

UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://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 <https://www.rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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TABLE OF CONTENTS

| | |
|--|-----------|
| SPECIAL NOTICES | 1 |
| Health | |
| Health Care Financing, Coverage and Reimbursement Policy | |
| Public Hearing on Proposed Rule R414-518, Emergency Services | |
| Program for Non-Citizens..... | 1 |
| Hearings on 1115 Primary Care Network Demonstration Waiver..... | 1 |
| Comments on 1115 Primary Care Network Demonstration Waiver..... | 2 |
| NOTICES OF PROPOSED RULES | 3 |
| Commerce | |
| Occupational and Professional Licensing | |
| No. 42778 (Amendment): R156-11a Cosmetology and Associated | |
| Professions Licensing Act Rule..... | 4 |
| No. 42785 (Amendment): R156-71 Naturopathic Physician Practice | |
| Act Rule..... | 8 |
| Education | |
| Administration | |
| No. 42800 (Amendment): R277-477 Distributions of Funds from the Interest | |
| and Dividends Account and Administration of the School LAND Trust Program..... | 13 |
| No. 42803 (Amendment): R277-493 Kindergarten Supplemental Enrichment | |
| Program..... | 18 |
| No. 42804 (New Rule): R277-523 Teacher Salary Supplement Program..... | 21 |
| No. 42806 (Amendment): R277-533 District Educator Evaluation Systems..... | 23 |
| No. 42799 (Amendment): R277-613 LEA Bullying, Cyber-bullying, Hazing and | |
| Harassment Policies and Training..... | 26 |
| No. 42805 (Repeal): R277-725 Electronic High School..... | 33 |
| No. 42801 (Amendment): R277-801 Services for Students who are Deaf, Hard of | |
| Hearing, Blind, Visually Impaired, and Deafblind..... | 35 |
| Environmental Quality | |
| Administration | |
| No. 42781 (Amendment): R305-7 Administrative Procedures..... | 40 |
| Waste Management and Radiation Control, Radiation | |
| No. 42798 (Amendment): R313-37-3 Clarifications or Exceptions..... | 59 |
| Health | |
| Health Care Financing, Coverage and Reimbursement Policy | |
| No. 42787 (Amendment): R414-60A Drug Utilization Review Board..... | 61 |
| No. 42788 (Amendment): R414-60B Preferred Drug List..... | 63 |
| Labor Commission | |
| Industrial Accidents | |
| No. 42786 (Amendment): R612-100-4 Designation as Informal Proceedings..... | 66 |
| FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION | 69 |
| Career Service Review Office | |
| Administration | |
| No. 42779: R137-2 Government Records Access and Management Act..... | 69 |
| Health | |
| Administration | |
| No. 42784: R380-250 HIPAA Privacy Rule Implementation..... | 69 |
| Children's Health Insurance Program | |
| No. 42790: R382-1 Benefits and Administration..... | 70 |
| No. 42791: R382-10 Eligibility..... | 70 |
| Health Care Financing, Coverage and Reimbursement Policy | |
| No. 42782: R414-52 Optometry Services..... | 71 |
| No. 42783: R414-53 Eyeglasses Services..... | 71 |

TABLE OF CONTENTS

Natural Resources
 Wildlife Resources
 No. 42796: R657-34 Procedures for Confirmation of Ordinances
 on Hunting Closures..... 72
 No. 42795: R657-37 Cooperative Wildlife Management Units for Big
 Game or Turkey..... 72
 No. 42794: R657-42 Fees, Exchanges, Surrenders, Refunds and
 Reallocation of Wildlife Documents..... 73
 No. 42793: R657-45 Wildlife License, Permit, and Certificate of
 Registration Forms and Terms..... 73
 No. 42792: R657-53 Amphibian and Reptile Collection, Importation,
 Transportation and Possession..... 74
 Public Safety
 Administration
 No. 42797: R698-7 Emergency Vehicles..... 74
 Public Service Commission
 Administration
 No. 42768: R746-110 Uncontested Matters to be Adjudicated
 Informally..... 75
 No. 42767: R746-210 Utility Service Rules Applicable Only to
 Electric Utilities..... 75
 No. 42769: R746-240 Telecommunication Service Rules..... 76
 No. 42770: R746-340 Service Quality for Telecommunications
 Corporations..... 77
 Regents (Board Of)
 Administration
 No. 42789: R765-605 Higher Education Success Stipend Program..... 77
NOTICES OF RULE EFFECTIVE DATES..... 79
RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)..... 81

SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Public Hearing on Proposed Rule R414-518, Emergency Services Program for Non-Citizens

There is a public hearing on proposed Rule R414-518 at the Utah Department of Health, Cannon Health Building, 288 North 1460 West, Room 125, Salt Lake City, Utah on Thursday, May 3, 2018, from 1:00 p.m. - 3:00 p.m.

The agenda is as follows:

1. Welcome - Blake Anderson, Hearing Officer
2. Introduction to Rule R414-518, Emergency Services Program for Non-Citizens
3. Public comments
4. Conclusion

Individuals who wish to participate in this meeting by telephone may contact the Conference Line at 1-877-820-7831. The Participant Passcode is 154788#.

A copy of this proposed rule may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102.

Please send any written comments regarding this proposed rule to cdevashrayee@utah.gov or to the Director's Office, Division of Medicaid and Health Financing, PO Box 143101, Salt Lake City, Utah 84114-3101.

Health Health Care Financing, Coverage and Reimbursement Policy

Hearings on 1115 Primary Care Network Demonstration Waiver

The Utah Department of Health -- Division of Medicaid and Health Financing (DMHF) will hold public hearings to discuss proposed amendments to the 1115 Primary Care Network Demonstration Waiver. Proposed changes to the waiver are required to implement the provisions of H.B. 472 "Medicaid Expansion Revisions", H.B. 435 "Medicaid Dental Benefits", and H.B. 12 "Family Planning Services Amendments", which were passed during the 2018 General Session. In addition, the state is requesting authority to provide specific services to at-risk Medicaid children and youth.

DMHF is requesting authority to implement Medicaid eligibility for adults, age 19-64 who have household income up to 95% of the Federal Poverty Level (FPL). In addition, the amendment adds a work requirement for this adult group, provides the authority to require that an adult purchase Employer Sponsored Insurance (if available), and requests the ability to close enrollment in the program if costs are projected to be higher than the money provided for the program.

The State is also requesting authority to:

1. Add dental benefits for Targeted Adult Medicaid members who are receiving Substance Use Disorder (SUD) treatment;
2. Implement Medicaid eligibility for adults not otherwise eligible for Medicaid to provide them with family planning services; and

3. Provide specific services to at-risk Medicaid eligible children and youth in state custody or those at risk of being placed in state custody, and their families.

These topics will be discussed at public hearings to be held on Friday, May 11, 2018, from 4:00 p.m. to 6:00 p.m., and on Thursday, May 17, 2018, from 2:00 p.m. to 4:00 p.m. as part of the Medical Care Advisory Committee (MCAC) meeting. Both hearings will be held in Room 125 at the Cannon Health Building, 288 North 1460 West, Salt Lake City, Utah.

The first hour of each meeting will cover dental benefits for Targeted Adult Medicaid members, the family planning services amendment, and services for at-risk Medicaid children and youth.

The second hour of each meeting will cover the amendment to implement Medicaid eligibility for adults with income up to 95% FPL and the related requirements from H.B. 472.

A conference line is available for those who would like to participate by phone: 1-877-820-7831, passcode 378804#. Individuals requiring an accommodation to fully participate in the meeting should contact Jennifer Meyer-Smart at 801-538-6338 by 5:00 pm on Friday, May 4, 2018.

Health
Health Care Financing, Coverage and Reimbursement Policy
Comments on 1115 Primary Care Network Demonstration Waiver

The Utah Department of Health, Division of Medicaid and Health Financing (DMHF) is accepting comments regarding proposed amendments to the Primary Care Network 1115 Demonstration Waiver.

A copy of the DMHF Request for Amendment is available online at <https://medicaid.utah.gov/1115-waiver>

The public may comment on the proposed amendments through May 31, 2018, by submitting comments online at: <https://medicaid.utah.gov/public-comments-0>

<http://health.utah.gov/MedicaidExpansion/comments.html>.

End of the Special Notices 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 April 03, 2018, 12:00 a.m., and April 16, 2018, 11:59 p.m. are included in this, the May 01, 2018, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 31, 2018. 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 August 29, 2018, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

**Commerce, Occupational and
Professional Licensing
R156-11a
Cosmetology and Associated
Professions Licensing Act Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42778

FILED: 04/05/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a review by the Cosmetology and Associated Professions Licensing Board and the Division of Occupational and Professional Licensing (Division), the proposed rule amendments will more clearly comply with the provisions of Section 58-11a-306.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-11a-800(1), this proposed rule change will clarify that a barber instructor may have more than one barber apprentice; however, the instructor may only provide one-on-one direct supervision to one apprentice at a time. In Subsection R156-11a-801(1), this proposed rule change will clarify that a cosmetologist/barber instructor may have more than one cosmetologist/barber apprentice; however, the instructor may only provide one-on-one direct supervision to one apprentice at a time. In Subsection R156-11a-802(1), this proposed rule change will clarify that a basic esthetician instructor may have more than one basic esthetician apprentice; however, the instructor may only provide one-on-one direct supervision to one apprentice at a time. In Subsection R156-11a-803(1), this proposed rule change will clarify that a master esthetician instructor may have more than one master esthetician apprentice; however, the instructor may only provide one-on-one direct supervision to one apprentice at a time. In Subsection R156-11a-804(1), this proposed rule change will clarify that a nail technician instructor may have more than two nail technician apprentices; however, the instructor may only provide one-on-one direct supervision to two apprentices at a time. Subsections R156-11a-800(12), R156-11a-801(12), R156-11a-802(12), R156-11a-803(12), and R156-11a-804(12) are deleted. These proposed rule amendments allow instructors to add additional apprentices prior to current apprentices passing the required exams and becoming licensed or submitting a Notice of Disassociation Form to the Division. Subsections R156-11a-800(13), R156-11a-801(13), R156-11a-802(13), R156-11a-803(13), and R156-11a-804(13) are renumbered to (12).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-11a-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No state agencies will be directly or indirectly affected by these rule changes because the constrained parties consist only of: 1) individuals appropriately licensed in the cosmetology and associated professions who wish to instruct more than one apprentice at a time, and 2) potential apprentices in these professions who wish to be instructed by such individuals. Additionally, there are no state government entities acting as businesses that will be impacted. As a result, this rule is not expected to impact the state beyond a minimal cost to the Division approximately \$75 to print and distribute the rule once these proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** No local government agencies will be directly or indirectly affected by these rule changes because the constrained parties consist only of: 1) individuals appropriately licensed in the cosmetology and associated professions who wish to instruct more than one apprentice at a time, and 2) potential apprentices in these professions who wish to be instructed by such individuals. Additionally, there are no local government entities acting as businesses that will be impacted.

◆ **SMALL BUSINESSES:** First, there are 853 small businesses in Utah owned by individuals in the barber shops (41), cosmetology/esthetician (beauty salon) (726), and nail salon (86) industries (NAICS 812111, NAICS 812112, and NAICS 812113). Some of these businesses may experience a fiscal benefit from this amended rule because the businesses will have increased opportunities to charge for apprentice instruction services. The full impact to these small businesses cannot be estimated as the necessary data is unavailable because it cannot be estimated how many instructors licensed in these industries own and/or work for these small businesses, nor how many of the instructors will choose to instruct more than one apprentice at a time, nor how many potential applicants for licensure will choose to pursue an apprenticeship pathway or choose to be engaged in an apprenticeship where the instructor has more than one apprentice. Second, there are 48 small businesses in Utah in the barber, cosmetology, esthetician, and nail technician school industries (NAICS 611511). Some of these businesses may experience a fiscal cost associated with decreased student enrollment, due to prospective students choosing to pursue a more accessible apprenticeship path to licensure instead of an educational path to licensure. The full impact to these small businesses cannot be estimated as the necessary data is unavailable as it cannot be estimated how many potential students will actually choose to pursue an apprenticeship pathway.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In Utah there are 25 licensed barber instructors, 1,865 licensed cosmetologist/barber instructors, 558 licensed master estheticians (who can supervise both master esthetician apprentices and basic esthetician apprentices), and 212 nail technician instructors. These individuals may experience a fiscal benefit associated with increased opportunity to charge

for apprentice instruction. The full impact to these individuals cannot be estimated as the necessary data is unavailable. It cannot be estimated, firstly, which of the individuals will choose to instruct apprentices, how many will actually choose to instruct more than one apprentice at a time, nor how many will conduct such instruction through their regular employment instead of charging the apprentices in full directly for such services. Additionally, it cannot be estimated how many apprentices will choose to be instructed by individuals instructing multiple apprentices.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments do not impose any compliance cost to any affected persons, as they merely allow additional opportunities for licensees to instruct apprentices.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes have been made in sections of Rule R156-11a pertaining to barber instructors, cosmetologist/barber instructors, esthetician instructors, master esthetician instructors and nail technician instructors to provide that an instructor may have more than one apprentice, but provides a limitation as to how many apprentices an instructor may have under direct supervision, one-on-one, at any given time. There are 853 small businesses in Utah owned by individuals in the barber shop (41), cosmetology/esthetician (beauty salon) (726), and nail salon (86) industries (NAICS 812111, NAICS 812112, and NAICS 813113). Some of these businesses may experience a fiscal benefit from these amendments because the businesses will have increased opportunities to charge for apprentice instruction services. The full impact to these small businesses cannot be estimated as the necessary data is unavailable because it cannot be estimated how many of the instructors will choose to instruct more than one apprentice at a time, nor how many potential applicants for licensure will choose to pursue an apprenticeship pathway or choose to be engaged in an apprenticeship where the instructor has more than one apprentice. There are 48 small businesses in Utah in the barber, cosmetology, esthetician, and nail technician school industries (NAICS 611511). Some of these businesses may experience a fiscal cost associated with decreased student enrollment, due to prospective students choosing to pursue a more accessible apprenticeship path to licensure instead of an educational path to licensure. The full impact to these small businesses cannot be estimated as the necessary data is unavailable as it cannot be estimated how many potential students will actually choose to pursue an apprenticeship pathway.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 05/21/2018 02:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses:

These proposed rule changes are not expected to impact non-small businesses because there are no non-small businesses in Utah in the industries in question.

The head of the Department of Commerce, Francine A. Giani, has reviewed and approved this fiscal analysis

R156. Commerce, Occupational and Professional Licensing.

R156-11a. Cosmetology and Associated Professions Licensing Act Rule.

R156-11a-800. Approved Barber Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(1), the requirements for an approved barber apprenticeship shall include the following:

(1) ~~[The instructor shall have only one apprentice at a time.]~~ In accordance with Subsection 58-11a-306(1)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentices, and the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall register with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of barber texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,250 hours using the curriculum defined in Section R156-11a-700.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-700.

(11) Any hours obtained while enrolled in a barber school or a cosmetology/barber school shall not be used to satisfy the required 1,250 hours of apprentice training.

(12) ~~[An instructor may not begin a new apprenticeship until:~~

~~(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations and becomes licensed as a barber; or~~

~~(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.~~

~~(13) If an apprentice completes the apprenticeship and fails NIC Barber Theory Examination or NIC Barber Practical Examination three times, the apprentice and instructor must:~~

~~(a) meet with the Board at the next appropriate Board meeting;~~

~~(b) explain to the Board why the apprentice is not able to pass the examination; and~~

~~(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.~~

R156-11a-801. Approved Cosmetologist/Barber Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(1), the requirements for an approved cosmetologist/barber apprenticeship include:

(1) ~~[The instructor shall have only one apprentice at a time.]~~ In accordance with Subsection 58-11a-306(2)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentices, and the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of cosmetology/barber texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-705.

(11) Hours obtained while enrolled in a cosmetology/barber school shall not be used to satisfy the required 2,500 hours of apprentice training.

~~(12) [An instructor may not begin a new apprenticeship until:~~

~~(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Cosmetology/Barber Theory and Practical Examinations and becomes licensed as a cosmetologist/barber; or~~

~~(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.~~

~~(13) If an apprentice completes the apprenticeship and fails the NIC Barber/Cosmetology Theory Examination or NIC Barber/Cosmetology Practical Examination three times, the apprentice and instructor must:~~

~~(a) meet with the Board at the next appropriate Board meeting;~~

~~(b) explain to the Board why the apprentice is not able to pass the examination; and~~

~~(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.~~

R156-11a-802. Approved Basic Esthetician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(2), the requirements for an approved basic esthetician apprenticeship include:

~~(1) [The instructor shall have no more than one apprentice at a time.]In accordance with Subsection 58-11a-306(3)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentice, and the same hour or hours of instruction may not be credited toward more than one apprentice.~~

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-702.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 800 hours of apprentice training.

~~(12) [An instructor may not begin a new apprenticeship until:~~

~~(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Esthetics Theory and Practical Examinations and becomes licensed as an esthetician; or~~

~~(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.~~

~~(13) If an apprentice completes the apprenticeship and fails the NIC Esthetics Theory Examination or NIC Esthetics Practical Examination three times, the apprentice and instructor must:~~

~~(a) meet with the Board at the next appropriate Board meeting;~~

~~(b) explain to the Board why the apprentice is not able to pass the examination; and~~

~~(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.~~

R156-11a-803. Approved Master Esthetician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(3), the requirements for an approved master esthetician apprenticeship include:

~~(1) [The instructor shall have no more than one apprentice at a time.]In accordance with Subsection 58-11a-306(4)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentices, and the same hour or hours of instruction may not be credited toward more than one apprentice.~~

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the required hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-703.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 1,500 hours of apprentice training.

(12) ~~[An instructor may not begin a new apprenticeship until:~~

~~_____ (a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Master Esthetics Theory and Practical Examinations and becomes licensed as a master esthetician; or~~

~~_____ (b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.~~

~~_____ (13) If an apprentice completes the apprenticeship and fails the NIC Master Esthetics Theory Examination or NIC Master Esthetics Practical Examination three times, the apprentice and instructor must:~~

~~_____ (a) meet with the Board at the next appropriate Board meeting;~~

~~_____ (b) explain to the Board why the apprentice is not able to pass the examination; and~~

~~_____ (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.~~

R156-11a-804. Approved Nail Technician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(4), the requirements for an approved nail technician apprenticeship include:

(1) ~~[The instructor shall have no more than two apprentices at a time.]~~ In accordance with Subsection 58-11a-306(5)(b)(iii), an instructor is required to provide one-on-two direct supervision of their apprentices during the apprenticeship program. This does not preclude an instructor from having more than two apprentices; however, if an instructor has more than two apprentices, the instructor may not simultaneously supervise more than two apprentices, and the same hour or hours of instruction may not be credited toward more than two apprentices.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of nail technician texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 375 hours using the curriculum defined in Section R156-11a-704.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-704.

(11) Hours obtained while enrolled in a nail technology school or a cosmetology/barber school shall not be used to satisfy the required 375 hours of apprentice training.

(12) ~~[An instructor may not begin a new apprenticeship until:~~

~~_____ (a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Nail Technology Theory and Practical Examinations and becomes licensed as a nail technician; or~~

~~_____ (b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.~~

~~_____ (13) If an apprentice completes the apprenticeship and fails the NIC Nail Technology Theory Examination or NIC Nail Technology Practical Examination three times, the apprentice and instructor must:~~

~~_____ (a) meet with the Board at the next appropriate Board meeting;~~

~~_____ (b) explain to the Board why the apprentice is not able to pass the examination; and~~

~~_____ (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.~~

KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians

Date of Enactment or Last Substantive Amendment: ~~[October 10, 2017]~~2018

Notice of Continuation: January 19, 2017

Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)

**Commerce, Occupational and
Professional Licensing
R156-71
Naturopathic Physician Practice Act
Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42785

FILED: 04/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Occupational and Professional Licensing (Division) and the Naturopathic Physician Licensing Board are proposing the following amendments: in Section R156-71-102, the proposed changes are nonsubstantive

changes in language to better identify the Council on Naturopathic Medical Education (CNME) and residency education requirements. In Subsection R156-71-202(1), the proposed changes update the American Society of Health System Pharmacists reference to include the current edition. Changes to the naturopath formulary were recommended by the Naturopathic Formulary Peer Committee and approved by the Board to add formulary references for non-controlled legend medications deemed appropriate for the scope of practice of naturopathic physicians.

SUMMARY OF THE RULE OR CHANGE: In Section R156-71-102, the proposed changes are nonsubstantive as they are grammatical corrections for the reference to the Council on Naturopathic Medical Education (CNME). In Subsection R156-71-202(1), the proposed changes update the naturopathic physician formulary. The reference for the formulary is the 2008 edition of the American Hospital Formulary Service (AHFS). This change allows practitioners to use the 2008 edition or to access the current edition on the AHFS Drug information website. The other changes to the subsection include updating the formulary to identify non-controlled legend medications that may be used by naturopathic physicians to provide improved patient care within the scope of practice. The changes were presented by the Naturopathic Physicians Formulary Peer Committee and approved by the Naturopathic Physicians Licensing Board.

