing loss cost factors for property and casualty insurers as specified in Sections 31A-19a-203 and 31A-19a-205.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule continue in force. The rule provides instruction to rate service organizations concerning the filings they will use in Utah to be in compliance with the insurance code. It is a key component in the regulation of loss cost filings developed by all rate service organizations, such as the National Council on Compensation Insurance (NCCI) and the Insurance Service Office (ISO), licensed to do business in Utah. This rule applies to all lines of property and casualty insurance coverage.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 02/18/2015

Natural Resources, Water Rights R655-14

Administrative Procedures for enforcement Proceedings Before the Division of Water Rights

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39153

FILED: 02/24/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule establishes procedures for enforcement adjudicative proceedings which may be commenced under Section 73-2-25. Under Subsection 73-2-1(4)(g), the State Engineer, as the director of the Utah Division of Water Rights, is required to make rules regarding enforcement orders and the imposition of fines and penalties. The State Engineer's powers and duties include acting on behalf of the State of Utah to administer, as the agency head of the Division of Water Rights, the distribution and use of all surface and ground waters within the state in accordance with statutory authority, including but not limited to Sections 73-2-1, 73-2-1.2, and 73-2-25.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

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

NATURAL RESOURCES
WATER RIGHTS
ROOM 220
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 02/24/2015

Natural Resources, Water Rights R655-16

Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39152

FILED: 02/24/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-1-3 declares, "Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state." Subsection 73-2-1(3) declares, "The State Engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters." Subsection 73-2-1(5)(e) authorizes the State Engineer to make rules governing the form and content of applications and related documents, maps and reports. Subsection 73-3-3(4)(b)(vii) requires the State Engineer to supply an application form for the permanent or temporary change of a water right which shall set forth, among other information, "the place, purpose, and extent of the present use." Section 73-3-16 requires applicants to submit proof of appropriation or permanent change including, among other information, "a map showing the place of use", "the nature and extent of the completed works" and "the method of applying the water to beneficial use". Section 73-3-20(2) states "The state engineer may require the owner of record of an approved exchange application to provide information concerning... the extent to which the development under the exchange has occurred and other information the state engineer considers necessary... to arrive at the quantity of water being exchanged." Section 73-5-8 states, "Every person using water from any river system or water source, when requested by the State Engineer, shall within 30 days after such request report to the State Engineer in writing: (1) the nature of the use of any such water; (2) the area on which it is used; (3) the kind of crops grown; and (4)

water elevations on wells or tunnels and quantity of underground water used."

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

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

NATURAL RESOURCES
 WATER RIGHTS
 ROOM 220
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 02/24/2015

Regents (Board of), Administration
R765-609
Regents' Scholarship

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39157
 FILED: 02/25/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 53B, Chapter 8, allows for tuition waivers and scholarships. Sections R765-609-108 through R765-609-110 allow for awards under the Regents Scholarship Program to Utah high school students attending an eligible institution in Utah. This section of the Utah Code requires policy and administrative rule(s) to carry out the intent of the legislation to assist Utah students in college preparation and degree attainment.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received since this rule became effective on 06/21/2010.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to continue administration of this successful program which is funded by the Utah legislature. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
 ADMINISTRATION
 BOARD OF REGENTS BUILDING, THE GATEWAY
 60 SOUTH 400 WEST
 SALT LAKE CITY, UT 84101-1284
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: Dave Buhler, Commissioner of Higher Education

EFFECTIVE: 02/25/2015

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

NOTICES OF FIVE-YEAR EXPIRATIONS

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

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

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

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

Health, Disease Control and
Prevention, Environmental Services

R392-600

Illegal Drug Operations
Decontamination Standards

FIVE-YEAR REVIEW EXPIRATION

DAR FILE NO.: 39159

FILED: 02/26/2015

SUMMARY: The five-year review was not submitted by the deadline so this rule expired 02/26/2015 and will be removed from the administrative code. (DAR NOTE: A proposed new Rule R392-600 is under DAR No. 39161 in this issue, March 15, 2015, of the Bulletin.)