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:** No state agencies shall be directly or indirectly affected by these rule changes because the proposed amendments apply only to persons required to be licensed as a naturopathic physician in Utah. Additionally, there are no state government entities acting as businesses that will be impacted, and state government is not involved in the naturopathic formulary. Accordingly, this rule is not expected to impact the state beyond a minimal cost to the Division of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** These proposed amendments apply only to persons required to be licensed as a naturopathic physician in Utah. Additionally, there are no local governments acting as businesses that will be impacted, and local governments are not involved in the naturopathic formulary. Therefore, the Division estimates there will be no cost or savings impact on local governments.

◆ **SMALL BUSINESSES:** These proposed amendments apply only to persons required to be licensed as a naturopathic physician in Utah. There are currently 80 naturopathic physician licensees in Utah; it is estimated that most operate private or group practices in their own offices, and that several operate in the facilities of others, such as hospitals or HMO medical centers (NAICS 621399). The change to Subsection R156-71-202(1) may result in a cost savings to these businesses because it allows naturopathic

physicians to use the 2008 Edition of the AHFS Formulary or to access the Formulary online. Physicians needing to consult the formulary, therefore can avoid purchasing one, and use the online version. The formulary is not currently published; the 2008 edition is only available "used" and the price is market driven. The current online edition is available to naturopathic physicians through their association or by subscription. In addition, the changes allow the naturopathic physicians to utilize additional legend medications listed in the AHFS Formulary to treat human ailments within their scope of practice. However, the exact amount of any cost savings cannot be estimated because it is unknown how many naturopathic physicians will actually choose to use the online edition or utilize the additional legend medications. Next, the Naturopathic Physicians Licensing Board was polled to determine any foreseeable costs associated with these changes, and, together with a representative from the Utah Association of Naturopathic Physicians, the Board members unanimously found that there would be no fiscal cost.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments apply only to persons required to be licensed as a naturopathic physician in Utah. There are currently 80 naturopathic physician licensees in Utah. Similar to naturopathic physicians operating in small businesses, the Naturopathic Physicians Licensing Board has determined that there will be no fiscal cost to these individuals and any cost savings for individual naturopathic physicians cannot be estimated as the necessary data is unavailable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Naturopathic Physicians Licensing Board was polled to determine any foreseeable costs associated with these proposed changes. Upon review, the Board members determined that there would be no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed the proposed filing for the above-referenced rule and considered the fiscal impact that the rule may have on businesses. I direct that my comments about the rule's fiscal impact on businesses be inserted at the appropriate place on the notice form to be filed with the Office of Administrative Rules for publication of this rulemaking action. In Section R156-71-202, these proposed changes in this provision are nonsubstantive as they incorporate a reference to a Council on Naturopathic Medical Education residency program in place of a less clear description of the required residency program. In Subsection R156-71-202(1), these proposed changes update the naturopathic physician formulary. The reference for the formulary is the 2008 edition of the American Hospital Formulary Service (AHFS). This change allows practitioners to use the 2008 edition or to access the current edition on the AHFS Drug information website. The other changes to the subsection include updating the formulary to identify non-controlled legend medications that may be used by naturopathic physicians to provide improved patient care within the scope of practice.

These proposed amendments apply only to persons required to be licensed as a naturopathic physician in Utah. There are currently 80 naturopathic physician licensees (NAICS 621399). It is estimated that most operate private or group practices in their own offices and that several operate in the facilities of others, such as hospitals or HMO medical centers. The Section R156-71-102 changes have no fiscal impact. The changes to Subsection R156-71-202(1) allow the use of the 2008 edition of the AHFS formulary or to access the formulary online. There may be a cost saving for those needing to consult the formulary, as they can avoid purchasing one and use the online version. There are no other fiscal impacts.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 05/24/2018 02:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 475 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|----------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |

| | | | |
|-------------------------------|------------|------------|------------|
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| | | | |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses:

These proposed rule changes are not expected to impact non-small businesses. Again, any cost savings cannot be estimated as the necessary data are unavailable, and the Naturopathic Physicians Licensing has determined that there will be no fiscal cost.

The head of the Department of Commerce, Francine A. Giani, has reviewed and approved this fiscal analysis.

**R156. Commerce, Occupational and Professional Licensing.
 R156-71. Naturopathic Physician Practice Act Rule.
 R156-71-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 71, as used in Title 58, Chapters 1 and 71, or this rule:

(1) "Approved clinical experience program" or "residency program" as used in Subsections 58-71-302(1)(e) and 58-71-304.2(1)(b), means a Council of Naturopathic Medical Education (CNME) approved residency program (i.e. a residency program under the auspices of a CNME-accredited or CNME candidate Naturopathic Doctorate (ND) program that is recognized by the CNME as a residency program sponsor), that is at a minimum one year in length~~[minimum 12 month program associated with a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education]~~.

(2) "Direct supervision" as used in Subsection 58-71-304.2(1)(b), means the supervising naturopathic physician, physician and surgeon, or osteopathic physician is responsible for the naturopathic activities and services performed by the naturopathic physician intern and is normally present in the facility and when not present in the facility is available by voice

communication to direct and control the naturopathic activities and services performed by the naturopathic physician intern.

(3) "Direct and immediate supervision" of a medical naturopathic assistant ("assistant") as used in Subsections 58-71-102(6) and 58-71-305(7), means that the licensed naturopathic physician is responsible for the activities and services performed by the assistant and will be in the facility and immediately available for advice, direction and consultation.

(4) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, including internet, audio/visual recordings, mail or other correspondence.

(5) "Naturopathic physician intern" or "intern" means an individual who qualifies for a temporary license under Section 58-71-304.2 to engage in a naturopathic physician residency program recognized by the division under the direct supervision of an approved naturopathic physician, physician and surgeon, or osteopathic physician.

(6) "NPLEX" means the Naturopathic Physicians Licensing Examinations.

(7) "Primary health care", as referenced in Subsection 58-71-102(12), means basic or general health care provided at the patient's first contact with the naturopathic physician.

(8) "Qualified continuing education," as used in this rule, means continuing education that meets the standards set forth in Subsection R156-71-304.

(9) "Unprofessional conduct," as defined in Title 58, Chapters 1 and 71, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-71-502.

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 or the current 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, topical and intramuscular administration
- 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

28:10 Opiate Antagonists
 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
28:32.28 Selective Serotonin Agonists

40:00 Electrolytic, Caloric, and Water Balance
40:18.92 Other Ion-removing Agents

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 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~~]in addition to DMPS (2,3-Dimercapto-1-propanesulfonic acid)

68:12 Contraceptives, except implants and injections
 68:16.04 Estrogens
68:16.08 Antiestrogens, limited to Anastrozole for use in the setting of hormone replacement therapy

68:16.12 Estrogen Agonists-Antagonists, limited to Raloxifene

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 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)~~

92:08 5-Alpha-Reductase Inhibitors

92:16 Antigout Agents

(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.

R156-71-302. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-71-302(1)(f) and (2) (c), the licensing examination sequence required for licensure is as follows:

- (1) NPLEX Basic Science Series, the State of Washington Basic Science Series or the State of Oregon Basic Science Series;
- (2) NPLEX Clinical Series; and
- (3) NPLEX Minor Surgery.

R156-71-302a. Qualifications for Licensure - Education Requirements for Graduates of Naturopathic Physician Programs or Schools Located Outside the United States.

The satisfactory documentation of compliance with the licensure requirement set forth in Subsection 58-71-302(2)(b) shall be a report submitted to the Division by the International

Credentialing Associates, Inc. (ICA) confirming that the applicant's naturopathic physician program or school has met the accreditation standards.

R156-71-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 71 is established by rule in Section R156-1-308a(1).

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-71-304. Qualified Continuing Education.

(1) To be qualified continuing education, a continuing education course shall meet the following standards:

(a) the course shall consist of clinically oriented seminars, lectures, conferences, workshops, mediated instruction, or programmed learning provided by one of the following:

(i) a professional health care licensing agency, hospital, or institution accredited by the Accreditation Council of Continuing Medical Education (ACCME);

(ii) a program sponsored by the American Council of Pharmaceutical Education (ACPE);

(iii) an accredited college or university;

(iv) a professional association or organization representing a licensed profession whose program objectives are related to naturopathic training; or

(v) any other provider providing a program related to naturopathic education, if the provider has submitted an application to and received approval from the Utah Naturopathic Physicians Licensing Board;

(b) the learning objectives of the course shall be reasonably and clearly stated;

(c) the teaching methods shall be clearly stated and appropriate;

(d) the faculty shall be qualified both in experience and in teaching expertise;

(e) there shall be a written post course or program evaluation;

(f) the documentation of attendance shall be provided; and

(g) the content of the course shall be relevant to naturopathic practice and consistent with the laws and rules of this state.

(2) In accordance with Section 58-71-304, qualified continuing education shall consist of 48 hours of qualified continuing professional education in each preceding two year period of licensure, 20 hours of which shall be specific to pharmacy or pharmacology as it pertains to the Naturopathic Physician Formulary, Section R156-71-202. A minimum of ten of the 20 hours of continuing education specific to pharmacy or pharmacology must be recognized as category 1 credit hours as established by the ACCME in each preceding two year licensure cycle. No more than 20 hours of continuing education in each two-year period of licensure may be through distance learning.

(3) If a licensee allows his license to expire and the application for reinstatement is received by the division within two years after the expiration date the applicant shall:

(a) submit documentation of having completed 48 hours of qualified continuing professional education required for the previous renewal period. The required hours shall meet the criteria set forth in Subsection (2); and

(b) submit documentation of having completed a pro rata amount of qualified continuing professional education based upon one hour of qualified continuing professional education for each month the license was expired for the current renewal period.

(4) If the application for reinstatement is received by the division more than two years after the date the license expired, the applicant shall complete a minimum of 48 hours of qualified continuing professional education and additional hours as determined by the board to clearly demonstrate the applicant is currently competent to engage in naturopathic medicine. The required hours shall meet the criteria set forth in Subsection (2).

(5) Audits of a licensee's continuing education hours may be done on a random basis by the division in collaboration with the board.

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of two years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain this information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(7) The division in collaboration with the board may grant a waiver of continuing education requirements to a waiver applicant who documents he is engaged in full time activities or is subjected to circumstances which prevent the licensee from meeting the continuing professional education requirements established under this section. A waiver may be granted for a period of up to four years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-71-502. Unprofessional Conduct.

"Unprofessional conduct" includes failure to comply with the approved formulary.

KEY: licensing, naturopaths, naturopathic physician

Date of Enactment or Last Substantive Amendment: [~~April 21, 2015~~2018]

Notice of Continuation: August 25, 2016

Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

**Education, Administration
R277-477**

**Distributions of Funds from the Interest
and Dividends Account and
Administration of the School LAND
Trust Program**

**NOTICE OF PROPOSED RULE
(Amendment)**

**DAR FILE NO.: 42800
FILED: 04/16/2018**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes contain the changes recommended by the Board's Trust Advisory Committee. The purpose of these amendments is to allow School Community Councils to use program funds for items that in the past may have been considered behavioral, but are academic in nature, have been shown to be critical academic needs in some schools, display measurable academic improvement, and directly impact the instruction of students.

SUMMARY OF THE RULE OR CHANGE: These rule changes contain the changes recommended by the Board's Trust Advisory Committee. The purpose of these amendments is to allow School Community Councils to use program funds for items that in the past may have been considered behavioral, but are academic in nature, have been shown to be critical academic needs in some schools, display measurable academic improvement and directly impact the instruction of students. It also provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies e.g. changing the Interest and Dividends Account to the Trust Earnings Account to reflect the change in the account name made during the 2018 General Session (H.B. 404) and updating references to statute.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Subsection 53E-3-401(4) and Subsection 53F-2-404(3) and Subsection 53F-2-404(4) and Subsections 53F-2-404(3) and (4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These rule changes are not anticipated to have aggregate anticipated cost or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** These rule changes are not anticipated to have aggregate anticipated cost or savings to local governments.

♦ **SMALL BUSINESSES:** These rule changes are not anticipated to have aggregate anticipated cost or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not anticipated to have aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes to Rule R277-477 are not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the expenditure of School LAND Trust Program funds by School Community Councils and does not require any expenditures of or generate any revenues for large businesses. These rule changes contain the changes recommended by the Board's Trust Advisory Committee (TAC). The purpose of the changes is to allow School Community Councils to use program funds for items that in the past may have been considered behavioral, but are academic in nature, have been shown to be critical academic needs in some schools, display measurable academic improvement, and directly impact the instruction of students. In addition, the committee recommended that the Civic and Character Education/Positive Behavior intervention section of the rule be clarified to only include Civic and Character Education including student leadership training and digital citizenship training. Behavioral intervention can now more adequately be addressed in the academic goals. TAC also recommended the current limit of \$5,000 or 20% for Civic and Character Education be increased to \$7,000. It also provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies e.g. changing the Interest and Dividends Account to the Trust Earnings Account to reflect the change in the account name made during the 2018 General Session (H.B. 404), and updating references to statute. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
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*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

These changes to Rule R277-477 are not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule change is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the expenditure of School LAND Trust Program funds by School Community Councils and does not require any expenditures of or generate any revenues for large businesses.

These rule changes contain the changes recommended by the Trust Advisory Committee. The purpose of the changes is to allow School Community Councils to use program funds for items that in the past may have been considered behavioral, but are academic in nature, have been shown to be critical academic needs in some schools, display measurable academic improvement, and directly impact the instruction of students. In addition, the committee recommended that the Civic and Character Education/Positive Behavior intervention section of the rule be clarified to only include Civic and Character Education including student leadership training and digital citizenship training. Behavioral intervention can now more adequately be addressed in the academic goals. The committee also recommends the current \$5,000 or 20% limit for Civic and Character Education be increased to \$7,000.

It also provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies e.g. changing the Interest and Dividends Account to the Trust Earnings Account to reflect the change in the account name made during the 2018 General Session (H.B. 404), and updating references to statute.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-477. Distributions of Funds from the ~~Interest and Dividends~~ Trust Earnings Account and Administration of the School LAND Trust Program.

R277-477-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection ~~[53A-16-101.5]~~53F-2-404(4), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and

(c) Subsection ~~[53A-1-401]~~53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The Board is the primary beneficiary representative and advocate for the beneficiaries of the School Trust corpus and the School LAND Trust Program.

(3) The purpose of this rule is to:

(a) provide financial resources to a public school to implement a component of a school's improvement plan or charter document in order to enhance and improve student academic achievement;

(b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust Program funds allocated to the school;

(c) provide direction in the distribution of funds from the ~~Interest and Dividends~~ Trust Earnings Account, as funded in Subsection ~~[53A-16-101.5]~~53F-2-404(3);

(d) provide for appropriate and adequate oversight of the expenditure and use of funds by a designated local board of education, an approving entity, and the Board;

(e) provide for proper allocation of funds as stated in Subsections ~~[53A-16-101.5]~~53F-2-404(3) and (4), and the appropriate and timely distribution of the funds;

(f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and

(g) define the roles, duties, and responsibilities of the School Children's Trust Director within the USOE.

R277-477-2. Definitions.

(1) "Approving entity" means an LEA governing board, university, or other legally authorized entity that may approve or reject a plan for a district or charter school.

(2)(a) "Charter trust land council" means a council comprised of a two person majority of elected parents of students attending the charter school convened to act in lieu of the school community council for the charter school.

(b) "Charter trust land council" includes a charter school governing board if:

(i) the council meets the two-parent majority requirement; and

(ii) the charter school governing board chooses to serve as the charter trust land council.

(3) "Council" means a school community council or a charter trust land council.

(4) "Digital citizenship" means the same as that term is defined in Section ~~[53A-1a-108]~~53G-7-1202.

(5) "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.

(6) "Funds" means ~~interest and dividends income~~ School LAND Trust program funding as defined in Subsection ~~[53A-16-101.5(3)]~~53F-2-404(3)(a).

~~[(7) "Interest and Dividends Account" means the restricted account within the Uniform School Fund created under Subsection 53A-16-101(2).~~

~~_____]~~[(8)] "Most critical academic need" means an academic need identified in a school's improvement plan or school's charter.

(9)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.

(b) "Principal" includes the director of a charter school.

(10) "Satellite charter school" has the same meaning as that term is defined in R277-482.

(11) "School Children's Trust Director" means the Director appointed by the Board under Section ~~[53A-16-101.6]~~53E-3-514.

(12) "Student" means a child in public school grades kindergarten through 12 counted on the fall enrollment report of a school district, charter school, or USDB.

(13) "Trust Earnings Account" means the restricted account within the Uniform School Fund created under Subsection ~~53F-9-201(2).~~

R277-477-3. Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans.

(1) A public school receiving School LAND Trust Program funds shall have:

(a) a school community council as required by Section ~~[53A-1a-108]~~53G-7-1202 and Rule R277-491;

(b) a charter school trust land council as required by Subsection ~~[53A-16-101.5]~~53F-2-404(9); or

(c) an approved exemption under this rule.

(2) A public school receiving School LAND Trust Program funds shall submit a principal assurance form, as described in Section R277-491-5 and Subsection ~~[53A-16-101.5]~~53F-2-404(5) (c), prior to the public school receiving a distribution of School LAND Trust Program funds.

(3) A charter school that elects to receive School LAND Trust funds shall:

(a) have a charter trust land council;

(b) be subject to Section ~~[53A-1a-108.1]~~53G-7-1203 if the charter trust land council is not a charter school governing board; and

(c) receive training about Section ~~[53A-1a-108.1]~~53G-7-1203.

(4) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Subsection ~~[53A-16-101.5]~~53F-2-404(9) upon application to the Board if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.

(5) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan to the School Children's Trust Section on the School LAND Trust website:

(a) no later than April 1; or

(b) for a newly opening charter school, no later than November 1 in the school's first year in order to receive funding in the year the newly opening charter school opens.

(6)(a) An approving entity:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

(b) If an approving entity does not approve a plan, the approving entity shall:

(i) provide a written explanation why the approving entity did not approve the plan; and

(ii) request that the school revise the plan, consistent with Section ~~[53A-16-101.5]~~53F-2-404.

(7)(a) To receive funds, the principal of a public school shall submit a School LAND Trust plan to the School Children's Trust Section annually through the School LAND Trust website using the form provided.

(b) The Board may grant an exemption from a school using the Superintendent-provided form, described in Subsection (7)(a), on a case-by-case basis.

(8) In addition to the requirements of Subsection (6), the School LAND Trust plan described in Subsection (7)(a) shall include the date the council voted to approve the plan.

(9)(a) The principal of a school shall ensure that a council member has an opportunity to provide a signature indicating the member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.

(b) The principal shall collect a council member's signature, as described in Subsection (9)(a), digitally or through a paper form created by the Membership Form on the website and uploaded to the database.

(c) An LEA or district school, upon the permission of the LEA's governing board, may design the LEA or district school's own form to collect the information required by this Subsection (9).

(10)(a) An approving entity shall establish a timeline, including a deadline, for a school to submit a school's School LAND Trust plan.

(b) A timeline described in Subsection (10)(a) shall:

(i) require a school's School LAND Trust plan to be submitted to the approving entity with sufficient time so that the approving entity may approve the school's School LAND Trust plan no later than May 15 of each year; and

(ii) allow sufficient time for a council to reconsider and amend the council's School LAND Trust plan if the approving entity rejects the school's plan and still allow the school to meet the May 15 approving entity's approval deadline.

(c) After an approving entity has completed the approving entity's review, the approving entity shall notify the School Children's Trust Section that the review is complete.

(11)(a) Prior to approving a plan, an approving entity shall review a School LAND Trust plan under the approving entity's purview to confirm that a School LAND Trust plan contains:

(i) academic goals;

(ii) specific steps to meet the academic goals described in Subsection (11)(a)(i);

(iii) measurements to assess improvement; and

(iv) specific expenditures focused on student academic improvement.

(b) The approving entity shall determine whether a School LAND Trust plan is consistent with the approving entity's pedagogy, programs, and curriculum.

(c) Prior to approving a School LAND Trust plan, the president or chair of the approving entity shall provide training annually on the requirements of Section ~~[53A-16-101.5]~~53F-2-404 to the members of the approving entity.

(12)(a) After receiving the notice described in Subsection (10)(c), the School Children's Trust Section shall review each School LAND Trust plan for compliance with the law governing School LAND Trust plans.

(b) The School Children's Trust Section shall report back to the approving entity concerning which School LAND Trust plans were found to be out of compliance with the law.

(c) An approving entity shall ensure that a School LAND Trust plan that is found to be out of compliance with the law by the School Children's Trust Section is amended or revised by the council to bring the school's School LAND Trust plan into compliance with the law.

(13) If an approving entity fails to comply with Subsection (12)(c), the School Children's Trust Director shall report the failure to the Audit Committee of the Board as described in Section R277-477-9.

R277-477-4. Appropriate Use of School LAND Trust Program Funds.

(1) Parents, teachers, and the principal, in collaboration with an approving entity, shall use School LAND Trust Program funds in data-driven and evidence-based ways to improve educational outcomes~~[-]~~, including:

(a) strategies that are measurable and show academic outcomes with multi-tiered systems of support; and

(b) counselors and educators working with students and families on academic and behavioral issues when a direct impact on academic achievement can be measured.

(2) School LAND Trust Program expenditures are required to have a direct impact on the instruction of students in the particular school's areas of most critical academic need.

(3) A school may not use School LAND Trust Program funds for the following:

- (a) to cover the fixed costs of doing business;
- (b) for construction, maintenance, facilities, overhead, security, or athletics; or
- (c) to pay for non-academic in-school, co-curricular, or extracurricular activities.

(4) A school district or local school board may not require a council or school to spend the school's School LAND Trust Program funds on a specific use or set of uses.

(5)(a) A council may budget and spend no more than ~~the lesser of the following~~ \$7,000 for in-school civic and character education, including student leadership skills training ~~and positive behavior intervention:~~

- ~~(i) \$5,000; or~~
- ~~(ii) 20% of the school's annual allocation of School LAND Trust Program funds; and digital citizenship training as described in Section 53G-7-1202.~~

(b) A school may designate School LAND Trust Program funds for an in-school civic or character education program or activity only if the plan clearly describes how the program or activity has a direct impact of the instruction of students in school's areas of most critical academic need.

~~(c) A school may use a portion of the school's School LAND Trust Program funds to provide digital citizenship training as described in Section 53A-1a-108.]~~

(6) Notwithstanding other provisions in this rule, a school may use funds as needed to implement a student's Individualized Education Plan.

(7) Student incentives implemented as part of an academic goal in the School LAND Trust Program may not exceed \$2 per awarded student in an academic school year.

R277-477-5. Distribution of Funds - Determination of Proportionate Share.

(1)(a) A local school board or charter school governing board shall report the prior year expenditure of distributions for each school.

(b) The total expenditures each year described in Subsection (1)(a) may not be greater than the total available funds for any school or school district.

(c) A school district shall adjust the current year distribution of funds received from the School LAND Trust Program as described in Section ~~[53A-16-101.5]~~ 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on school openings and closings, boundary changes, and other enrollment changes occurring after the fall enrollment report.

(2) A charter school and each of the charter school's satellite charter schools are a single LEA for purposes of public school funding.

(3)(a) For purposes of this Subsection (3) and Subsection (4), "qualifying charter school" means a charter school that:

- (i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection (2)(c); and

(ii) is not a newly opening charter school as described in Subsection (3).

(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection (2).

(c) The Superintendent shall first distribute a base payment to each charter school that is equal to the product of:

- (i) an amount equal to the total funds available for all charter schools; and
- (ii) at least 0.4%.

(d) After the Superintendent distributes the amount described in Subsection (2)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

(4)(a) The Superintendent shall distribute an amount of funds to a newly opening charter school that is equal to the greater of:

- (i) the base payment described in Subsection (2)(c); or
- (ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.

(b) The Superintendent shall increase or decrease a newly opening charter school's first year distribution of funds in the school's second year to reflect the newly opening charter school's actual first year October 1 enrollment.

(5) If a school chooses not to apply for funds or does not meet the requirements for receiving funds, the USOE shall retain the funds allocated for that school and include those funds in the statewide distribution for the following school year.

R277-477-6. School LAND Trust Program - Implementation of Plans and Required Reporting.

(1) A school shall implement a plan as approved.

(2)(a) The principal shall submit a plan amendment authorized by Subsection ~~[53A-16-101.5]~~ 53F-2-404(6)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

- (b) The approving entity shall:
 - (i) consider the amendment for approval; and
 - (ii) approve an amendment before the school uses funds according to the amendment.

(c) The School Children's Trust Section shall review an amendment for compliance with statute and rule before the school uses funds according to the amendment.

(3)(a) A school shall provide an explanation for any carryover that exceeds one-tenth of the school's allocation in a given year in the School LAND Trust Plan or final report.

(b) The USOE shall consider a district or school with a consistently large carryover balance over multiple years as not making adequate and appropriate progress on an approved plan.

(c) The Board may take corrective action to remedy excessive carryover balances as outlined in Section R277-477-9.

(4) By approving a plan on the School LAND Trust website, the approving entity affirms that:

- (a) the entity has reviewed the plan; and
- (b) the plan meets the requirements of statute and rule.

(5)(a) A district or charter school business official shall enter prior year audited expenditures by specific category on the School LAND Trust website on or before October 1.

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Section [~~53A-16-101.5~~]53F-2-404.

(6) A principal shall submit a final report on the School LAND Trust website by October 20 annually.

R277-477-7. School LAND Trust Program - School Children's Trust Section to Review Compliance.

(1)(a) The School Children's Trust Section shall review each school's final report for consistency with the approved school plan.

(b) The School Children's Trust Section shall create a list of all schools whose final reports indicate that funds from the School LAND Trust Program were expended inconsistent with the statute, rule, or the school's approved plan.

(c) The School Children's Trust Section shall annually report a school described in Subsection (1)(b) to the school district contact person, district superintendent, and president of the local board of education or charter board, as applicable.

(2) The School Children's Trust Section may visit a school receiving funds from the School LAND Trust Program to discuss the program, receive information and suggestions, provide training, and answer questions.

(3)(a) The School Children's Trust Director shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, allowable expenses, and the law.

(b) The School Children's Trust Director shall report annually to the Board Audit Committee on compliance review findings and other compliance issues.

(c) After receiving the report described in Subsection (3) (b) and any other relevant information requested by the committee, the Board Audit Committee may make a determination regarding questioned expenditures and corrective action as outlined in Section R277-477-9.

R277-477-8. School Children's Trust Director - Other Provisions.

(1)(a) The School Children's Trust Director is an employee of the Board, pursuant to Section [~~53A-16-101.6~~]53E-3-514 and Board bylaws.

(b) The School Children's Trust Director shall report to the Board Audit Committee monthly.

(c) The School Children's Trust Director shall report day-to-day to the Superintendent or the Superintendent's designee.

(2)(a) The School Children's Trust Director shall submit a draft section budget to the Board Audit Committee annually, consistent with Subsection [~~53A-16-101.6~~]53E-3-514(5)(a).

(b) The School Children's Trust Director shall include in the draft budget a proposed School LAND Trust Program and training schedule, as described in Subsection [~~53A-16-101.6~~]53E-514(13).

(3) In addition to the duties established in [~~Section 53A-16-101.6~~]53E-3-514, the School Children's Trust Director shall:

(a) assist the Board as needed as its designee in fulfilling its duties as primary beneficiary representative for school trust lands and funds;

(b) provide independent oversight of an agency managing school trust lands and the permanent State School Fund to ensure the trust assets are managed prudently, profitably, and in the best interest of the beneficiaries;

(c) review and approve a charter school plan on behalf of the State Charter School Board;

(d) provide notice as necessary to the State Charter School Board of changes required of charter schools for compliance with state statute and rule;

(e) review and approve a plan submitted by the USDB governing board as necessary; and

(f) carry out the policy direction of the Board under law and faithfully adhere to the Board-approved budget.

(4) The employees of the School Children's Trust Section report to the School Children's Trust Director.

R277-477-9. Failure to Comply with Rule.

(1) If a local school board, school district, district or charter school, or council fails to comply with the provisions of this rule, the School Children's Trust Director may report the failure to the Audit Committee of the Board.

(2) If the Audit Committee of the Board finds that any local school board, school district, district or charter school, or council failed to comply with statute or rule, the Audit Committee may recommend that the Board take any or all of the following actions:

(a) in cooperation with the local school board or charter school governing board, develop a corrective action plan for the school district, district or charter school, or council;

(b) require the school to reimburse the School LAND Trust Program for any inappropriate expenditures;

(c) reduce, eliminate, or withhold future funding; or

(d) any other necessary and appropriate corrective action.

(3) The Board may, by majority vote, take any of the actions outlined in Subsection (2) to correct or remedy a violation of statute or rule by a local school board, school district, district or charter school, or council.

KEY: schools, school community councils, trust lands funds

Date of Enactment or Last Substantive Amendment: [~~July 11, 2016~~]**2018**

Notice of Continuation: August 13, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~53A-16-101.5~~(4); ~~53A-1-401~~

Education, Administration
R277-493
Kindergarten Supplemental Enrichment
Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42803

FILED: 04/16/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

SUMMARY OF THE RULE OR CHANGE: This rule change provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. It also enables the Superintendent to continue to deem a school that received funding in the prior year as eligible based on its eligibility from the local education agencies (LEAs) initial application year. This change will not have a fiscal impact on LEAs. It enables LEAs to sustain their participation in the program with approval from the Superintendent despite changes in their qualifying population.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53F-4-205 and Subsection 53F-4-205(7)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule change is not anticipated to have aggregate anticipated cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This rule change is not anticipated to have aggregate anticipated cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** This rule change is not anticipated to have aggregate anticipated cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not anticipated to have aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change is not estimated to have compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change to Rule R277-493 is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule change is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the Kindergarten Supplemental Enrichment grant program for LEAs administered by the Utah State Board of Education and does not require any expenditures of or generate any revenues for large businesses. This rule change provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. It also enables the Superintendent to continue to deem a school that

received funding in the prior year as eligible based on its eligibility from its initial application year. This change will not have a fiscal impact on LEAs. It enables LEAs to sustain their participation in the program with approval from the Superintendent despite changes in their qualifying population. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

Appendix 1: Regulatory Impact Summary Table*

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Appendix 2: Regulatory Impact to Non-Small Businesses

This change to Rule R277-493 is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule change is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the Kindergarten Supplemental Enrichment grant program for local education agencies (LEAs) administered by the Utah State Board of Education and does not require any expenditures of or generate any revenues for large businesses.

This rule change provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. It also enables the Superintendent to continue to deem a school that received funding in the prior year as eligible based on its eligibility from its initial application year. This change will not have a fiscal impact on LEAs. It enables LEAs to sustain their participation in the program with approval from the Superintendent despite changes in their qualifying population.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-493. Kindergarten Supplemental Enrichment Program.

R277-493-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 [~~of the Utah Constitution~~], which vests general control and supervision over public education in the Board;

(b) Subsection [53A-1-401]53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law [~~and~~].

(c) Subsection [53A-15-2003(6)]53F-4-205(7), which directs the Board to adopt rules to implement the kindergarten supplemental enrichment program.

(2) The purpose of this rule is to make rules to establish reporting procedures and administer [~~Title 53A, Chapter 15, Part 20;~~ Section 53F-4-205] Kindergarten Supplemental Enrichment Program.

R277-493-2. Definitions.

(1)(a) "Eligible school" has the same meaning as defined in Subsection [53A-15-2002(2)]53F-4-205.

(b) "Eligible school" does not include a school that receives funds under Section [~~53A-17a-167~~]53F-2-507, Enhanced kindergarten early intervention program.

(2) "Kindergarten supplemental enrichment program" has the same meaning as defined in Subsection [53A-15-2002(4)]53F-4-205.

R277-493-3. Program Administration.

(1) An LEA with an eligible school may apply for kindergarten supplemental enrichment program by filing a grant application following a form approved by the Superintendent no later than May 15 annually.

(2) An application filed in accordance with Subsection (1) shall include:

(a) evidence of an eligible school's overall need for a kindergarten supplemental enrichment program based on the results of the eligible school's current kindergarten entry assessments and programming;

(b) a description of how the eligible school will use the Board approved uniform entry assessment to determine which students to target for the kindergarten supplemental enrichment program;

(c) a description of how the eligible school's program will coordinate with the Superintendent and LEA personnel to meet the annual reporting requirements of this rule;

(d) a description of how the eligible school will use funds to meet the requirements of Subsection [53A-15-2003(3)]53F-4-205(4);

(e) if an eligible school is applying based on their percentage of students experiencing intergenerational poverty, a description of the learning strategies the school will employ to design and implement a program that is developed with the unique needs of students experiencing intergenerational poverty in mind; and

(f) other information as requested by the Superintendent.

(3)(a) If an eligible school has previously received funding through the kindergarten supplemental enrichment program, an application under Subsection (1) shall also include data from Board entry and exit exams to establish success in changing student outcomes in comparison to similarly situated peers who weren't able to receive the benefit of the kindergarten supplemental enrichment program.

(b) If an LEA submits a renewal application for a school that has previously been deemed eligible and received funding through the kindergarten supplemental enrichment program, the Superintendent may continue to deem the school as eligible based on the school's eligibility described in Subsection 53F-4-205(1)(b) from its initial application year.

(4) The Superintendent shall recommend distribution of funds by the Board in accordance with Subsection [53A-15-2003(1)(a)]53F-4-205(2).

(5) An eligible school that receives kindergarten supplement enrichment program funds shall comply with the assessment and reporting requirements of Section R277-489-5.

(6) The Superintendent shall require an eligible school that receives funds in accordance with this rule to demonstrate compliance with federal supplanting requirements.

KEY: kindergarten, supplementals, enrichments
Date of Enactment or Last Substantive Amendment: [~~August 7, 2017~~]**2018**
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [~~53A-1-401~~]**53E-3-401**; [~~53A-15-2003(6)~~]**53F-4-205(7)**

Education, Administration
R277-523
Teacher Salary Supplement Program

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 42804
 FILED: 04/16/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule is to codify the Teacher Salary Supplement Program (TSSP) procedures in rule, administer the TSSP, and establish an appeals process for eligibility determination as required by state law.

SUMMARY OF THE RULE OR CHANGE: This proposed rule is to codify the TSSP procedures in rule, administer the TSSP, and establish an appeals process for eligibility determination as required by state law. This rule fully establishes the program in the Board of Education's administrative rules. The program is funded through a state appropriation. This rule is not estimated to have a fiscal impact.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53F-2-504 and Subsection 53E-3-401(4)

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** This proposed rule is not anticipated to have aggregate anticipated cost or savings to the state budget.
 - ◆ **LOCAL GOVERNMENTS:** This proposed rule is not anticipated to have aggregate anticipated cost or savings to local governments.
 - ◆ **SMALL BUSINESSES:** This proposed rule is not anticipated to have aggregate anticipated cost or savings to small businesses.
 - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule is not anticipated to have aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule, Rule R277-523, is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the TSSP which is funded by state appropriations and does not require any expenditures of or generate any revenues for large businesses. In the 2016 General Session, H.B. 331 passed and added a salary supplement award for National Board Certified teachers, and created statute that allowed teachers to apply for reimbursement for the cost of obtaining or renewing National Board Certification. Rule R277-521 was originally adopted only to implement the National Board Certification reimbursement as procedures for the TSSP were already established by the Department of Human Resource Management (DHRM) before the program was moved to the Board of Education (Board) in July of 2014. This proposed rule is to provide for the TSSP procedures to be adopted by the Board and codified in Board rule, administer the TSSP, and establish an appeals process for eligibility determination as required by state law. This rule fully establishes the program in the Board's administrative rules. The program is funded through a state appropriation. This rule is not estimated to have a fiscal impact. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This proposed rule, R277-523, is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the Teacher Salary Supplement Program (TSSP) which is funded by state appropriations and does not require any expenditures of or generate any revenues for large businesses.

In the 2016 General Session, H.B. 331, Education Provisions, passed and added a salary supplement award for National Board Certified teachers, and created statute that allowed teachers to apply for reimbursement for the cost of obtaining or renewing National Board Certification. Rule R277-521 was originally adopted only to implement the National Board Certification reimbursement as procedures for the TSSP were already

established by the Department of Human Resource Management (DHRM) before the program was moved to the Board of Education (Board) in July of 2014.

The proposed rule is to provide for the Teacher Salary Supplement Program (TSSP) procedures to be adopted by the Board in rule, administer the TSSP, and establish an appeals process for eligibility determination as required by state law. This rule fully establishes the program in the Board's administrative rules. The program is funded through a state appropriation. This rule is not estimated to have a fiscal impact.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-523. Teacher Salary Supplement Program.

R277-523-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-504, which directs the Board to make rules regarding the administration of the Teacher Salary Supplement Program.

(2) The purpose of this rule is to establish application and appeal procedures for administration of the Teacher Salary Supplement Program.

R277-523-2. Definitions.

(1) "Certificate teacher" means the same as that term is defined in Subsection 53F-2-504(1)(b).

(2) "Eligible teacher" means the same as that term is defined in Subsection 53F-2-504(1)(c).

(3) "Substantially equivalent" means commonly recognized by a Utah university for a degree in a specific subject.

(4) "Teacher Salary Supplement Program" or "TSSP" means the salary supplement program authorized by the Legislature in Section 53F-2-504.

R277-523-3. Program Administration.

(1) The Superintendent shall allocate funds for salary supplements to eligible teachers and certificate teachers in accordance with Subsection 53F-2-504(3).

(2) The Superintendent shall maintain an online application system for the TSSP and make it available to educators no later than October 1 each school year.

(3) An applicant for the TSSP shall apply to the Superintendent by the following deadlines:

(a) Trimester payments, prior to November 15;

(b) Semester payments, prior to January 31; and

(c) Annual payments, prior to April 30.

(4) A Title I certificate teacher shall receive a partial award if the certificate teacher has a partial assignment in a Title I school or works less than the full school year, which shall be proportional to the teacher's assignment, the portion of the assignment worked in a Title I school, and the overall portion of the school year worked.

(5)(a) If an applicant is denied funds under this Section R277-523-3, the applicant may submit a written appeal to the Superintendent prior to June 1.

(b) An appeal under Subsection (5)(a) is limited to the following issues:

(i) whether the applicant has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Section 53F-2-504;

(ii) whether the applicant holds a current National Board Certification;

(iii) whether the applicant was assigned to teach at a Title I school during the period covered by the TSSP award;

(iv) whether the Superintendent's initial denial was inconsistent with Section 53F-2-504 or this Rule R277-523; or

(v) whether the Superintendent's initial denial was based on inaccurate or missing information.

(c) The Superintendent may designate a panel of at least two Board staff members to review an appeal made under Subsection (5) (a) and make a recommendation to the Superintendent.

(i) A panel designated in accordance with Subsection (5)(c) shall make a recommendation in accordance with the provisions of Section 53F-2-504 or this Rule R277-523.

(ii) The panel shall make a recommendation on an appeal within 30 days of receipt of the written appeal.

(6) The Superintendent shall issue a ruling on an appeal within 15 days of receipt of the panel's recommendation.

(d) The decision of the Superintendent on an appeal is the final Board administrative action.

(7) If the appropriation for TSSP is insufficient to cover all eligible teachers and certificate teachers entitled to awards, the Superintendent shall reduce all awards by the same ratio and proportion.

KEY: TSSP, salary

Date of Enactment of Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-2-504

Education, Administration R277-533

District Educator Evaluation Systems

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42806

FILED: 04/16/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments to this rule provide for immediate changes in response to federal feedback on equitable distribution of effective educators within Utah's Every Student Succeeds Act (ESSA) state plan.

SUMMARY OF THE RULE OR CHANGE: These amendments to this rule provide for immediate changes in

response to federal feedback on equitable distribution of effective educators within Utah's Every Student Succeeds Act (ESSA) state plan. Additionally, language is added to meet our state's plan requiring charter schools to report the numbers of ineffective teachers. This rule has also been amended to explicitly classify educator evaluation data as private for purposes of Title 63G, Chapter 2, Government Records Access and Management. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Subsection 53E-3-401(4) and Title 53G, Chapter 11, Part 5

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not estimated to have aggregate anticipated cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have aggregate anticipated cost or savings to local governments.

◆ **SMALL BUSINESSES:** These rule changes are not estimated to have aggregate anticipated cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not estimated to have aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes to Rule R277-533 are not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the submission of educator evaluation data to the Board and does not require any expenditures of or generate any revenues for large businesses. These amendments to this rule provide for immediate changes in response to federal feedback on equitable distribution of effective educators within Utah's Every Student Succeeds Act (ESSA) state plan. Additionally, language is added to meet our state's plan requiring charter schools to report the numbers of ineffective teachers. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes are not anticipated to have a fiscal impact because the evaluations are not new. These rule changes clarify how LEAs will report these data.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

| | | | |
|----------------------|-----|-----|-----|
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |
|----------------------|-----|-----|-----|

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This change to Rule R277-533 is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule change is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the submission of educator evaluation data to the Board and does not require any expenditures of or generate any revenues for large businesses.

The amendments to this rule provide for immediate changes in response to federal feedback on equitable distribution of effective educators within Utah's Every Student Succeeds Act (ESSA) state plan. The rule has also been amended to explicitly classify educator evaluation data as private for purposes of Title 63G, Chapter 2, Government Records Access and Management. Additionally, language is added to meet our state's plan requiring charter schools to report the numbers of ineffective teachers. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These changes are not anticipated to have a fiscal impact because the evaluations are not new. These rule changes clarify how LEAs will report these data.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |

R277. Education, Administration.

R277-533. ~~[District]~~ Educator Evaluation Systems.

R277-533-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Title ~~[53A]~~53G, Chapter ~~[8a]~~11, Part ~~[4]~~5, Educator Evaluations, which requires the Board to make rules to establish a framework for the evaluation of educators and set policies and procedures related to educator evaluations; and
 - (c) Subsection ~~[53A-1-404]~~53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to:
 - (a) specify the requirements for district Educator Evaluation Systems Policies;
 - (b) describe the required components of district Educator Evaluation Systems; and
 - (c) establish requirements for how the Annual Summative Educator Evaluation Rating is reported for districts and charter schools.

R277-533-2. Definitions.

(1) "Administrator" has the same meaning as that term is defined in ~~Section 53A-8a-402~~ Subsection 53G-11-501(1).

(2) "Certified rater" means an educator who has been trained in evaluating educator performance and has demonstrated competency in using an educator evaluation tool to rate educator effectiveness according to established standards.

(3) "Educator" has the same meaning as that term is defined in ~~Section 53A-8a-402~~ Subsection 53G-11-501(6).

(4) "Evaluator" means a person who is responsible for an educator's overall evaluation, including:

- (a) professional performance;
- (b) student growth;
- (c) stakeholder input; and
- (d) other indicators of professional improvement.