EFFECTIVE: 02/26/2015

End of the Notices of Notices of Five Year Expirations 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 Division 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.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Capitol Preservation Board (State)

Administration

No. 39025 (AMD): R131-2. Capitol Hill Complex Facility Use

Published: 01/15/2015

Effective: 02/24/2015

Commerce

Administration

No. 39034 (AMD): R151-14-3. Adjudicative Proceedings

Published: 01/15/2015

Effective: 02/24/2015

Occupational and Professional Licensing

No. 39018 (AMD): R156-17b. Pharmacy Practice Act Rule

Published: 01/15/2015

Effective: 02/24/2015

No. 39015 (AMD): R156-37. Utah Controlled Substances Act Rule

Published: 01/15/2015

Effective: 02/24/2015

No. 39020 (AMD): R156-37f-102. Definitions

Published: 01/15/2015

Effective: 02/24/2015

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 39040 (AMD): R414-1-5. Incorporations by Reference

Published: 01/15/2015

Effective: 03/02/2015

No. 39005 (AMD): R414-19A. Coverage for Dialysis

Services by a Free-Standing State Licensed Dialysis Facility

Published: 01/01/2015

Effective: 02/18/2015

Natural Resources

Oil, Gas and Mining; Oil and Gas

No. 39028 (AMD): R649-3. Drilling and Operating Practices

Published: 01/15/2015

Effective: 02/26/2015

Public Safety

Driver License

No. 39043 (NEW): R708-51. Mobility Vehicle Permit

Published: 01/15/2015

Effective: 02/25/2015

Criminal Investigations and Technical Services, Criminal Identification

No. 39019 (NEW): R722-370. Firearm Safety Program

Published: 01/15/2015

Effective: 02/24/2015

Regents (Board Of)

Administration

No. 39023 (NEW): R765-611. Veterans Tuition Gap Program

Published: 01/15/2015

Effective: 02/25/2015

Transportation

Operations, Maintenance

No. 39004 (NEW): R918-7. Highway Sponsorship Programs

Published: 01/01/2015

Effective: 02/20/2015

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2015 through March 02, 2015. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Purchasing and General Services</u>					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38977	AMD	01/28/2015	2014-24/9
R33-16-401	Protest Officer May Correct Noncompliance, Errors and Discrepancies	38978	AMD	01/28/2015	2014-24/12
R33-26	State Surplus Property	39084	NSC	01/28/2015	Not Printed
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	39075	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39073	5YR	01/13/2015	2015-3/67
R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-4E	Resort Licenses	39059	5YR	01/08/2015	2015-3/69
CAPITOL PRESERVATION BOARD (STATE)					
<u>Administration</u>					
R131-2	Capitol Hill Complex Facility Use	39025	AMD	02/24/2015	2015-2/41
COMMERCE					
<u>Administration</u>					
R151-14-3	Adjudicative Proceedings	39034	AMD	02/24/2015	2015-2/49
<u>Occupational and Professional Licensing</u>					
R156-17b	Pharmacy Practice Act Rule	39056	5YR	01/05/2015	2015-3/69
R156-17b	Pharmacy Practice Act Rule	39018	AMD	02/24/2015	2015-2/51
R156-31b-202	Advisory Peer Education Committee Created -- Membership - Duties	38981	AMD	01/22/2015	2014-24/13
R156-31b-609	Standards for Out-of-State Programs Providing Clinical Experiences in Utah	38980	AMD	01/22/2015	2014-24/14
R156-37	Utah Controlled Substances Act Rule	39015	AMD	02/24/2015	2015-2/80