(5) "Rater" means a person who conducts an observation of an educator related to an educator's evaluation.

(6) "School district" includes the Utah Schools for the Deaf and the Blind.

(7) "System" means a school district's educator evaluation system.

R277-533-3. School District Educator Evaluation Systems.

(1) A local school board shall adopt a district educator evaluation system in consultation with a joint committee established by the local school board as described in Section ~~53A-8a-403~~ 53G-11-506.

(2) A district educator evaluation system shall:

(a) include the components required in Section ~~53A-8a-405~~ 53G-11-507;

(b) include the following four differentiated levels of performance:

- (i) highly effective;
- (ii) effective;
- (iii) emerging/minimally effective; and
- (iv) not effective;

(c) use multiple lines of evidence in evaluation, including:

(i) professional performance, as described in Section R277-533-4;

(ii) student academic growth, as described in Section R277-533-5;

(iii) stakeholder input, as described in Section R277-533-5; and

(iv) other indicators of professional improvement as required by the school district;

(d) provide a process for an educator to request a review of the implementation of the educator's evaluation, as described in:

- (i) Section ~~53A-8a-406~~ 53G-11-508; and
- (ii) Section R277-533-8;

(e) include multiple observations as described in Section R277-533-4; and

(f) provide a description of the methods for gathering, using, and protecting educator data.

(3) To form the school district's system, a local school board may adopt:

(a) the Utah Model Educator Evaluator System established by the Board;

(b) an adapted system; or

(c) a school district-developed system, consistent with Rules R277-530, R277-531, and this rule.

(4) An educator is responsible for:

(a) improving the educator's performance, using resources offered by the school district; and

(b) demonstrating acceptable levels of improvement in any designated area of deficiency.

R277-533-4. Evaluators and Standards for Education Observations.

(1) A school district's system shall include observations.

(2) The school district shall use observation tools that:

(a) are aligned with the Utah Effective Educator Standards described in Rule R277-530 at the indicator level; and

(b) include multiple supervisor observations at appropriate intervals.

(3) A school district's evaluation system shall include an opportunity for an educator to contribute additional information to inform their rating at several intervals throughout the process.

(4) To ensure a valid evaluation system, a school district shall establish a school district rater reliability process that:

(a) creates standardized ratings established by a committee of expert raters to be used for rater professional development and certification;

(b) provides professional development opportunities to all raters and evaluators of licensed educators to:

(i) improve a rater or evaluator's abilities; and

(ii) give the rater or evaluator an opportunity to demonstrate the rater's abilities to rate an educator in accordance with the Utah Effective Educator Standards described in Rule R277-530;

(c) designates qualified raters as certified;

(d) assures that an educator is rated by a certified rater;

(e) requires a school district to offer a rater opportunities to improve the rater's skills through instruction and practice; and

(f) maintains high standards of rater accuracy.

R277-533-5. Student Academic Growth and Stakeholder Input.

(1) A school district shall ensure that a student academic growth measurement includes the following three required components:

(a) learning goals measuring long-term outcomes linked to the appropriate specific content knowledge and skills from the Utah Core Standards;

(b) assessments; and

(c) targets for incremental monitoring of student academic growth.

(2)(a) A school district's system shall include stakeholder input for educators, principals, and administrators, including annual input from students and parents.

(b) In addition to the stakeholder input described in Subsection (2)(a), stakeholder input for principals and other administrators shall include input from teachers and support professionals.

R277-533-6. Computing the Annual Summative Rating.

(1) A school district shall base an educator's component ratings on:

(a) actual observations of the educator's performance; and

(b) educator, evaluator, student academic growth, or other stakeholder data gathered, calculated, or observed that is aligned with standards and rubrics.

(2) A school district shall report summative scores annually for all educators using the following approved terminology for reporting:

- (d) highly effective 3;
- (c) effective 2;
- (b) minimal/emerging effective 1; and
- (a) not effective 0.

R277-533-7. Minimal or Emerging Effective Category.

If an evaluator rates an educator's performance within the minimal or emerging effective category, the rater shall:

(1) designate an educator as emerging effective if:

- (a) the educator:
 - (i) holds a Level 1 educator license; or
 - (ii) is being served by the school district's Entry Years Enhancement (E.Y.E.) program described in Rule R277-522; or
- (b) the educator:
 - (i) received a new or different teaching or leadership assignment within the last school year; or
 - (ii) is developing in that area; or

(2) designate an educator as minimally effective if the educator:

- (a) holds a Level 2 educator license; and
- (b) is teaching or leading in a familiar assignment.

R277-533-8. Evaluation Reviews.

(1) An educator who is not satisfied with a summative evaluation may request a review in writing of the summative evaluation within 15 calendar days after receiving the written summative evaluation.

(2) A school district shall conduct a review of an educator's summative evaluation:

- (a) as described in this section; and
- (b) the requirements of Section ~~[53A-8a-406]~~53G-11-508.

(3) A review described in Subsection (2) shall be conducted:

- (a) by a certified rater:
 - (i) with experience evaluating educators; and
 - (ii) not employed by the school district; and
- (b) in accordance with the Utah Effective Educator Standards described in Rule R277-530.

(4) A certified rater described in Subsection (3) shall:

(a) review:

- (i) the school district's educator evaluation policies and procedures;
- (ii) the evaluation process conducted for the educator;
- (iii) the evaluation data from the professional performance, student growth, and stakeholder input components; and

(iv) an educator's written response, if submitted as described in Subsection ~~[53A-8a-406]~~53G-11-508(1)(b); and

(b) report the certified rater's findings, in writing, to the school district's superintendent for action.

(5) The school district shall determine if the initial educator evaluation was issued in accordance with:

- (a) the school district's educator evaluation policies;
- (b) the requirements of the performance standards;
- (c) Title ~~[53A]53G~~, Chapter ~~[8a]11~~, ~~[Public Education Human Resource Management Act]Employees~~;
- (d) Rule R277-531; and
- (e) this rule.

R277-533-9. Educator Evaluation Data.

(1) A school district shall report information described in Section ~~[53A-8a-410]~~53G-11-511 to the Superintendent annually on or before June 30 to be included in the Superintendent's annual report as required by Section ~~[53A-8a-410]~~53G-11-511.

(2) Data reported in accordance with Subsection (1) shall be classified as private under Title 63G, Chapter 2, Government Records Access and Management Act.

R277-533-10. Applicability to Charter Schools.

A charter school shall comply with the requirements of Subsection R277-533-6(2) and Section R277-533-9.

KEY: educators, evaluations

Date of Enactment or Last Substantive Amendment: ~~August 7, 2017~~2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401

Education, Administration
R277-613
 LEA Bullying, Cyber-bullying, Hazing
 and Harassment Policies and Training

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42799

FILED: 04/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended in response to S.B. 161, Bullying and Hazing Amendments, and H.B. 62, Educator Rights Amendments, both from the 2017 General Session. Along with technical changes in accordance with the Rulewriting Manual for Utah, these rule amendments include changes in definitions and terminology, and updates to training requirements.

SUMMARY OF THE RULE OR CHANGE: This rule is amended in response to S.B. 161 (2017) and H.B. 62 (2017). Along with technical changes in accordance with the Rulewriting Manual for Utah, these rule amendments include changes in definitions and terminology and updates to training requirements. These rule changes also add incident review requirements whereby a local education agency (LEA) must review allegations of incidents of bullying, cyber-

bullying, hazing, and retaliation as detailed in Section R277-613-5.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Subsection 53E-3-401(4)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule change is not estimated to have fiscal impact on the state budget because this rule is amended with technical changes in accordance with the Rulewriting Manual for Utah.
- ◆ **LOCAL GOVERNMENTS:** This rule change may have a fiscal impact on local governments, however, this impact will be minimal as it is likely LEAs are tracking incidents of bullying, cyber-bullying, hazing, and retaliation since current rule requires LEAs to notify parents of incidents and to maintain documentation.
- ◆ **SMALL BUSINESSES:** This rule change is not estimated to have a fiscal impact on small businesses, because this rule is amended with technical changes in accordance with the Rulewriting Manual for Utah.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not estimated to have a fiscal impact on persons other than small businesses, businesses, or local government entities because this rule is amended with technical changes in accordance with the Rulewriting Manual for Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change to Rule R277-613 may have a fiscal impact on LEAs. This rule is amended in response to S.B. 161 (2017) and H.B. 62 (2017). Along with technical changes in accordance with the Rulewriting Manual for Utah, the rule changes include changes in definitions and terminology and updates to training requirements. These rule changes also add incident review requirements whereby an LEA must review allegations of incidents of bullying, cyber-bullying, hazing, and retaliation as detailed in Section R277-613-5. LEAs also must report annually to the Superintendent on the LEA's policies, training, and incidents of bullying, cyber-bullying, hazing, and retaliation. There may be a fiscal impact on LEAs who are not already reviewing allegations as outlined and to report the required information to the Utah State Board of Education annually. However, it is anticipated that this impact will be minimal as it is likely LEAs are tracking incidents of bullying, cyber-bullying, hazing, and retaliation since current rule requires LEAs to notify parents of incidents and to maintain documentation. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This change to Rule R277-613 may have a fiscal impact on local education agencies (LEAs). This rule is amended in response to S.B. 161, Bullying and Hazing Amendments and H.B. 62, Educator Rights Amendments both from the 2017 General Session. Along with technical changes in accordance with the Rulewriting Manual for Utah, the rule changes include changes in definitions and terminology and updates to training requirements. These rule changes also add incident review requirements whereby an LEA must review allegations of incidents of bullying, cyber-bullying, hazing, and retaliation as detailed in Section R277-613-5. LEAs also must report annually to the Superintendent on the LEA's policies, training, and incidents of bullying, cyber-bullying, hazing, and retaliation. There may be a fiscal impact on LEAs who are not already reviewing allegations as outlined and to report the required information to the Utah State Board of Education annually. However, it is anticipated that this impact will be minimal as it is likely LEAs are tracking incidents of bullying, cyber-bullying, hazing, and retaliation since current rule requires LEAs to notify parents of incidents and to maintain documentation.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

[R277-613. LEA Bullying, Cyber-bullying, Hazing and Harassment Policies and Training.

R277-613-1. Definitions.

- ~~A. "Board" means the Utah State Board of Education.~~
- ~~B. "Bullying" means intentionally or knowingly committing an act that:~~
 - ~~(1)(a) endangers the physical health or safety of a school employee or student;~~
 - ~~(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;~~
 - ~~(c) involves consumption of any food, liquor, drug, or other substance;~~
 - ~~(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or~~
 - ~~(e) involves physically obstructing a school employee's or student's freedom to move; and~~
 - ~~(2) is done for the purpose of placing a school employee or student in fear of:~~
 - ~~(a) physical harm to the school employee or student; or~~
 - ~~(b) harm to property of the school employee or student.~~
 - ~~(3) The conduct described in R277-613-1B constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.~~
 - ~~(4) Bullying is commonly understood as aggressive behavior that:~~
 - ~~(a) is intended to cause distress and harm;~~
 - ~~(b) exists in a relationship in which there is an imbalance of power and strength; and~~

- ~~(c) is repeated over time.~~
- ~~C. "Civil rights violations," for purposes of this rule, means bullying, cyber-bullying, hazing or harassing that is targeted at a federally protected class.~~
- ~~D. "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.~~
- ~~E. "Federally protected class" means any group protected from discrimination under the following federal laws:~~
 - ~~(1) Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin;~~
 - ~~(2) Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex;~~
 - ~~(3) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 prohibits discrimination on the basis of disability; and~~
 - ~~(4) Other areas included under these acts prohibit discrimination on the basis of religion, gender identity, and sexual orientation.~~
- ~~F. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.~~
- ~~G. "Hazing" means intentionally or knowingly committing an act that:~~
 - ~~(1)(a) endangers the physical health or safety of a school employee or student;~~
 - ~~(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;~~
 - ~~(c) involves consumption of any food, liquor, drug, or other substance;~~
 - ~~(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or~~
 - ~~(e) involves physically obstructing a school employee's or student's freedom to move; and~~
 - ~~(f)(i) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or~~
 - ~~(ii) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school-sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.~~
 - ~~(2) The conduct described in R277-613-1G constitutes hazing, regardless of whether the person against whom the conduct is committed, directed, consented to, or acquiesced in, the conduct.~~
- ~~H. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~
- ~~I. "Parent," for purposes of this rule, means a student's guardian consistent with Section 53A-11a-203(1).~~

~~J. "Participant" means any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity.~~

~~K. "Policy" means standards and procedures that include the provisions of Section 53A-11-901 and additional standards, procedures, and training adopted in an open meeting by an LEA board that define bullying, cyber-bullying, hazing and harassment, prohibit bullying, cyber-bullying, hazing and harassment, require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing and harassment among school employees and students and provide for enforcement through employment action or student discipline.~~

~~L. "Retaliate or retaliation" means an act or communication intended:~~

~~(1) as retribution against a person for reporting bullying, cyber-bullying, hazing and harassment; or~~

~~(2) to improperly influence the investigation of, or the response to, a report of bullying, cyber-bullying, hazing and harassment.~~

R277-613-2. Authority and Purpose.

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and the responsibility of the Board to provide assistance with and ensure LEA compliance with Section 53A-11a-301.~~

~~B. The purpose of the rule is to require LEAs to implement bullying, cyber-bullying, hazing and harassment policies district and school wide; to provide for regular and meaningful training of school employees and students; to provide for enforcement of the policies in schools, at the state level and in public school athletic programs; to require LEAs to notify parents of specific bullying, cyber-bullying, hazing, harassment and suicide threat incidents; and to require LEAs to maintain documentation as required by law.~~

R277-613-3. Utah State Board of Education Responsibilities.

~~A. To the extent of resources available, the Board shall provide training opportunities or materials or both for employees of LEAs on bullying, cyber-bullying, hazing and harassment.~~

~~B. The Board may interrupt disbursements of funds consistent with Section 53A-1-401(3) for failure of an LEA to comply with this rule.~~

R277-613-4. LEA Responsibility to Create Bullying Policies.

~~A. Each LEA shall implement an updated policy prohibiting bullying, cyber-bullying, hazing, harassment and retaliation, and making a false report, consistent with Section 53A-11a-301.~~

~~B. Each LEA shall:~~

~~(1) post a copy of its policy on the LEA website; and~~

~~(2) provide a copy of the LEA policy or uniform resource locator (URL) to the State Superintendent of Public Instruction at the Utah State Office of Education.~~

~~C. The policy shall include parental notification of:~~

~~(1) a parent's student's threat to commit suicide; and~~

~~(2) an incident of bullying, cyber-bullying, hazing, harassment or retaliation involving the parent's student.~~

~~(3) This part of the policy shall also include:~~

~~(a) timely parent notification;~~

~~(b) designation of the appropriate school employee(s) to provide parent notification;~~

~~(c) designation of the format in which notification shall be provided to parents and maintained by the LEA;~~

~~(d) directives for secure maintenance of the notification record as required under Section 53A-11a-203(1);~~

~~(e) a retention period and destruction process for the notification; and~~

~~(f) an LEA definition of parent(s) consistent with Section 53A-11-203 and this rule.~~

~~D. The policy shall provide for student assessment of the prevalence of bullying, cyber-bullying, hazing and harassment in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.~~

~~E. The policy shall include required strong responsive action against retaliation, including assistance to harassed students and their parents in reporting subsequent problems and new incidents.~~

~~F. The policy shall provide that students, staff, and volunteers receive training on bullying, cyber-bullying, hazing and harassment from individuals qualified to provide such training. The LEA shall determine how often training shall be provided.~~

~~(1) The training should be specific to:~~

~~(a) overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;~~

~~(b) relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;~~

~~(c) sexual aggression or acts of a sexual nature or with sexual overtones;~~

~~(d) cyber-bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school; and~~

~~(e) civil rights violations, appropriate reporting and investigative procedures. This includes bullying, cyber-bullying, hazing and harassment based upon the students' actual or perceived identities and conformance or failure to conform with stereotypes.~~

~~(2) Training should also include awareness and intervention skills such as social skills training for students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches.~~

~~(3) Training on bullying, cyber-bullying, hazing and harassment required of LEA policies under the rule should complement the suicide prevention program required for students under R277-620 and the suicide prevention training required for licensed educators consistent with Section 53A-1-603(9).~~

~~G. Policies shall also complement existing safe and drug-free school policies and school discipline plans. Consistent with R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, harassment and disruptive students. This part of the plan shall:~~

~~(1) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;~~

~~(2) provide for identification, by position(s), of individual(s) designated to issue notices of disruptive student and bullying, cyber-bullying, hazing and harassment behavior;~~
~~(3) designate to whom notices shall be provided;~~
~~(4) provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court;~~
~~(5) include strategies to provide for necessary adult supervision;~~
~~(6) be clearly written and consistently enforced;~~
~~(7) include administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility; and~~
~~(8) provide notice to employees that violation(s) of this rule may result in employment discipline or action.~~

~~R277-613-5. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.~~

~~A. Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing and harassment prevention training. This training shall be offered to new participants on an annual basis and to all participants at least once every three years.~~

~~B. LEAs may collaborate with the Utah High School Activities Association to develop and provide training.~~

~~C. Student athletes and extracurricular club members shall be informed of prohibited activities under this rule and notified of potential consequences for violation of the law and the rule.~~

~~D. Training curriculum outlines, training schedules, and participant lists or signatures shall be maintained by each LEA and provided to the Utah State Office of Education upon request.~~

~~R277-613-6. Professional Responsibilities of Employee and Volunteer Coaches.~~

~~A. All public school coaches shall act consistent with professional standards of R277-515 in all responsibilities and activities of their assignments.~~

~~B. Failure to act consistently with R277-515 toward students, colleagues and parents may result in discipline against an educator's license or termination of volunteer services.]~~

~~R277-613. LEA Disruptive Student Behavior, Bullying, Cyber-Bullying, Hazing, Retaliation, and Abusive Conduct Policies and Training.~~

~~R277-613-1. Authority and Purpose.~~

~~(1) This rule is authorized by:~~

~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and~~

~~(b) Subsection 53E-3-401(4)(a), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.~~

~~(2) The purpose of the rule is to:~~

~~(a) require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, retaliation, and abusive conduct policies at the school district and school level;~~

~~(b) provide for regular and meaningful training of school employees and students;~~

~~(c) provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and~~

~~(d) require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.~~

~~R277-613-2. Definitions.~~

~~(1) "Abusive conduct" means the same as that term is defined in Subsection 53G-9-601(1).~~

~~(2)(a) "Bullying" means the same as that term is defined in Subsection 53G-9-601(2).~~

~~(b) "Bullying" includes relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.~~

~~(c) The conduct described in Subsection 53G-9-601(2) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.~~

~~(3) "Cyber-bullying" means the same as that term is defined in Subsection 53G-9-601(4).~~

~~(4) "Disruptive student behavior" means the same as that term is defined in Subsection 53G-8-210(1)(a).~~

~~(5) "Hazing" means the same as that term is defined in Subsection 53G-9-601(5).~~

~~(6) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~(7) "Participant" means any student, employee or volunteer coach participating in a public school sponsored athletic program or activity, including a curricular, co-curricular, or extracurricular club or activity.~~

~~(8) "Policy" means standards and procedures that:~~

~~(a) are required in Section 53G-9-605;~~

~~(b) include the provisions of Section 53G-8-202; and~~

~~(c) provide additional standards, procedures, and training adopted in an open meeting by an LEA board that:~~

~~(i) define bullying, cyber-bullying, hazing, retaliation, and abusive conduct; and~~

~~(ii) prohibit bullying, cyber-bullying, hazing, retaliation, and abusive conduct;~~

~~(iii) require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing, and retaliation among school employees and students; and~~

~~(iv) provide for enforcement through employment action or student discipline.~~

~~(9) "Restorative justice practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.~~

~~(10) "Retaliate" or "retaliation" means the same as that term is defined in Subsection 53G-9-601(7).~~

~~(11) "School employee" means the same as that term is defined in Subsection 53G-9-601(10).~~

~~(12) "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the alleged targeted individual and the individual who is alleged to have~~

engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

R277-613-3. Superintendent Responsibilities.

(1) Subject to availability of funds, the Superintendent shall provide:

(a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606;

(b) model training and training opportunities on:

(i) the prevention and identification of bullying, cyber-bullying, hazing, and retaliation, that an LEA may use to train the LEA's employees, contract employees, and volunteers, including coaches; and

(ii) the reporting and review requirements in Section R277-613-5;

(c) evidence-based practices and policies related to the prevention of bullying, cyber-bullying, hazing, and retaliation.

(2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).

(3) The Board may interrupt disbursements of funds consistent with Subsection 53E-3-401(8) and Rule R277-114 for failure of an LEA to comply with:

(a) Title 53G, Chapter 9, Bullying and Hazing; and

(b) this rule.

(4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and this R277-613, LEAs are required to comply with applicable federal requirements.

R277-613-4. LEA Responsibility to Create or Update Bullying Policies.

(1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(a) develop, update, and implement policies as required by Section 53G-9-605 and this rule, which shall include a prohibition on:

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation; and

(v) making a false report.

(b) post a copy of the LEA's policy on the LEA website;

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and

(d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually.

(2)(a) As required by Section 53G-9-605, an LEA shall notify a parent of:

(i) a parent's student's threat to die by suicide; or

(ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent's student as a targeted individual or an individual who is alleged to have engaged in prohibited conduct.

(b) An LEA shall:

(i) notify a parent described in Subsection (2)(a) in a timely manner;

(ii) designate the appropriate school employee to provide parental notification; and

(iii) designate the format in which notification is provided to parents and maintained by the LEA

(3) Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

(4) An LEA shall take strong responsive action against retaliation, including assistance to targeted individuals and their parents in reporting subsequent problems and new incidents.

(5)(a) An LEA shall provide that students, school employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, and retaliation, from individuals qualified to provide such training.

(b) The training described in Subsection (5)(a) shall:

(i) include information on various types of aggression and bullying, including:

(A) overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;

(B) relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;

(C) sexual aggression or acts of a sexual nature or with sexual overtones;

(D) cyber-bullying, including use of email, web pages, text messaging, instant messaging, social media, three-way calling or messaging or any other electronic means for aggression inside or outside of school;

(E) bullying, cyber-bullying, hazing and retaliation based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:

(i) Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;

(ii) Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or

(iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability; and

(F) bullying, cyber-bullying, hazing, and retaliation based upon the students' or employees' actual or perceived characteristics, including race, color, national origin, sex, disability, religion, gender identity, sexual orientation, or other physical or mental attributes or conformance or failure to conform with stereotypes;

(ii) complement the suicide prevention program required for students under Rule R277-620 and the suicide prevention training required for licensed educators consistent with Subsection 53G-9-704(1); and

(iii) include information on when issues relating to this rule may lead to student or employee discipline.

(6) The training described in Subsection (5) shall be offered to:

(a) new school employees, coaches, and volunteers; and

(b) all school employees, coaches, and volunteers at least once every three years.

(7)(a) An LEA's policies developed under this section shall complement existing school policies and research based school discipline plans.

(b) Consistent with Rule R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, retaliation and disruptive students.

(c) An LEA shall ensure that a discipline plan required by Rule R277-609:

(i) directs schools to determine the range of behaviors and establish the continuum of administrative procedures to be used by school personnel to address the behavior of students;

(ii) provides for identification, by position, of individuals designated to issue notices of disruptive student behavior, bullying, cyber-bullying, hazing, and retaliation;

(iii) designates to whom notices shall be provided;

(iv) provides for documentation of disruptive student behavior in the LEA's student information system;

(v) includes strategies to provide for necessary adult supervision;

(vi) is clearly written and consistently enforced; and

(vii) includes administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility.

R277-613-5. Reporting and Incident Review of Allegations of Bullying, Cyber-Bullying, Hazing, and Retaliation.

(1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:

(a) review allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and

(b) provide an individual who reviews allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting a review.

(2)(a) An LEA shall review allegations of incidents described in Subsection (1)(a) by interviewing at least the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct.

(b) An LEA may also interview the following as part of a review:

(i) parents of the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct;

(ii) any witnesses;

(iii) school staff; and

(iv) other individuals who may provide additional information.

(c) An individual who reviews an allegation of an incident shall inform an individual being interviewed that:

(i) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and

(ii) further reports of bullying will become part of the review.

(3) The confidentiality requirement in Subsection (2)(c) does not apply to:

(a) conversations with law enforcement professionals;

(b) requests for information pursuant to a warrant or subpoena;

(c) a state or federal reporting requirement; or

(d) other reporting required by this rule.

(4) In conducting a review under this section, an LEA may:

(a) review disciplinary reports of involved students; and

(b) review physical evidence, which may include:

(i) video or audio;

(ii) notes;

(iii) email;

(iv) text messages;

(v) social media; or

(vi) graffiti.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

(6) Following a review of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, or retaliation, if appropriate, an LEA may:

(a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA; and

(b) support involved students through trauma-informed practices, if appropriate.

(6)(a) An alleged targeted individual is not required to participate in a restorative justice practice with an individual who is alleged to have engaged in prohibited conduct as described in Subsection (5)(a).

(b) If an LEA would like an alleged targeted individual who is a student to participate in a restorative justice practice, the LEA shall notify the alleged targeted individual's parent of the restorative justice practice and obtain consent from the alleged targeted individual's parent before including the alleged targeted individual in the process.

(7) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.

(8) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

(a) a copy of LEA's policy required in Section R277-613-4;

(b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);

(c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;

(d) incidents of bullying, cyber-bullying, hazing, and retaliation;

(e) the number of incidents described in Subsection (8)(d) required to be reported separately under federal law, including the reporting requirements in:

(i) Title VI of the Civil Rights Act of 1964;

(ii) Title IX of the Education Amendments of 1972; or

(iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990; and

(f) the number of incidents described in Subsection (8)(d) that include a student who was bullied, cyber-bullied, hazed, or retaliated against based on the student's actual or perceived

characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

R277-613-6. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.

(1)(a) Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, and retaliation prevention training.

(b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

(2) An LEA shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and the rule.

(3) An LEA shall maintain training participant lists or signatures, to be provided to the Board upon request.

R277-613-7. Abusive Conduct.

(1) An LEA shall prohibit abusive conduct.

(2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section 53A-11a-301 and this rule, shall include a grievance process for a school employee who has experienced abusive conduct as described in Subsection 53G-9-605(3)(f).

KEY: bullying, [cyber-bullying]abusive conduct, hazing, [harassment]training

Date of Enactment or Last Substantive Amendment: [October 8, 2013]2018

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [53A-1-401(3); 53A-11a-301]53E-3-401(4); 53G-9

Education, Administration
R277-725
 Electronic High School

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 42805

FILED: 04/16/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed repeal is due to legislative funding cuts, the Electronic High School is no longer operating. Therefore, Rule R277-725 is no longer necessary. Utah State Board of Education recommends this rule be repealed.

SUMMARY OF THE RULE OR CHANGE: This proposed repeal is due to legislative funding cuts, the Electronic High School is no longer operating. Therefore, Rule R277-725 is no longer necessary. The Electronic High School classes ended in March 2017 with no additional funding provided for

the Electronic High School. This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53A-17a-131.15 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local governments.

♦ SMALL BUSINESSES: There is no aggregate anticipated cost or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of Rule R277-725 is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule repeal is not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the Electronic High School formerly run by the Utah State Board of Education and does not require any expenditures of or generate any revenues for large businesses. This rule repeal will not have a fiscal impact because the Legislature reallocated the ongoing funding for Electronic High School during the 2016 General Session. The Electronic High School classes ended in March 2017 with no additional funding provided for Electronic High School. Thus, repealing this rule is in line with changes already made by the Legislature. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The repeal of Rule R277-725 is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule repeal is not expected to have any fiscal impact on large businesses'

revenues or expenditures because it deals with the Electronic High School formerly run by the Utah State Board of Education and does not require any expenditures of or generate any revenues for large businesses.

This rule change will not have a fiscal impact because the Legislature reallocated the ongoing funding for Electronic High School during the 2016 General Session. The Electronic High School classes ended in March 2017 with no additional funding provided for Electronic High School. Thus, repealing this rule is in line with changes already made by the Legislature.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

[R277-725. Electronic High School.

R277-725-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Electronic high school" means a rigorous program offering 9-12 grade level courses delivered over the Internet and eordinated by the USOE.
- C. "Home schooled student" means a student who attends no more than two regularly scheduled classes or courses in a public school per semester as defined under Section 53A-11-102.
- D. "Open entry/open exit" means:
 - (1) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered; and
 - (2) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered.
- E. "Unit of credit" means credit awarded for courses taken with school district/school approval and successfully completed by students. A student may also earn units of credit by demonstrating subject mastery through district/school approved methods.
- F. "USOE" means the Utah State Office of Education.

R277-725-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of the public schools in the Board, Section 53A-1-401(3) which authorizes the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-131.15 which directs the Board to have a rule for distribution of funds for the electronic high school program.
- B. The purpose of this rule is to provide minimum standards, definitions, and procedures for distribution of funds and eoordination of the electronic high school program.

R277-725-3. Electronic High School Funding.

The USOE shall maintain and distribute funds appropriated by the Legislature for the electronic high school program.

R277-725-4. Courses and Credit.

A. Curriculum, course offerings and course availability shall be determined by the USOE Electronic High School Principal following consultation with school district personnel and USOE specialists to determine demand and curriculum requirements.

~~_____ B. Courses shall be offered in an open-entry open-exit format. In a student's first week of enrollment in a course, a student shall be assigned to a cohort group with the expectation of class completion within seven to ten weeks.~~

~~_____ C. Courses shall be designed to be competency-based, with no specific student seat time requirement.~~

~~_____ D. Schools or school districts shall accept credits that students earn through the electronic high school.~~

R277-725-5. Student Eligibility for Enrollment.

~~_____ A. There are no age or grade restrictions for Utah students to enroll in electronic high school courses.~~

~~_____ B. Students are accepted into electronic high school courses on a first-come first-served basis.~~

~~_____ C. A student may register for electronic high school courses at the public school where the student currently attends. The public school shall notify the student's counselor within the first four weeks of enrollment to assure that the course is consistent with the student's SEOP/plan for college and career readiness.~~

~~_____ D. The school counselor shall assist students in evaluating courses required for and offered through the electronic high school.~~

R277-725-6. Electronic High School Services to Students with Disabilities.

~~_____ Students with disabilities who may need additional services or resources and who seek to enroll in electronic high school classes may request appropriate accommodations through the students' assigned schools or school districts.~~

R277-725-7. Student Fees or Tuition.

~~_____ A. Electronic high school courses are provided to students who are Utah residents, as defined under Section 53A-2-201(1), free of charge.~~

~~_____ B. Students whose parents/legal guardians are not Utah residents, consistent with Section 53A-2-201, may enroll in electronic high school courses for a fee of \$150 per quarter course provided that the course can accommodate additional students.~~

R277-725-8. Teacher Requirements and Payments.

~~_____ A. All electronic high school teachers are licensed Utah educators consistent with Section 53A-6.~~

~~_____ B. Electronic high school teachers are paid an hourly wage according to their contract negotiated with the USOE.~~

~~_____ C. All electronic high school teachers shall be subject to laws and administrative rules for Utah educators, including the state and federal Family Educational Rights and Privacy Act, Sections 53A-13-301 and 302, and 20 U.S.C. Section 1232g and 34 C.F.R. Part 99; child abuse reporting requirements; and Professional Standards for Utah Educators, R686-103.~~

R277-725-9. Electronic High School Credit and Diplomas.

~~_____ A. The Electronic high school may award diplomas to students consistent Section 53A-15-1007 as adequate courses and funding are available, required for graduation.~~

~~_____ B. The student's resident school personnel shall assist prospective graduates, to the extent of resources available, with transcript evaluation and suggestions for completing graduation requirements required beyond the electronic high school curriculum.~~

KEY: electronic high school

Date of Enactment or Last Substantive Amendment: June 9, 2014

Notice of Continuation: April 4, 2014

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-131.15]

Education, Administration
R277-801
**Services for Students who are Deaf,
Hard of Hearing, Blind, Visually
Impaired, and Deafblind**

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 42801

FILED: 04/16/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to add clarifying language specifying that a qualifying student may enroll directly in the Utah School for the Deaf and Blind (USDB) if the student's previous primary educational instruction was in American Sign Language and USDB's program most closely matches the qualifying student's prior program of instruction.

SUMMARY OF THE RULE OR CHANGE: This rule change adds clarifying language specifying that a qualifying student may enroll directly in USDB if the student's previous primary educational instruction was in American Sign Language and USDB's program most closely matches the qualifying student's prior program of instruction. Language added further clarifies which services the USDB will provide free of charge, and that USDB shall provide all funded outreach services at no cost for qualifying students within a local education agency (LEA) with less than three percent of the student population statewide.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53E-8-201 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This rule change is not estimated to have aggregate anticipated cost or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** This rule change is not estimated to have aggregate anticipated cost or savings to local governments.

♦ **SMALL BUSINESSES:** This rule change is not estimated to have aggregate anticipated cost or savings to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change is not estimated to have aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change to Rule R277-801 is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule change is not expected to have any fiscal impact on large businesses' revenues or expenditures because it clarifies procedures for placement of students at the USDB and does not require any expenditures of or generate any revenues for large businesses. This rule change adds clarifying language specifying that a qualifying student may enroll directly in USDB if the student's previous primary educational instruction was in American Sign Language and USDB's program most closely matches the qualifying student's prior program of instruction. Language added further clarifies which services the USDB shall provide free of charge and that USDB shall provide all funded outreach services at no cost for qualifying students within a local education agency (LEA) with less than three percent of the student population statewide. An LEA with greater than three percent of the student population statewide shall provide services for qualifying students or may contract with the USDB for these services, subject to legislative appropriations, so it will not cause any additional costs for local education agencies. This rule change provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
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| State Government | \$0 | \$0 | \$0 |
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*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This change to Rule R277-801 is not estimated to have a fiscal impact. There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities on the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. This proposed rule change is not expected to have any fiscal impact on large businesses' revenues or expenditures because it clarifies procedures for placement of students at the Utah Schools for the Deaf and the Blind (USDB) and does not require any expenditures of or generate any revenues for large businesses.

This rule change adds clarifying language specifying that a qualifying student may enroll directly in USDB if the student's previous primary instruction was in American Sign Language and USDB's program most closely matches the qualifying student's prior program of instruction. Language added further clarifies which services the USDB shall provide free of charge and that USDB shall provide all funded outreach services at no cost for qualifying students within a local education agency (LEA) with less than three percent of the student population statewide. An LEA with greater than three percent of the student population statewide shall provide services for qualifying students or contract with the USDB for these services subject to legislative appropriations so it will not cause any additional costs for local education agencies.

The rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-801. Services for Students who are Deaf, Hard of Hearing, Blind, Visually Impaired, and ~~Deafblind~~ Deaf-Blind.

R277-801-1. Authority and Purpose.

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection ~~[53A-1-401]~~53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Section ~~[53A-25b-103]~~53E-8-201, which creates USDB, and authorizes USDB to provide services to qualifying students.

(2) The purpose of this rule is to establish rules for LEAs and USDB to provide services to students who are deaf, hard of hearing, blind, visually impaired, and deaf-blind.

R277-801-2. Definitions.

(1) "504 plan" means a plan required by Section 504, which is designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

(2)(a) "Intensive services" means services requiring vision, deaf-blind, or hearing services:

- (i) in excess of 180 minutes per day for k-12 or post-high school students; or
- (ii) in excess of 90 minutes per day for pre-school students.

(b) "Intensive services does not include services that are not vision, deaf-blind, or hearing specific.

(3) "Intervener" means a specially trained paraprofessional who provides access to information and communication and facilitates the development of social and emotional well-being for children who are deaf-blind.

(4) "Medicaid time study" means the primary mechanism for identifying and categorizing Medicaid administrative activities performed by an LEA's staff, which serves as the basis for developing claims for the costs of administrative activities that may be properly reimbursed under Medicaid.

(5) "Minimum school program" or "MSP" means the same as that term is defined in Section ~~[53A-17a-103]~~53F-2-102.

(6) "Qualifying student" means a student who is deaf, hard of hearing, blind, visually impaired, or deaf-blind who qualifies for services in accordance with Subsection ~~[53A-25b-301(1)]~~53E-8-401(1).

(7) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

(8) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows individual detailed student records to be exchanged electronically among LEAs and the Board, and allows electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

(9) "Weighted pupil unit" or "WPU" means the basic per pupil unit used to calculate the amount of state funds for which a school district is eligible.

R277-801-3. Responsibilities of LEAs.

(1)(a) An LEA is the single point of entry for USDB services for qualifying students.

(b) A qualifying student may not enroll in a USDB program without a referral from an LEA.

(c) When evaluating services for a qualifying student, an LEA and the USDB shall consider:

- (i) primary disabilities;
- (ii) secondary disabilities; and
- (iii) other factors, including:
 - (A) transportation needs; and
 - (B) length of time the student would spend in transport daily.

(2) Notwithstanding Subsection (1), a qualifying student may enroll directly in USDB if:

(a) the student's previous primary instruction was in American sign language; and

(b) USDB's program most closely matches the qualifying student's prior program of instruction.

~~_____~~ ~~(2)~~3 A qualifying student may receive services under:

- (a) IDEA;
- (b) Section 504; or
- (c) a USDB Preschool Services Plan.

~~(3)~~4 An LEA shall annually provide to the Superintendent the name and contact information for any student with vision loss or hearing loss, even if it isn't the student's primary disability.

~~(4)~~5(a) An LEA has the responsibility for the design and implementation of and IEP or Section 504 plan for qualifying students.

(b) Specific details of required intensive services for a student shall be defined within the student's IEP.

(c) A qualifying student who enrolls in a Utah school district or charter school may be eligible to receive intensive services from sensory specialists employed by USDB, if appropriately designated as specialized instruction or a related services as part of an IEP or Section 504 plan.

~~(5)~~6(a) An LEA with greater than 3% ~~[percent]~~ of the student population statewide may elect to contract with USDB to provide outreach services.

(b) An LEA may employ their own sensory specialists to meet the IEP or 504 plan needs of qualifying students.

([6]Z)(a) An LEA is responsible for the development of a qualifying student's IEP, including any assessments necessary for initial placement.

(b) Notwithstanding Subsection ([6]Z)(a), an LEA may not commit USDB to provide services to qualifying students unless USDB has participated in the IEP.

(c)(i) An LEA and USDB shall consider least restrictive environment, as well as intensive services needs of a qualifying student in determining an appropriate placement.

(ii) In the case of deaf or hard of hearing students, an IEP team should consider the opportunity for a student to have direct communication with teachers and peers.

(8) Notwithstanding Subsection (7), if a qualifying student enrolls directly with USDB in accordance with Subsection (2), USDB shall develop the student's IEP, including any assessments necessary for initial placement.

_____[7]9) If an LEA is working with USDB staff:

(a) the LEA shall provide internet access and technical support to permit USDB staff to access the internet through technology and hardware;

(b) the LEA and USDB technology staff will jointly determine procedures to ensure access to LEA technology systems; and

(c) USDB shall provide and maintain all needed hardware and software provided to USDB staff.

([8]10) An LEA shall provide an assistive technology device a student if the assistive technology device is required for the implementation of the student's IEP.

R277-801-4. Designation of USDB as an LEA.

(1)(a) In order to meet the educational needs of qualifying students, an IEP team may enroll a qualifying student in a USDB program and may designate USDB as the LEA for the qualifying student.

(b) If USDB is designated as the LEA under Subsection (1)(a), the USDB program shall be treated as a placement option within the LEA continuum, and the referring LEA staff shall continue to attend IEP meetings.

(2)(a) If USDB is designated as a qualifying student's LEA, USDB is responsible from that point on for the design and implementation of the student's IEP, 504 Plan, or USDB Preschool Service Plan.

(b) USDB shall provide all special education and related services and costs documented in an IEP for a qualifying student described in Subsection (2)(a).

(c) USDB may request consultation from the referring LEA for the design of services that are required by the student beyond the student's sensory needs.

R277-801-5. Correlation of Responsibilities.

(1) For qualifying students currently enrolled with an LEA and receiving services through USDB outreach programs, an LEA will provide a list of students and their IEP due dates for the upcoming school year to the USDB Assistant Superintendent no later than June 30.

(2) An LEA shall invite USDB staff to attend IEP or 504 plan meetings for qualifying students, including meetings for:

(a) students transitioning from Part C to Part B;

(b) students moving from out of state; and

(c) students transferring between LEAs.

(3)(a) For qualifying students enrolled in an LEA and receiving no services from USDB, an LEA shall invite USDB to attend any meeting where USDB services may be considered for that student.

(b) If a change of placement is considered:

(i) both the referring LEA and USDB will participate and establish a timeline to ensure a successful transition for the student.

(ii) both the referring LEA and USDB will participate in the IEP or 504 meeting.

(4) IEP or 504 plan meetings shall be held at a mutually agreed upon time and location, with appropriate notification to all parties.

(5)(a) The Board and USDB shall provide ongoing interpreter training toward certification and mentoring for all interpreters, as requested by individual LEAs.

(b) Training provided under Subsection (7)(a) shall provide certified interpreters with the opportunity to improve skills and move up to a higher level of certification.

(c) An LEA may contract with USDB to provide interpreter services for students attending the LEA or an LEA school where a USDB extension classroom is located.

(6)(a) Each LEA, including USDB as the designated LEA, is responsible for ensuring the timely provision of textbooks and material as required by the IDEA.

(b) The Board shall:

(i) annually provide information to LEAs regarding the costs of accessible materials in the state; and

(ii) determine an equitable cost-sharing plan.

R277-801-6. Services for Qualifying Students.

(1) If a qualifying student is enrolled with USDB as the designated LEA:

(a) USDB shall include the qualifying student in all Board-required enrollment reports including:

(i) fall enrollment counts;

(ii) the child count of students with disabilities; and

(iii) the end-of-year enrollment report;

(b) Any agreements between the referring LEA and USDB shall be documented as part of a written agreement, which shall be reviewed at least annually;

(c)(i) A qualifying student's IEP team shall determine the student's transportation needs;

(ii) USDB shall provide transportation as a related service in an IEP or if required to implement a 504 plan; and

(iii) A referring LEA shall combine resources with USDB, whenever possible, to provide within-LEA transportation;

(d)(i) USDB shall annually administer all Board-required assessments.