R156-37f-102	Definitions	39020	AMD	02/24/2015	2015-2/84
R156-60a	Social Worker Licensing Act Rule	38979	AMD	01/22/2015	2014-24/15
R156-60d	Substance Use Disorder Counselor Act Rule	38964	AMD	01/22/2015	2014-24/17
<u>Real Estate</u>					
R162-2c-201	Licensing and Registration Procedures	38999	AMD	02/10/2015	2015-1/8
R162-2e-401	Unprofessional Conduct	38971	AMD	01/28/2015	2014-24/26
R162-2f-206	Certification of Continuing Education Course	38972	AMD	01/21/2015	2014-24/28
<u>Securities</u>					
R164-2	Investment Adviser - Unlawful Acts	39104	5YR	02/02/2015	2015-4/37
CORRECTIONS					
<u>Administration</u>					
R251-303	Offenders' Use of Telephones	39060	5YR	01/08/2015	2015-3/70
EDUCATION					
<u>Administration</u>					
R277-111	Sharing of Curriculum Materials by Public School Educators	39077	5YR	01/15/2015	2015-3/71
R277-419-9	Provisions for Maintaining Student Membership and Enrollment Documentation and Documentation of Student Education Services Provided by Third Party Vendors	39080	EMR	01/15/2015	2015-3/63
R277-487	Public School Data Confidentiality and Disclosure	38956	AMD	01/07/2015	2014-23/6
R277-497	School Grading System	39007	AMD	02/09/2015	2015-1/11
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	39008	AMD	02/09/2015	2015-1/13
<u>Rehabilitation</u>					
R280-203	Certification Requirements for Interpreters for the Hearing Impaired	38930	AMD	01/02/2015	2014-22/22
ENVIRONMENTAL QUALITY					
<u>Administration</u>					
R305-5	Health Reform - Health Insurance Coverage in DEQ State Contracts - Implementation	39135	5YR	02/09/2015	2015-5/101
<u>Air Quality</u>					
R307-103	Administrative Procedures	39109	5YR	02/05/2015	2015-5/101
R307-165	Emission Testing	39110	5YR	02/05/2015	2015-5/102
R307-201	Emission Standards: General Emission Standards	39111	5YR	02/05/2015	2015-5/103
R307-202	Emission Standards: General Burning	39113	5YR	02/05/2015	2015-5/103
R307-203	Emission Standards: Sulfur Content of Fuels	39112	5YR	02/05/2015	2015-5/104
R307-204	Emission Standards: Smoke Management	39114	5YR	02/05/2015	2015-5/104
R307-205	Emission Standards: Fugitive Emissions and Fugitive Dust	39115	5YR	02/05/2015	2015-5/105
R307-206	Emission Standards: Abrasive Blasting	39116	5YR	02/05/2015	2015-5/105
R307-207	Residential Fireplaces and Solid Fuel Burning Devices	39117	5YR	02/05/2015	2015-5/106
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	AMD	02/04/2015	2014-19/44
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	CPR	02/04/2015	2015-1/48
R307-305	Nonattainment and Maintenance areas for PM10: Emission Standards	39118	5YR	02/05/2015	2015-5/107
R307-306	PM10 Nonattainment and Maintenance Areas: Abrasive Blasting	39119	5YR	02/05/2015	2015-5/107
R307-307	Road Salting and Sanding	39120	5YR	02/05/2015	2015-5/108

RULES INDEX

R307-309	Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust	39121	5YR	02/05/2015	2015-5/108
R307-310	Salt Lake County: Trading of Emission Budgets for Transportation Conformity	39122	5YR	02/05/2015	2015-5/109
R307-401-19	General Approval Order	38901	AMD	02/05/2015	2014-21/16
R307-841	Residential Property and Child Occupied Facility Renovation	39123	5YR	02/05/2015	2015-5/109
R307-842	Lead-Based Paint Activities	39124	5YR	02/05/2015	2015-5/110
<u>Environmental Response and Remediation</u>					
R311-500	Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program	39146	5YR	02/18/2015	Not Printed
<u>Radiation Control</u>					
R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	AMD	02/17/2015	2014-17/95
R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	CPR	02/17/2015	2014-24/40
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	38907	AMD	02/17/2015	2014-21/18
<u>Water Quality</u>					
R317-4	Onsite Wastewater Systems	39106	5YR	02/03/2015	2015-5/111
GOVERNOR					
<u>Criminal and Juvenile Justice (State Commission on)</u>					
R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	39053	EXT	01/02/2015	2015-3/75
<u>Energy Development (Office of)</u>					
R362-3	Energy Efficiency Fund	38931	AMD	01/07/2015	2014-22/24
HEALTH					
<u>Disease Control and Prevention, Environmental Services</u>					
R392-600	Illegal Drug Operations Decontamination Standards	39159	EXD	02/26/2015	Not Printed
<u>Disease Control and Prevention, Epidemiology</u>					
R386-800	Immunization Coordination	39108	5YR	02/05/2015	2015-5/111
<u>Family Health and Preparedness, Licensing</u>					
R432-2-6	Application	38982	AMD	02/06/2015	2014-24/33
R432-35	Background Screening -- Health Facilities	38954	AMD	01/27/2015	2014-23/23
<u>Family Health and Preparedness, Maternal and Child Health</u>					
R433-1	Very Low Birth Weight Infant Reporting	38802	NEW	02/12/2015	2014-18/20
R433-1	Very Low Birth Weight Infant Reporting	38802	CPR	02/12/2015	2015-1/50
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1-5	Incorporations by Reference	39040	AMD	03/02/2015	2015-2/90
R414-11	Podiatric Services	38952	AMD	01/13/2015	2014-23/22
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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