(ii) USDB may provide alternate tests in accordance with a student's IEP and state law; and

(e) USDB shall develop and implement all programs, policies, and procedures required of an LEA by the Board and state law.

(2) If a qualifying student attends USDB extension classrooms located within an LEA:

- (a) the student shall be enrolled in the general education program of the LEA school the student is attending;
- (b) the LEA school shall be designated as the "school of record" for the student;
- (c) the student shall be included by the LEA school or district in all required reports and uploads to UTREx;
- (d) the student shall be counted in the LEA school or district total enrollment, and will be included in the calculation of all funding formulas, including Weighted Pupil Units and Minimum School Program;
- (e) the student shall receive access to LEA programs and services consistent with their IEP or 504 plan, consistent with services available to other students enrolled in the student's school;
- (f) the student may not be enrolled in the special education program of the LEA school the student is attending;
- (g) USDB shall ensure the student receives a free appropriate public education;
- (h) USDB shall ensure the student receives all special education and related services, including interpreting services, as required on the student's IEP or 504 plan;
- (i) the LEA school shall generate general education funding or WPU for the student;
- (j) USDB shall receive federal IDEA funding in accordance with USDB's legislative line item funding;
- (k) the LEA school shall receive no state or federal special education funding for the student;
- (l)(i) USDB shall provide transportation for the student as a related service when it is included in an IEP.
- (ii) an LEA school shall combine resources with USDB, whenever possible, to provide within-LEA transportation; and
- (m) an LEA school and USDB shall jointly ensure that any portable classrooms have access to intercom and phone service.
- (3) If a qualifying student receives USDB outreach or consulting services:
 - (a) the student shall be enrolled in the general and special education programs of the LEA school the student attends;
 - (b) the LEA shall included the student in the calculation of state special education and IDEA funds for the school district or charter school; and
 - (c) USDB may not submit the students to UTREx and may not receive state or federal special education funding[?];
 - (4) USDB shall provide the following services free of charge to every LEA, regardless of size, exclusive of additional related services:
 - (a) Educational Resource Center resources, including loaner equipment;
 - (b) USIMAC materials;
 - (c) Interpreter training;
 - (d) Professional development;
 - (e) Expanded core curriculum;
 - (f) Enrichment programs and activities;
 - (g) Consultations;
 - (h) Psychological assessments for the Deaf and the Blind;
 - (i) Speech assessments for Deaf students;
 - (j) Behavioral intervention and supports;
 - (k) Deaf-Blind Specialists; and
 - (l) Deaf-Blind Interveners.

- (5) USDB may offer to provide the following other services to LEAs for Deaf, Blind, and Deaf-Blind qualifying students, exclusive of additional related services:
 - (a) Teachers of the Blind and Visually Impaired or "TVI;"
 - (b) Orientation and Mobility or "O & M;"
 - (c) Educational and Assistive Technology;
 - (d) Vision Screenings;
 - (e) Low vision support and evaluations;
 - (f) Extended School Year services in accordance with R277-751;
 - (g) Teachers for the Deaf and Hard of Hearing;
 - (h) Audiological services; and
 - (i) American Sign Language/English interpreters.
- (~~(d)~~6) USDB [with]shall provide all funded outreach services at no cost for qualifying students within an LEA with less than [three percent]3% of the student population statewide[? and].
- (7) An LEA with greater than 3% of the student population statewide shall provide services for qualifying students.
 - (~~(e)~~a) An LEA may contract with USDB to provide services for students if an LEA has greater than [three percent]3% of the student population statewide[?].
 - (i) An LEA and USDB shall sign contracts prior to initiation of services.
 - (ii) An LEA shall make payments in two installments, in January and June.
 - (iii) The Board may assist USDB in collection of outstanding balances upon request.
 - (b) An LEA with greater than 3% of the student population statewide may opt out and transfer responsibilities for providing services to USDB subject to legislative appropriation of funds.
 - (~~(i)~~8) The Superintendent shall provide a list of LEAs that exceed the [three percent]3% threshold by December 15 for the upcoming school year[?].
 - (~~(ii)~~) An LEA and USDB shall sign contracts prior to initiation of services;
 - (~~(iii)~~) An LEA shall make payments in two installments, in January and June; and
 - (~~(iv)~~) The Board may assist USDB in collection of outstanding balances upon request.
 - (4) USDB may provide orientation and mobility or "O and M" services subject to the following:
 - (a) USDB shall provide eligible O and M services at no cost to an LEA if the LEA requests the services by September 1 for the next school year;
 - (b) USDB shall provide O and M services within normal contract hours;
 - (c) An LEA requesting O and M services outside of the a student's school day may contract with USDB to provide the additional services;
 - (d) Notwithstanding Subsection (4)(b), an LEA may choose to provide its own O and M services; and
 - (e) An LEA and USDB shall approve O and M services in a qualifying student's IEP or 504 plan.
 - (5) USDB shall provide deaf-blind services to all eligible Utah students at no cost to the student's LEA in accordance with the student's IEP or 504 plan.

~~_____ (6) USDB shall provide interveners to all eligible Utah students subject to the following:~~

~~_____ (a) USDB shall provide interveners to an LEA at no cost to the LEA;~~

~~_____ (b)(i) Notwithstanding Subsection (6)(a), an LEA may provide their own interveners or substitute interveners and may receive financial support from USDB at the LEA's rate of pay for comparable paraprofessionals;~~

~~_____ (ii) Financial support from USDB to an LEA for interveners or substitute interveners may not exceed the amount paid for comparable paraprofessionals in the USDB salary schedule;~~

~~_____ (c) All interveners or substitute interveners must complete the USDB intervener training or a national certification;~~

~~_____ (d) An LEA will provide documentation for reimbursement of an intervener or substitute intervener it hires according to USDB's reimbursement schedule;~~

~~_____ (e) USDB shall provide a plan for training of all interveners and substitute interveners to an LEA annually; and~~

~~_____ (f) An LEA and USDB shall develop a plan for the provision of a substitute intervener to meet an eligible student's needs, which may include:~~

~~_____ (i) a USDB-hired substitute intervener;~~

~~_____ (ii) an LEA-hired substitute intervener; or~~

~~_____ (iii) other mutually agreeable arrangements.~~

~~_____ (7) USDB may provide the following diagnostic assessment services to an LEA without charge to support the appropriate evaluation of a student who is deaf, hard of hearing, blind, visually impaired, and deafblind:~~

~~_____ (a) the USDB Assistive Technology Team;~~

~~_____ (b) the Deaf-Blind Assessment and Coaching Team; and~~

~~_____ (c) low vision support.~~

~~_____ (8) USDB may provide audiological services to an eligible student through a referral from an LEA or early intervention provider.~~

~~_____ (a) Audiological services shall be provided at no cost to an LEA with less than three percent of the state's student population.~~

~~_____ (b) An LEA with greater than three percent of the state's student population may contract for audiological services with USDB.]~~

~~_____ (9) An LEA and USDB may contract for services beyond those specified in this Rule R277-801.~~

~~_____ (10) Notwithstanding this Section R277-801-6, USDB shall maintain all funded outreach services offered to each LEA, as of the 2017-18 school year.~~

~~_____ ([40]11)(a) USDB may participate in Medicaid time studies for services provided directly by USDB.~~

~~_____ (b) An LEA [shall]may not include services provided directly by USDB in the LEA's Medicaid time studies.~~

~~_____ (c) If an LEA contracts with USDB for payable services, an LEA shall include those services in the LEA's Medicaid time study.~~

KEY: deaf, blind, students, services

Date of Enactment or Last Substantive Amendment:
[September 21, 2017]2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [53A-1-401]53E-3-401(4); [53A-25b-103]53E-8-2011-401

Environmental Quality, Administration **R305-7** Administrative Procedures

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42781

FILED: 04/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule amendment is to clarify and supplement several matters where additional detail and clarity were deemed helpful based on experience with the current version of the rule over the past several years. These changes have been recommended, in part, to limit the need for litigation about the Department of Environmental Quality's (Department) procedural rule. For example, the section governing filing requirements for the initiation of new adjudicative and special adjudicative proceedings, Section R305-7-104, has been clarified, consistent with previous determinations made by an Administrative Law Judge (ALJ) and the Executive Director. In this case, the existing section was not ambiguous, but clarifications were warranted to add additional clarity. Section R305-7-107 has been supplemented to provide specific procedures regarding records of hearings in order to assist parties and the ALJ in preserving the record for the Executive Director and judicial review. Section R305-7-114 has been added to address dismissal of proceedings for failure to prosecute. The procedures adopted in this new section are based upon a similar rule in the Utah Code of Judicial Administration as applied to cases pending in state district courts. The previous sections did not include such a procedure. In many instances, adjudicative proceedings have been filed but not prosecuted. A new provision, Section R305-7-302, has been added to clarify the procedures for service of Notices of Violation and Initial Orders by Directors within the Department. This section fills a gap in the existing rule as to certain types of enforcement actions. Procedures following the filing of a Request for Agency Action have also been modified to assist ALJs. Under the modified Section R305-7-306, instead of a "response" under the Utah Administrative Procedures Act (UAPA), the Directors must file a status report to the newly-appointed ALJ. The appealing party likewise files a status report. The ALJ will then rely on these status reports in crafting an appropriate Notice of Further Proceedings and scheduling order. Section R305-7-310, relating to discovery, has been modified and clarified to integrate with the current Utah Rules of Civil Procedure and provide parties with a right to reasonable discovery in connection with enforcement actions. A number of other minor revisions and editorial changes have been made. Because these revisions are entirely procedural, Section R305-7-200 provides that the revisions shall apply to all proceedings pending before the Executive Director.

SUMMARY OF THE RULE OR CHANGE: The terms "Designated Address" and "U.S. Postal Service Certified Mail" have been added under Section R305-7-102 for purposes of defining service of Notices of Violation under Section R305-7-302. The reference to a "response" to a request for agency action is deleted under Subsection R305-7-103(2), as the requirement to file a response has been removed. A new Subsection R305-7-104(1)(a) has been added as a cross-reference regarding service of Notices of Violation and Initial Orders, a subject that is now covered under Section R305-7-302. Subsections R305-7-104(1)(b), (3)(a), and (5) have been modified to clarify that new adjudicative proceedings may not be initiated by email filing. A traditional, paper filing is required and must be received by the Division as of the due date. The existing rule has been interpreted to so provide. These amendments are intended to clarify the existing rule. A new Subsection R305-7-104(4) has been added in order to create a single rule governing all hearings in adjudicative proceedings. Corresponding rules regarding hearings under Subsections R305-7-213(5) and R305-7-314(2) have been conformed. This new subsection confirms the practice adopted by most ALJs who have been hearing cases under the rule and reinforces the rule that all matters subject to review by the Executive Director must be of record. Responsibility for making the record falls to the Directors. The final sentence of Section R305-7-112 has been eliminated because it is redundant and deemed unnecessary. A new Section R305-7-114 has been adopted to address prosecution of actions. Consistent with the Utah Code of Judicial Administration, this section provides that the responsibility for prosecution of adjudications falls to the person seeking relief; that the Executive Director may, either sua sponte or by motion, serve an order to show cause why a case should not be dismissed for failure to prosecute. In matters where an ALJ has been assigned, a motion should be filed with the ALJ in the first instance. In either event, the person with the responsibility for prosecution of the action will be provided with an opportunity to show cause why the adjudication should not be dismissed for failure to prosecute before such an order is entered. This section adopts the current practice of the Executive Director. Subsection R305-7-200(2) provides that because the 2018 amendments are procedural, they shall apply retroactively to all matters pending before the Executive Director. Section 19-1-301.5 provides that the Department may promulgate rules for extensions of time for petitions to review in special adjudicative proceedings. The existing Section R305-7-205 speaks of "parties" but not prospective intervenors. This section has been expanded to provide that if the parties and prospective intervenor agree, an extension of time may be entered. This change extending the right for a stipulated extension of time to prospective intervenors provides Directors with greater flexibility to manage potential settlement of special adjudicative proceedings. Subsections R305-7-302(1) and (2) have been moved to and consolidated with Section R305-7-307. A new Section R305-7-302 has been promulgated to govern the issuance and service of Notices of Violation and Initial Orders by Directors. The intent of this section is to provide, by rule, more clarity as to the

effective date, service, and the appeal period for Notices of Violation and Initial Orders. This section generally provides recipients with at least 20 days to file a response. This section generally adopts the longstanding practice of Directors providing service by registered mail. Utah appellate courts have ruled that service by registered mail is adequate to satisfy due process requirements. This section also provides Directors with several other options to accomplish service when they deem alternate service is warranted. Section R305-7-303 has been amended to clarify that a Notice of Violation and Initial Order may be appealed if the appeal is filed (that is, received) within 30 days of the effective date (being the date it is signed), provided that the document has been served within 7 days of the date of issuance. Once the appeal period has expired, however, the Notice of Violation or Initial Order becomes final for all purposes. Section R305-7-306 has been modified to remove the requirement that Directors file a "response" to a request for agency action in an enforcement case, as provided under UAPA (Section 63G-4-204). This change has been made for several reasons. In an enforcement proceeding, the Notice of Violation or Initial Order serves the place of a complaint and the Request for Agency Action serves as an answer. Under the amended Subsection R305-7-309(9), the Adjudicatory Record now expressly begins with the Notice of Violation and/or Initial Order (complaint) that is the subject of the Request for Agency Action (answer). As a matter of procedure, there is no need for a Director to file a rebuttal to a document that serves as an answer. For similar reasons, the requirement for Directors to file a response to a petition for review in a special adjudicative proceeding was previously eliminated. The response serves no purpose. Rather than filing a "response", the Director is now required to file a status report to the ALJ within 10 days of appointment (Subsection R305-7-306(4)). The opposing party or parties will then have the opportunity to file a similar status report. The status reports will include information necessary for the ALJ to make a determination as to the necessity of further proceedings, as well as assistance in understanding scheduling matters, the need for discovery, and so forth, see Subsection R305-7-306(5). The current section has no such procedure to assist ALJs in making determinations about further proceedings. This section also clarifies the existing practice that until a notice of further proceedings is entered by an ALJ, there is no requirement by any party to file a response to any motion filed prior to that time. As noted above, Section R305-7-307 has been consolidated with the former Section R305-7-302 so the subject matter (formality of proceedings) is addressed in a single section. Section R305-7-309 relating to the agency record has been modified in a few respects. Paper copies of the administrative record are not required to be served upon the ALJ. The procedure for generating the initial draft record has been adjusted to provide greater flexibility. Because the Initial Record has been deemed to satisfy a Director's requirement for initial disclosures under Section R305-7-310, a minimum of 60 days has been provided to produce the record. The production of formal records requires considerable agency time and it was deemed appropriate to set, in rule, a timeframe so as to allow for advance planning.

The existing Section R305-7-310 regarding discovery has been replaced in its entirety by a new section. This new section allows either party a right to reasonable discovery, subject to the limitations set forth in the Utah Rules of Civil Procedure and as may be imposed by the ALJ. The ALJ's powers over discovery matters, as relating to the Utah Rules, has been clarified. Because the Utah Rules rely extensively upon disclosures, this new section has followed suit. Finally, as to the production of documents in administrative proceedings, the section clarifies that the Department's production of public records is subject to the limitations set forth by the legislature under the Government Records Access and Management Act, Title 63G, Chapter 2, or GRAMA. This statute prohibits Directors from disclosing certain information. These limitations should apply to administrative proceedings. Section R305-7-317 has been modified slightly to expand the grounds for interlocutory appeal to the Executive Director, in the interests of judicial economy. Section R305-7-318 has been modified to clarify the circumstances where a stay of an administrative order may be appropriate. Section R305-7-319 has been deleted. The issues addressed in this section (finality) are now addressed exclusively in Section R305-7-303. Several other editorial and conforming changes have been made in this revision. These should be self-explanatory.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-1-301 and Section 19-1-301.5 and Subsection 19-1-201(1)(d) and Subsection 63G-4-102(6)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These amendments will have no impact on the state budget because the amendments simply provide additional clarification of procedure that is already in place under the existing rule.
- ◆ **LOCAL GOVERNMENTS:** These amendments will have no impact on local governments because the amendments simply provide additional clarification of procedure that is already in place under the existing rule.
- ◆ **SMALL BUSINESSES:** These amendments will have no impact on small businesses because the amendments simply provide additional clarification of procedure that is already in place under the existing rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments will have no impact on other persons because the amendments simply provide additional clarification of procedure that is already in place under the existing rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments have no associated fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments will have no impact on businesses because the amendments simply provide additional clarification of procedure that is already in place under the existing rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 ADMINISTRATION
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Bret Randall by phone at 801-536-0284, or by Internet E-mail at bfrandall@agutah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Alan Matheson, Executive Director

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

These amendments will have no impact on non-small businesses because these amendments simply provide additional clarification of procedure that is already in place under the existing rule.

The executive director of the Department of Environmental Quality has reviewed and approved this fiscal analysis.

R305. Environmental Quality, Administration.

R305-7. Administrative Procedures.

R305-7-101. Scope of Rule and Purpose of Parts.

(1) This rule governs all adjudicative procedures conducted under the authority of the Environmental Quality Code, Utah Code Ann. Title 19. This rule does not govern the proceedings that result in an initial determination by the Director, including the issuance of the initial determination itself.

(2) (a) Part 1 of this Rule (R305-7-101 through 113) applies to all adjudications before the ~~[agency]~~Executive Director. It addresses general and preliminary matters.

(b) Part 2 of this Rule (R305-7-200 through 217) applies to special adjudicative proceedings. These procedures are governed by Section 19-1-301.5.

(c) Part 3 of this Rule (R305-7-301 through ~~[320]~~319) applies to adjudicative procedures that are not special adjudicative proceedings. These procedures are governed by Section 19-1-301.

(e) Part 4 of this Rule (R305-7-401 through 403) addresses matters initiated by notices of agency action.

(d) Part 5 of this Rule (R305-7-501 through 503) addresses declaratory orders and emergency adjudication.

(e) Part 6 of this Rule (R305-7-601 through 623) addresses matters relevant to specific statutes.

R305-7-102. Definitions.

(1) The following definitions apply to this Rule. The definitions in Part 6 of this Rule, e.g., the definition of "Director," also apply for matters governed by the statutory provisions specified in that Part. If the definition in Part 6 differs from the definition in Part 1, the definition in Part 6 controls.

(a) "Administrative Law Judge" or ALJ means the person appointed under Section 19-1-301(5) or Section 19-1-301.5(5) to conduct an adjudicative proceeding.

(b) "Administrative Proceedings Records Officer" means a person who receives a record copy of submissions on behalf of the Executive Director~~[agency]~~, as specified in R305-7-104.

(c) "Administrative Record," for purposes of Part 2 of this Rule, means the record described in Section 19-1-301.5(8)(b) and upon which a special adjudicative proceeding is conducted. See also R305-7-209.

(d) "Days" means calendar days unless otherwise specified. See also R305-7-105.

(e) "Designated Address" means the most recent address any person has filed with a Director in accordance with law.

~~[(e)](f)~~ "Director" means the director of one of the divisions listed in Section 19-1-105(1)(a). The Director is defined, for each statute administered by the Department, in Part 6 of this Rule.

~~[(f)](g)~~ "Executive Director" means the Executive Director of the Department of Environmental Quality.

~~[(g)](h)~~ "Initial Order" means an order that is not a Permit Order, that is issued by the Director and that is the final step in the portion of a proceeding that is exempt from the requirements of UAPA as provided in Section 63G-4-102(2)(k).

~~[(h)](i)~~ "Notice of Violation" means a notice of violation issued by the Director that is exempt from the requirements of UAPA under Section 63G-4-102(2)(k).

~~[(i)](j)~~ "Part" means the sections of this Rule that are grouped together by subject matter, e.g., Sections R305-7-501 through 503 are Part 5 of this Rule.

~~[(j)](k)~~ "Party" is defined in R-305-7-207 for special adjudicative proceedings, and in R305-7-305 for other proceedings.

~~[(k)](l)~~ "Permit" means any of the following:

- (i) a permit;
- (ii) a plan;
- (iii) a license;
- (iv) an approval order; or
- (v) another administrative authorization made by a Director, including a financial assurance determination as defined by Section 19-1-301.5(1)(c).

~~[(l)](m)~~(i) "Permit order" means an order issued by the Director that:

- (A) approves a permit;
 - (B) renews a permit;
 - (C) denies a permit;
 - (D) modifies or amends a permit; or
 - (E) revokes and reissues a permit.
- (ii) "Permit order" does not include an order terminating a permit.

~~[(m)](n)~~ "Permit review adjudicative proceeding" and "special adjudicative proceedings" and "permit special proceedings" mean an adjudicative proceeding to resolve a challenge to a Permit Order including a financial assurance determination as defined by Section 19-1-301.5 (1)(c).

~~[(n)](o)~~ "Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. "Person" also includes, as appropriate to the matter, other entities as provided in definitions in the statutes specified in the Department of Environmental Quality Code, Title 19, and in rules promulgated thereunder.

~~[(o)](p)~~ "Rule" means this Rule R305-7, Administrative Procedures for the Department of Environmental Quality, unless otherwise specified.

~~[(p)](q)~~ "UAPA" means the Utah Administrative Procedures Act, Utah Code Ann. Title 63G, Chapter 4.

~~(r)~~ "U.S. Postal Service Certified Mail" is a form of registered mail. It provides a U.S. Postal Service proof of mailing via a receipt to the sender that the mailing was delivered or that a delivery attempt was made. A receipt may be provided in either paper or electronic form. In either event, the receipt is generated by the U.S. Postal Service. A return receipt acknowledged by the recipient (Certified Mail with Return Receipt Requested) is also permissible but is not required by this Rule. See UAC R305-7-302(3).

(2)(a) Ordinarily, administrative proceedings under the Environmental Quality Code are decided by the Executive Director based on a proceeding conducted by and recommended decision prepared by an Administrative Law Judge. In the event governing law specifies that another person or entity conduct a proceeding in the place of an Administrative Law Judge, the term "Administrative Law Judge" shall mean the person or entity serving in that function. In the event governing law specifies that another person or entity make final determinations regarding dispositive actions, the term "Executive Director" shall mean the person or entity who makes that final decision.

(b) Nothing in this provision R305-7-102(2) authorizes the appointment of a person or entity other than an administrative law judge to conduct an adjudicative proceeding. Nothing in this provision R305-7-102(2) authorizes the appointment of a person or entity other than the Executive Director to make a final determination regarding an adjudicative proceeding.

R305-7-103. Form of Submissions.

(1) All submissions, whether on paper copy or electronic, shall use 8-1/2 by 11 inch pages, be double-spaced, with each page numbered, and have one inch margins and 12 point font. Paper copies of documents submitted under this Rule shall ordinarily be printed on white paper; double-sided printing is encouraged but not required.

(2) Requests for Agency Action~~[agency action]~~, Notices of Agency Action~~[notices of agency action]~~and~~;~~ Petitions for Review~~[petitions for review, and responses to requests for agency action.]~~ shall include numbered paragraphs.

(3) The first page of every filing shall contain a caption that gives the name and file number of the proceeding, the name of the ALJ if one has been appointed, and the filing date.

(4) Requirements for motions and briefs for special adjudicative proceedings are specified in R305-7-211 and R305-7-213. Requirements for motions for other proceedings are specified in R305-7-312.

R305-7-104. Filing and Service of Notices, Orders, Motions, and Other Papers.

(1) (a) The rules governing service of Initial Orders and Notices of Violation are provided in R305-7-302.

(b) Filing and service of all papers in adjudicative proceedings shall be made by email except as otherwise provided in this R305-7-104 and in R305-7-309(2)(b), R305-7-309(7)(b)(ii), and R305-7-313. Adjudicative proceedings shall not be initiated by email. Initiation of adjudicative proceedings through traditional (paper) filing is governed by subsection 5, below.

~~(b)~~(c) In the event the ALJ determines that it is inappropriate in a specific case to file and serve all papers by email, the requirements of R305-7-104(4) will govern. Those requirements may be modified by the ALJ.

~~(e)~~(d) The provisions of R305-7-104(2) will also apply regardless of whether filing and service are done by email (R305-7-104(3)) or by traditional service methods (R305-7-104(4)).

~~(b)~~(e) A party seeking to have filing and service requirements governed by R305-7-104(4), such as a person who does not have access to email, shall file and serve that request as provided in R305-7-104(4). Once a request to proceed under R305-7-104(4) is filed and served, the provisions of that section shall apply to all future filing and service unless otherwise ordered by the ALJ.

(2) General Provisions Governing Filing and Service.

(a) Every submission shall be filed with:

(i) the ALJ or, if no ALJ has been appointed, the Director;

and

(ii) the Administrative Proceedings Records Officer.

(b) In addition, every submission shall be served upon:

(i) the Director, if a submission is not filed with the Director under paragraph (2)(a)(i);

(ii) the assistant attorney general representing the Director;

(iii) the permittee or the person who was the recipient of the Permit Order, or other order or notice of violation being challenged;

(iv) any other party.

(c) A person, other than the Director, who is represented by an attorney or other representative, as provided in R305-7-106, shall be served through the attorney or other representative.

(d) Every submission shall include a certificate of service that shows the date and manner of filing with and service on the persons identified in R305-7-104(2)(a) and (b).

(e) Service on a regulated person at the person's Designated Address~~[last known address in the agency's file]~~ shall be deemed to be service on that person.

(3) Provisions governing electronic filing and service.

(a) A submission following the initiation of an adjudicative proceeding shall be filed with the Administrative Proceedings Records Officer by emailing it to DEQAPRO@utah.gov. Initiation of adjudicative proceedings is governed by subsection (5).

(b) Filing or service on all other parties shall be by email at addresses provided by those persons. If the person filing or serving the submission is unable, after due diligence, to determine an email address for a party, the person shall file or provide service by traditional means, as provided in R305-7-104(4).

(c) (i) A text document served by email shall be submitted as a searchable PDF document.

(ii) A person filing a submission may electronically file and serve a document without a signature if the person indicates that the document was signed (e.g., "signed by (name)" or "/s/ (name)") ~~and keeps the original on file to be provided if requested by the ALJ.~~

(d) The ALJ may order any other submission to be provided in a searchable format.

(e) Large emails (5 Mb or more) may not be accepted by some email systems. It shall be the responsibility of a person sending a large email to ensure that it has been received by all parties, e.g., by telephoning or by sending a separate notification email and requesting a response.

(f) Photographic or other illustration documents filed and served by email shall be submitted as:

(i) a PDF document; or

(ii) a JPEG document.

(g) Documents that are difficult to file and serve by email because of their size or form may be filed and served on a CD, DVD, USB flash drive or other commonly used digital storage medium. A document may also be provided in paper form if it is impracticable to copy the document electronically. Filing and service of such documents shall be as provided in R305-7-104(4).

(h) A party shall provide a paper copy of any document, including signed documents, upon request by the ALJ.

(4) Provisions governing traditional filing and service.

(a) Filing and service shall be made:

(i) by United States mail, postage pre-paid;

(ii) by hand-delivery;
 (iii) by overnight courier delivery; or
 (iv) by the Utah State Building Mail system, if the sender and receiver are both state employees.

(b) Documents to be filed with or served on the Director shall be filed and served at the address specified in Part 6.

(c) Documents to be filed with the Administrative Proceedings Records Officer shall be submitted to one of these addresses:

(i) By U.S. Mail: Administrative Proceedings Records Officer, Environment Division, Utah Attorney General's Office, PO Box 140873, Salt Lake City Utah 84114-0873; or

(ii) By hand or commercial delivery: Administrative Proceedings Records Officer, Environment Division, Utah Attorney General's Office, 195 North 1950 West, Second Floor, Salt Lake City Utah 84116.

(d) (i) Except as provided in R305-7-104(5)(b), a document that is filed or served by U.S Mail or overnight delivery service shall be considered filed or served on the date it is mailed or provided to the overnight delivery service. A document that is filed or served by Utah State Building Mail shall be considered filed or served on the date it is placed in a Utah State Building Mail bin.

(5)(a) Email does not constitute filing and is not adequate to initiate an adjudicative proceeding under this Rule, Section 19-1-301, or a special adjudicative proceeding under Section 19-1-301.5. A paper, signed original of any Request for Agency Action, Petition for Review, Notice of Agency Action, or Petition to Intervene shall be filed traditionally and served as provided in R305-7-104(2) and (4).

(b) To be timely, a Request for Agency Action, Petition for Review, or a Petition to Intervene must be received by the Director and the Administrative Proceedings Records Officer as provided in:

(i) R305-7-203(5) and R305-7-205 (for a Petition for Review, filed and served in a special adjudicative proceeding);

(ii) R305-7-303(5) (for a Request[request] for Agency Action[agency action] filed and served in a proceeding other than a special adjudicative proceeding);

(iii) R305-7-204(2) and R305-7-205 (for a Petition to Intervene filed and served in a special adjudicative proceeding); and

(iv) R305-7-304 (which incorporates the requirements of R305-7-204(2)) for a Petition to Intervene filed and served in a proceeding other than a special adjudicative proceeding).

R305-7-105. Computation and Extensions of Time.

(1) A business day is any day other than a Saturday, Sunday or legal State of Utah holiday.

(2) As provided in R305-7-102, "days" means calendar days unless otherwise specified.

(3) Computing time.

(a) If a period is in calendar days:

(i) exclude the day of the event that triggers the period;

(ii) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(iii) include the last day of the period, but if the last day is a Saturday, Sunday, or legal State of Utah holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal State of Utah holiday.

(b) If a period is in business days:

(i) exclude the day of the event that triggers the period; and

(ii) count every business day.

(c) If a document is not filed or served by email, any time for responding to the document shall be extended by three business days. This provision does not apply to a Request for Agency Action, Petition for Review or a Petition to Intervene. See R305-7-104(5).

(4) Date of issuance.

The date of issuance of a Permit Order, a Notice of Agency Action or other order is the date the document is signed and dated.

(5) Extensions of Time.

(a) To the extent permitted by Section 19-1-301.5, the ALJ may approve extensions of any time limits established by this rule, and may extend time limits adopted in schedules established under R305-7-308. See Section 19-1-301.5(8).

(b) To the extent permitted by Section 19-1-301.5, the ALJ may postpone a deadline or, as applicable, a scheduled conference, oral argument or hearing, upon motion from the parties, or upon the ALJ's own motion. See Section 19-1-301.5(8).

(c) Notwithstanding any other provision in this section, R305-7-108(2) governs the ALJ's authority to extend time to file a Request for Agency Action, Petition for Review, or Petition to Intervene. See also the provisions cited in R305-7-108(2).

R305-7-106. Appearances and Representation.

(1) A party may be represented:

(a) by an individual if the individual is the party; or

(b) by a designated officer or other designated employee if the party is a person other than an individual.

(2) Any party may be represented by legal counsel. An attorney who is not currently a member in good standing of the Utah State Bar must present a written or oral motion for admission pro hac vice made by an active member in good standing of the Utah State Bar. Communication with and service on local counsel shall be deemed to be communication with and service on the party so represented.

R305-7-107. Proceeding Conducted by Teleconference or Other Electronic Means; Records of Hearings.

(1) All parties shall be present in person, or through an authorized representative (see R305-7-106), at an evidentiary hearing, if applicable.

(2) A party may participate in oral argument on a dispositive motion or oral argument on the merits of a special adjudicative proceeding by teleconference or other electronic means if:

(a) all other parties stipulate to participation by teleconference or other electronic means; and

(b) the ALJ approves the stipulation.

(3) A party may participate in any other hearing or conference on a dispositive motion or a hearing on the merits of a permit review adjudicative proceeding by teleconference or other electronic means if all other parties stipulate to participation by teleconference or other electronic means.

(4)(a) Hearings in all adjudicative proceedings that are subject to review by the Executive Director shall be recorded in order to preserve the record.

(b) Hearings that are not subject to review by the Executive Director, such as status and scheduling conferences, need not be recorded. In such cases, the notice of hearing will indicate that the hearing is not scheduled to be of record. If a party objects, a record of the hearing will be made in accordance with subpart (c).

(c) The Director is responsible for recording hearings of record, using audio recording equipment. Audio files of such hearings will become part of the adjudicative record.

(d) Any party may request that a court reporter be employed for the hearing, which request shall be granted by the ALJ. Unless otherwise stipulated by the parties, the requesting party shall bear the cost associated with the use of a court reporter. Any such requests shall be submitted to the ALJ at least 10 business days before the scheduled hearing. In the event that a court reporter is employed, the transcript of proceedings will become a public record and part of the adjudicative record of the proceeding. As a result, the court reporter shall not be allowed to claim any copyright on the transcript. The party engaging the court reporter will be responsible for obtaining a full release of the transcript.

R305-7-108. Modifying Requirements of Rules.

(1) Except as provided in R305-7-108(2), the requirements of this Rule may be modified by order of the ALJ for good cause, provided the modification is not inconsistent with applicable statutory provisions.

(2) The following requirements may not be modified:

(a) the requirements for timely filing a Petition for Review under R305-7-203(5) and 205 for a special adjudicative proceeding;

(b) the requirements for timely filing a Request for Agency Action under R305-7-303(5) for a proceeding other than a special adjudicative proceeding;

(c) the requirements for timely filing a Petition to Intervene under R305-7-204(2) and 205 for a special adjudicative proceeding; and

(d) the requirements for timely filing a Petition to Intervene under R305-7-304 (which incorporates the requirements of R305-7-204(2)) for a proceeding other than a special adjudicative proceeding.

R305-7-109. Default.

(1) The provision controlling default under UAPA, Section 63G-4-209, governs default under special adjudicative proceedings as well as proceedings under UAPA, including enforcement proceedings. However, a petitioner in a special adjudicative proceeding is not allowed to file a Request[request] for Agency Action[agency action]. Instead, a petitioner in a special adjudicative proceeding must file a Petition for Review. Therefore, if a petitioner in a special adjudicative proceeding improperly files a Request[request] for Agency Action[agency action] a respondent is not required to answer it. In addition, a respondent in a special adjudicative proceeding is not required to file a response to a Petition for Review under Section 63G-4-209(1)(c). However, a party in a special adjudicative proceeding who does not file a brief as required Section 19-1-301.5(8) may be held in default. See Section 19-1-301.5(10)(c).

(2) A default order shall include a statement of the grounds for default and shall be filed with the Administrative Proceedings Records Officer and shall be served on all parties.

(3) A defaulted party may seek to have the default set aside according to procedures set forth in the Utah Rules of Civil Procedure. A motion to set aside a default and any subsequent order shall be made to the ALJ.

R305-7-110. Limitation on Authority under Rule.

Nothing in this Rule constitutes a grant of authority for any person other than the recipient to challenge a Notice of Violation or to

initiate an action to challenge or require a Director's[the agency's] enforcement either generally or in a specific situation. See UAPA, Sections 63G-4-102(8) and 63G-4-201(3).

R305-7-111. No Limitation on Authority to Bring Action or Undertake Investigations.

(1) Nothing in this Rule shall be read as a limitation on a Director's[~~either of the agency's~~] statutory authority to bring an emergency proceeding or a judicial proceeding under either UAPA, Section 63G-4-502, or under the Department of Environmental Quality Code, Utah Code Ann. Title 19. It shall also not be read as a limitation on the procedures a Director[the agency] may use for an emergency proceeding under those authorities.

(2) Failure in this Rule to provide administrative procedures for an administrative action that is authorized by statute shall not be read as a limitation of a Director's[the agency's] authority to bring that action.

R305-7-112. Procedures Not Addressed.

In the event there are [~~authorities or~~] situations for which procedures are not prescribed by this[~~ese~~] Rule[~~rules~~], the ALJ shall, for a specific case, identify analogous procedures or other procedures that will apply.[~~If the proceeding is conducted under the authority of Section 19-1-301, it shall be conducted formally under UAPA.~~]

R305-7-113. Applicability of UAPA.

(1) Special adjudicative proceedings are exempt from UAPA except as specifically provided in Section 19-1-301.5. See Section 19-1-301.5(3).

(2) With respect to all other orders:

(a) Initial Orders and Notices of Violation issued by the Director are exempt from the requirements of UAPA, as provided in Section 63G-4-102(2)(k).

(b) A proceeding to challenge an Initial Order or a Notice of Violation is subject to the requirements of UAPA, except as modified pursuant to this Rule.

(3) Neither UAPA nor this Rule applies to requests for government records or requests for confidentiality of government records. Those matters are governed by the Utah Government Records Access and Management Act, Sections 63G-2-101 through 901, and by Section 19-1-306.

R305-7-114. Prosecution of Actions; Dismissal for Failure to Prosecute.

(1) The party seeking relief is responsible for prosecuting administrative proceedings under this Rule.

(2) Unless the parties otherwise agree, if no request for appointment of an ALJ under R305-7-206(2) has been filed within three months after the filing date of a Request for Agency Action or Petition for Review, the Executive Director may serve a written notification to the parties stating that, absent a showing of good cause by a date specified in the notification, the Executive Director shall dismiss the adjudication for lack of prosecution. A Director may also file a motion to dismiss for failure to prosecute under this subsection to the Executive Director. In either case, unless good cause is demonstrated, the Executive Director shall dismiss such Request for Agency Action or Petition for Review.

(3) In any adjudicative proceeding in any matter governed by this Rule where an ALJ has been appointed, the Director may file a

motion to dismiss for failure to prosecute. Unless, after notice, the party seeking relief shows good cause for delay, the ALJ shall enter an order recommending that the Executive Director dismiss the proceeding for lack of prosecution.

R305-7-200. Retrospective Construction and Interpretation.

(1) SB 282 and SB 173 (Gen. Session 2015) modified Section 19-1-301.5 permit review adjudicative procedures effective May 12, 2015. Because the revisions are procedural, they shall be accorded retrospective construction in the sense that they will be applied to pending actions and proceedings, as well as to future actions but will not be so applied as to defeat procedural steps completed before the effective date of May 12, 2015.

(2) Because the 2018 amendments to this Rule are procedural in nature, they shall apply to all matters pending before the Executive Director.

R305-7-201. Scope of Rule; Purpose of Part.

Part 2 of this Rule (R305-7-201 through 217) specifies procedures to be used in a special adjudicative proceeding, as authorized under Section 19-1-301.5.

R305-7-202. Notice and Comment and Exhaustion of Remedies.

(1) As provided in 19-1-301.5(4), if a public comment period is provided during the permit application process, a person who challenges a Permit Order, including the permit applicant, may only raise an issue or argument during the special adjudicative proceeding that:

- (a) the person raised during the public comment period; and
- (b) was supported with sufficient information or documentation to enable the Director to fully consider the substance and significance of the issue.

(2) Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the Administrative Record in the same proceeding, or consist of state or federal statutes, regulations or rules, EPA documents of general applicability, or other generally available reference materials.

(3) The relevance of and the relevant portions of any supporting materials included with or incorporated by reference in comments shall be described with reasonable specificity.

(4) In preparing a comment response document, the Director may request that the permit applicant provide information in response to comments received during the public comment period.

R305-7-203. Petitions for Review.

(1) Permit orders may be contested by filing and serving a written Petition for Review as provided in R305-7-104(5).

(2) Any Petition for Review shall meet all of the requirements of UAPA, Section 63G-4-201(3)(a) and (3)(b), and the requirements of Section 19-1-301.5. See Section 19-1-301.5(6)(d).

(3) A Petition for Review shall be in writing, shall be signed by the person making the Petition for Review, or by that person's representative, and shall include:

- (a) the names and addresses of all persons to whom a copy of the Petition for Review is being sent;
- (b) the Director's file number or other reference number, if known;

(c) the date that the Petition for Review was mailed;

(d) a statement of the legal authority and jurisdiction under which review is requested;

(e) a statement of petitioner's position, including as applicable:

(i) the legal authority under which the Petition for Review is requested;

(ii) the legal authority under which the Executive Director has jurisdiction to review the Petition for Review;

(iii) each of the petitioner's arguments in support of the petitioner's requested relief;

(iv) an explanation of how each argument described in Section 19-1-301.5(6)(d)(v)(D) was preserved;

(v) a detailed description of any permit condition to which the petitioner is objecting;

(vi) any modification or addition to a permit that the petitioner is requesting;

(vii) a demonstration that the Director's permit decision is based on a finding of fact or conclusion of law that is clearly erroneous;

(viii) if the Director addressed a finding of fact or conclusion of law described in Section 19-1-301.5(6)(d)(v)(G) in a response to public comment, a citation to the comment and response that relates to the finding of fact or conclusion of law and an explanation of why the Director's response was clearly erroneous or otherwise warrants review; and

(ix) a claim for relief.

(4) It is not sufficient under Section 63G-4-201(3) to file and serve a general statement of disagreement, a reservation of rights to serve a Petition for Review, or a request to have the matter heard.

(5) To be timely, a Petition for Review to contest a Permit Order shall be, within 30 days of the date the Permit Order being challenged was issued:

(a) received for filing by the Administrative Proceedings Records Officer at the address specified in R305-7-104(4)(c) of this Rule;

(b) received by the Director at the address specified in Part 6; and

(c) served as provided in R305-7-104(2), (4) and (5).

(6) Failure to file a Petition for Review within the period specified in R305-7-104(5) waives any right to contest the permit order or to seek judicial review.

R305-7-204. Intervention.

(1) A person who seeks to intervene in a special adjudicative proceeding under this section shall file and serve:

(a) a Petition to Intervene that:

(i) meets the requirements of Section 63G-4-207(1); and

(ii) demonstrates that the person is entitled to intervention under Section 19-1-301.5(7)(c)(ii); and

(b) a timely Petition for Review.

(2) To be timely, a Petition to Intervene shall, within 30 days after the day on which the Permit Order being challenged was issued, be:

(a) received by the Administrative Proceedings Records Officer at the address specified in R305-7-104(4)(c) of this Rule;

(b) received by the Director at the address specified in Part 6;

(c) served on all other parties as provided in R305-7-104(4).

R305-7-205. Extensions of Time for Filing Petitions for Review and Petitions to Intervene.

The time for filing a Petition for Review or a Petition to Intervene may be extended only by stipulation of the parties and only if such stipulation is received for filing before the expiration of the time for filing the Petition for Review or Petition to Intervene. If a person seeking an extension of time to file a Petition for Review or a Petition to Intervene is a prospective intervenor, the time for filing a Petition for Review or Petition to Intervene may be extended only by stipulation of the parties and the prospective intervenor, and only if such stipulation is received for filing before the expiration of the time for filing the Petition for Review or Petition to Intervene.

R305-7-206. Proceedings After a Petition for Review is Filed.

(1) After a Petition for Review has been filed, the parties are encouraged to meet to attempt to resolve the matter.

(2)(a) Any party may at any time file a request for appointment of an ALJ. An ALJ will not ordinarily be appointed until requested by a party, although the Executive Director may appoint an ALJ at any time.

(b) A request for appointment of an ALJ shall be filed as provided in R305-7-104(2)(a), and served as provided in R305-7-104(2)(b).

(3) After an ALJ is appointed, the ALJ shall review and respond to the Petition for Review in accordance with Subsections 63G-4-201(3)(d) and (e).

(4) Unless the parties stipulate or the ALJ orders otherwise following a motion, the Director shall file and serve the Administrative Record, as provided in R305-7-209, within 40 days after the day on which the Executive Director issues a notice of appointment of an administrative law judge.

(5) The schedule and page limits for briefing on the merits specified in Subsection 19-1-301.5(8)(a) shall apply except as otherwise stipulated by the parties and coordinated with the ALJ in accordance with R305-7-208(6).

(6) Dispositive Motions. The schedule for submission of dispositive motions specified in Subsection 19-1-301.5(8)(a) shall apply unless otherwise stipulated by the parties. However, without stipulation or order, dispositive motions may be submitted in advance of the schedule specified in Subsection 19-1-301.5(8)(a). Any issue or argument that could be raised in a dispositive motion is not waived by failure to file such a motion, but may be raised during the briefing on the merits. See R305-7-212.

(7) Subsection 19-1-301.5(13) is explained as follows. For each issue or argument that is not dismissed or otherwise resolved under Subsection 19-1-301.5(11)(b) or (12), the ALJ shall:

(a) provide the parties an opportunity for briefing and oral argument in accordance with Subsection 19-1-301.5(8);

(b) conduct a review of the Director's order or determination, based on the record as described in Subsection 19-1-301.5(9)(b)(c), and (10)(e); and

(c) within 60 days after the day on which oral argument takes place, or, if there is no oral argument, within 60 days after the day on which the reply brief is due, the ALJ shall submit to the Executive Director a proposed dispositive action, that includes:

(i) written findings of fact;

(ii) written conclusions of law; and

(iii) a recommended order.

R305-7-207. Parties.

(1) The following are parties to a special adjudicative proceeding:

(a) the Director who issued the Permit Order being challenged in the special adjudicative proceeding;

(b)(i) the permittee; or

(ii) the person who applied for the permit, if the permit was denied; and

(c) a person granted intervention by the ALJ.

(2) A person who has filed a Petition to Intervene that has not been denied is not a party, but will be treated as a party for purposes of this Rule (e.g., for purposes of service, making motions and settlement) unless otherwise ordered by the ALJ.

R305-7-208. Conferences, Proceedings and Order.

(1) The ALJ may hold one or more conferences for the purposes of:

(a) identifying and, if possible, narrowing the issues that will be considered;

(b) determining whether an issue will be considered through a dispositive motion or during the briefing on the merits;

(c) establishing schedules for the filing of motions and briefs;

(d) considering stipulations of fact or law; and

(e) considering any other matters.

(2) The ALJ shall promptly issue an order memorializing any determinations made about the matters considered in a conference.

(3) The ALJ may at any time order a party to make a more clear statement of the issues the party intends to raise.

(4) The ALJ may:

(a) require the parties to submit proposed schedules for the proceeding; and

(b) to the extent allowed by Section 19-1-301.5 and R305-7-208(6), change deadlines and page limits for submissions established by this Rule.

(5) The parties may request the ALJ hold a conference for the purpose of addressing the matters described in R305-7-208(1).

(6) Stipulated Scheduling Orders. The ALJ shall issue scheduling orders following Section 19-1-301.5 for the administrative record, briefing and page limits, and dispositive motions that shall apply unless the parties file stipulations for alternative scheduling and page limitations. The ALJ shall promptly adopt such timely filed stipulations in applicable scheduling orders unless the ALJ is not available on the stipulated hearing date or questions the necessity of the stipulated brief lengths.

(a) Stipulated Hearing Date. If the ALJ is not available on the stipulated hearing date, the ALJ shall confer with the parties to determine a mutually acceptable date and shall specify the mutually acceptable date in applicable scheduling orders.

(b) Stipulated Over-Length Briefs. If the ALJ questions the necessity of the stipulated over-length briefs, the ALJ may require the parties to state with specificity the issues to be briefed, the number of additional pages requested, and the good cause for allowing over-length briefs. The ALJ may promptly refuse to adopt or may promptly modify through order the parties' stipulation for over-length briefs if the parties fail to show good cause.

R305-7-209. Administrative Record.

(1) To the extent they relate to the issues and arguments raised in the Petition for Review, the Administrative Record shall consist of the following items, if they exist:

- (a) the permit application, draft permit, and final permit;
- (b) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the Director as part of the basis for the decision relating to the Permit Order;
- (c) the notice and record of each public comment period;
- (d) the notice and record of each public hearing, including oral comments made during the public hearing;
- (e) written comments submitted during the public comment period;
- (f) responses to comments that are designated by the Director as part of the basis for the decision relating to the Permit Order;
- (g) any information that is:
 - (i) requested by and submitted to the Director; and
 - (ii) designated by the Director as part of the basis for the decision relating to the Permit Order;
- (h) any additional information specified by rule;
- (i) any additional documents agreed to by the parties; and
- (j) information supplementing the record under Section 19-1-301.5(9)(c) or R305-7-210.

(2) If there has been no notice and comment period for a Permit Order, information that is submitted with the Petition for Review shall be deemed to be part of the Administrative Record as shall information submitted in any response to the Petition for Review.

(3)(a) The Director shall prepare the record by compiling it in chronological order, numbering each page and preparing an index.

(b) The Director shall, within 40 days of service of the Notice of Appointment, or as otherwise provided in R305-7-206;

(i) file and serve an electronic copy of the record in accordance with the requirements of R305-7-104; or

(ii) make a paper copy of the record available for review during normal working hours, and file and serve a copy of the record's index as provided in R305-7-104.

(4) Any challenges to the Administrative Record shall be made by motion within 10 business days of the date the record or index is served under paragraph (3)(b).

R305-7-210. Response to Supplemental Information.

If the Administrative Record is supplemented with additional information as described in R305-7-209(1)(i) or (j), the other parties may, in response, serve and file additional information specific to the supplemental information, which shall also be part of the Administrative Record. The additional information may not raise any new matters not raised in the supplemental information.

R305-7-211. Motions.

(1) A motion shall be made in writing, and shall include the grounds upon which it is based and the relief or order sought. A separate memorandum in support of the motion is not required.

(2) Any response to a motion shall be filed within 21 days of service of the motion.

(3) Any reply to a response to a motion may be filed within 10 days of service of the response. A reply shall be limited to matters raised in the response.

(4) A motion may not exceed 20 pages. If a separate memorandum in support of a motion is filed, the motion and memorandum together shall not exceed 20 pages. A response may not exceed 15 pages. A reply may not exceed ten pages.

(5) Deadlines and page limits may be modified by order of the ALJ.

(6) Any determination by the ALJ that is dispositive shall be forwarded to the Executive Director in the form of a recommended decision.

(7) See also R305-7-206(6) and R305-7-212 regarding issues and arguments not raised by motion.

R305-7-212. Challenges to a Petition to Intervene or to Failure to Preserve an Issue.

(1) A challenge to a Petition to Intervene under Section 19-1-301.5(7) or to a party's failure to preserve an issue under Section 19-1-301.5(4) and (6)(c) may be made by motion or may be made in the parties' briefs on the merits.

(2) If a challenge under paragraph (1) relies on a significant portion of the evidence or arguments that must be considered to make a determination on the merits, the party making the challenge under paragraph (1) is encouraged to do so in the brief on the merits.

(3) The ALJ may defer ruling on a motion under paragraph (1) until the ALJ makes a decision on the merits of the case if the ALJ finds that the motion relies on a significant portion of the evidence or arguments that must be considered to make a determination on the merits.

R305-7-213. Procedures for Determination on the Merits.

(1) Requirements for briefs on the merits in a special adjudicative proceeding are as follows:

(a) The schedule and page limits specified in Section 19-1-301.5(8)(a) shall apply except as otherwise stipulated by the parties and ordered by the ALJ in accordance with R305-7-208;

(b) Any page incorporated by reference from the administrative or adjudicative record shall count toward a page limitation;

(c) The table of contents, table of citations, and any addendum containing statutes, rules, regulations or portions of the administrative record cited do not count toward the page limitation;

(d) All statements of fact shall be supported by references to the pages in the administrative record in which the evidence is identified;

(e) Matters addressed in the petition but not in the opening brief shall be waived;

(f) Matters not addressed in the petition may not be raised in the opening brief.

(2) A reply or a surreply brief may not raise any issue that was not raised in the responsive brief or the reply, respectively.

(3) Briefs must be concise, presented with accuracy, logically arranged with proper headings and free from burdensome, irrelevant, or immaterial matters. A brief not meeting these criteria may fail to meet that party's burden of persuasion.

(4) In cases involving more than one petitioner or respondent, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

(5) The ALJ shall provide an opportunity for oral argument, which shall be a hearing of record under R305-7-107(4). ~~Oral argument shall, at a minimum, be recorded at the agency's expense using audio recording devices. The agency may elect instead to use a court reporter. If the agency does not elect to use a court reporter, any participant may request that the agency use a court reporter for the oral argument, which request shall be granted by the ALJ provided the requesting person agrees to bear the cost associated with the request. Any such request shall be submitted to the ALJ at least 10 business days before the scheduled oral argument.~~

(6) The parties may submit comments on the ALJ's recommended decision to the Executive Director. Comments shall not exceed 15 pages, and shall be submitted within ten business days of the service of the recommended decision. A party may file a response to another party's comments, not to exceed five pages, within five business days of the date of the service of the comments.

R305-7-214. Review and Determinations.

(1) The procedures and standards for resolving a permit review challenge are specified in Section 19-1-301.5; see in particular paragraphs (9) through (15).

(2) The standard of review for the Director's factual, technical, and scientific determinations specified in Section 19-1-301.5(14)(b) and (15)(c)(ii) is explained as follows:

(a) The petitioner has the burden of proof;

(b) Marshaling the evidence is a natural extension of the petitioner's burden of proof;

(c) For each factual, technical, and scientific determination challenged by petitioner, the petitioner is required to marshal and acknowledge the evidence in the record that supports the Director's determination. Such determination shall be overturned as clearly erroneous only if the petitioner has proven, after marshaling, that the Director's determination is not supported. See Subsections 19-1-301.5(6)(d)(v)(G) and (H) and 19-1-301.5(14); and

(d) If the petitioner fails to marshal, there is a presumption that the Director's factual, technical, and scientific determination is not clearly erroneous.

(3) The standard of review for non-factual determinations provided in Section 19-1-301.5(15)(c)(i) recognizes that the Director has been granted substantial discretion to interpret the division's governing statutes and rules.

R305-7-215. Interlocutory Orders.

(1) Interlocutory review (review by the Executive Director before a final recommendation made by the ALJ) is not favored. Ordinarily, a party may challenge an order issued by the ALJ only after the ALJ has made a final recommended decision.

(2) A party may file, in accordance with R307-7-104, a motion for interlocutory review of a non-final ALJ order only if a ruling that is alleged to be in error could not be corrected through a challenge to the final recommended decision (e.g., a ruling denying privileged status to records), or where early resolution of a material issue may materially advance the termination of the proceeding.

(3) The Executive Director's determination to consider a motion for an interlocutory review is discretionary.

R305-7-216. Settlement.

The parties may agree to settle all or any portion of an action at any time during an administrative proceeding through a settlement

agreement, an administrative settlement order, or a proposed judicial consent decree. Upon notice by the Director that there is a proposed settlement that will be subject to a public comment period, the ALJ shall suspend the administrative proceeding, in whole or in part, until notified by the Director or another party that the suspension should be lifted. The ALJ may order an update on the status of the settlement.

R305-7-217. Stays.

The procedure and standard for obtaining a stay is specified in Section 19-1-301.5(15).

R305-7-301. Scope of Rule; Purpose of Part.

Part 3 of this Rule (R305-7-301 through 319[320]) specifies procedures to be used in adjudicative proceedings that are not permit review adjudicative proceedings, as authorized by Section 19-1-301. For the most part, proceedings under Part 3 of this Rule will be enforcement proceedings and proceedings to terminate permits.

R305-7-302. ~~Designation of Proceedings as Formal or Informal.~~ Issuance and Service of Initial Orders and Notices of Violation.

~~[(1) All proceedings to contest an order that is not a Permit Order, including proceedings to challenge a Notice of Violation or compliance order, shall be conducted as formal proceedings except as specifically provided in Part 6 of this Rule.~~

~~(2) The ALJ in accordance with Section 63G-4-202(3) may convert proceedings that are designated to be formal to informal and proceedings which are designated as informal to formal if conversion is in the public interest and rights of all parties are not unfairly prejudiced. A decision to use informal procedures must be approved by the Executive Director.]~~ (1) Unless otherwise stated, an Initial Order or a Notice of Violation is effective upon issuance and, even if it is contested, remains effective unless a stay is issued or the Initial Order or a Notice of Violation is rescinded, vacated or otherwise terminated.

(2) The date of issuance of an Initial Order or a Notice of Violation is the date the Initial Order or a Notice of Violation is signed and dated.

(3) Unless otherwise provided by law, Notices of Violation and Initial Orders shall be served through U.S. Postal Service Certified Mail, postage prepaid, addressed to the respondent's Designated Address. If there is no Designated Address for a respondent, service may be made through U.S. Postal Service Certified Mail, postage prepaid, addressed to the respondent's legal registered agent or, if the respondent is an individual, addressed to the respondent's dwelling or place of business. Notices of Violation and Initial Orders may also be served personally (by hand-delivery) or by Certified Mail with Return Receipt requested. Service of Initial Orders and Notices of Violation may also be made in the same manner as a summons in accordance with Rule 4 of the Utah Rules of Civil Procedure.

(4) Service of Notices of Violation and Initial Orders shall be made no more than seven days after the date of issuance. If service is made more than seven days after the date of issuance, the dates provided in R305-7-303 shall be extended by the same number of days that are in excess of seven days.

(5) For purposes of this Rule, service is effective upon mailing, provided that the U.S. Postal Service Certified Mail receipt shows that the mailing was delivered. If the mailing is returned or if

delivery is attempted but not made, service via U.S. Postal Service, Certified Mail will not be deemed to be effective.

R305-7-303. Requests for Agency Action and Contesting an Initial Order or Notice of Violation; Finality.

(1) A Notice of Violation or an Initial Order may be contested by filing and serving a written Request for Agency Action as provided in R305-7-104(5).

(2) Any Request for Agency Action is governed by and shall meet all of the requirements of UAPA, Section 63G-4-201(3)(a) and (3)(b).

(3) As provided in Section 63G-4-201(3)(a), a Request for Agency Action shall be in writing and signed by the person making the Request for Agency Action, or by that person's representative, and shall include:

(a) the names and addresses of all persons to whom a copy of the Request[request] for Agency Action[agency action] is being sent;

(b) the agency's file number or other reference number, if known;

(c) the date that the Request[request] for Agency Action[agency action] was mailed;

(d) a statement of the legal authority and jurisdiction under which agency action is requested;

(e) a statement of the relief or action sought from the agency;

(f) a statement of the facts and reasons forming the basis for relief or agency action; and

(4) A Request for Agency Action shall include the requestor's name, address and email address, if any.

(5) To be timely, a paper copy of a Request for Agency Action to contest an Initial Order or a Notice of Violation shall be received for filing by the Director and the Administrative Proceedings Records Officer as specified in R305-7-104(2), (4) and (5) within 30 days of the [issuance of] date the Initial Order or a Notice of Violation was issued. This time may be extended only by stipulation of the parties and only if such stipulation is received for filing before the expiration of the time for filing the Request for Agency Action. The requester shall also send an electronic copy (searchable pdf) of the Request for Agency Action to deqapro@utah.gov.

(6) If a Request for Agency Action is made by a person other than the recipient of an Initial Order, the Request for Agency Action shall also include a Petition to Intervene that meets the requirements of Section 63G-4-207 and R305-7-304. See R305-7-110, however (limitations on the ability of third persons to challenge enforcement proceedings).

(7) (a) It is not sufficient under Section 63G-4-201(3)(a) or this rule to file a general statement of disagreement, a reservation of rights to file a Request[request] for Agency Action[agency action], or a request to have the matter heard.

(b) If a person files a document challenging a notice of violation or an order under this Part 3 that does not meet the requirements of this rule, a party may file a dispositive motion addressing that inadequacy. The notice of violation or order will be final if the Executive Director approves or approves with modifications the ALJ's recommended order of dismissal.

(8) A Notice of Violation or Initial Order will become final for purposes of enforcement under Section 63G-4-501(1), upon the expiration of 30 days from the date of issuance, unless a Request for

Agency Action is received as provided above. Failure to file a Request for Agency Action within the period specified [~~in R305-7-104(5)]above~~ waives any right to contest the Initial Order or to seek judicial review.

R305-7-304. Intervention.

Proceedings that are not permit review adjudicative proceedings will not ordinarily be subject to intervention. See R305-7-110 regarding intervention in enforcement proceedings. In the event intervention is appropriate under the specific facts of the case, the procedures for intervention specified in Part 2, including the deadlines for filing intervention specified in R305-7-204(2), shall govern. This time may be extended only by stipulation of the parties and the prospective intervenor and only if such stipulation is received for filing before the expiration of the time for filing the Petition to Intervene. The status and treatment of prospective intervenors in R305-7-207(2), shall also govern.

R305-7-305. Parties.

The following persons are parties to an adjudicative proceeding to resolve a challenge to an Initial Order or Notice of Violation:

(1) the person to whom the Initial Order or Notice of Violation was directed;

(2) the Director who issued an Initial Order or Notice of Violation; and

(3) any person to whom the ALJ has granted intervention under R305-7-304.

R305-7-306. Proceedings After a Request for Agency Action is Filed.

(1) After a Request for Agency Action has been filed, the parties are encouraged to meet to attempt to resolve the matter.

(2) No response to a Request for Agency Action under Section 63G-4-204 is required, but the Director may elect to file a response. No reply to the Director's response is permitted.

(3)(a) Any party may at any time file a request for appointment of an ALJ. An ALJ will not ordinarily be appointed until requested by a party, although the Executive Director may appoint an ALJ at any time.

(b) A request for appointment of an ALJ shall be filed as provided in R305-7-104(2)(a), and served as provided in R305-7-104(2)(b).

[~~(3) After an ALJ is appointed,~~(4) Within 10 days after the appointment of an ALJ, the Director shall file and serve a Status Report that includes a brief statement of the case, an indication as to whether the Director believes further proceedings are warranted, and, if so, the Director's proposed scope of such further proceedings. The Status Report will provide the ALJ with the Director's position as to whether formal discovery is warranted as provided in R305-7-310, and, if so, the general nature and scope of the requested discovery. Within five days after service of the Director's Status Report, the other party or parties shall file and serve a Status Report including the same information outlined above. The parties are encouraged to meet and confer regarding the nature and scope of discovery, scheduling, and other pre-hearing matters.

(5) Within 10 days after receipt of the final Status Report pursuant to subpart (4) or such other time deemed reasonable by the ALJ, the ALJ shall issue a Notice of Further Proceedings in

accordance with Section 63G-4-201(3)(d) and (e). Until the ALJ has issued a Notice of Further Proceedings, no responses to motions filed before that date are due. If motions are pending in the matter, the Notice of Further Proceedings shall set the schedule for briefing and, if warranted, hearing and resolution of such pending motions.

R305-7-307. Designation of Proceedings as Formal or Informal; Procedures for Informal Proceedings.

(1) All proceedings to contest an order that is not a Permit Order, including proceedings to challenge a Notice of Violation or compliance order, shall be conducted as formal proceedings except as specifically provided in Part 6 of this Rule.

(2) The ALJ in accordance with Section 63G-4-202(3) may convert proceedings that are designated to be formal to informal and proceedings which are designated as informal to formal if conversion is in the public interest and rights of all parties are not unfairly prejudiced. A decision to use informal procedures must be approved by the Executive Director.

~~(1)~~(a) Procedures for Informal Proceedings are governed by Section 63G-4-203 and, except as provided in R305-7-307(2)(d) ~~(4)~~, this Rule.

~~(2)~~(b) No hearing or other conference is required for an informal proceeding. If a hearing is held, the parties shall be permitted to testify, present evidence and comment on issues. A hearing may be conducted as a meeting rather than using trial-type procedures.

~~(3)~~(c) Discovery and intervention are not available in an informal proceeding. The ALJ may issue a subpoena or other order to compel the production of necessary evidence.

~~(4)~~(d) The procedures specified in R305-7-310, 313, 314 and 315 do not apply to informal procedures.

R305-7-308. Conferences, Proceedings and Order.

(1) The ALJ may hold one or more conferences for the purposes of:

(a) identifying and, if possible, narrowing the issues that will be considered;

(b) determining whether an issue will be considered at a dispositive motion hearing or an evidentiary hearing;

(c) establishing schedules for disclosures, exchange of witness lists, and the filing of motions, testimony and pre-hearing memoranda;

(d) determining the status of the litigation;

(e) considering stipulations of fact or law; and

(f) considering any other pre-hearing matters.

(2) The ALJ shall issue an order memorializing any determinations made about the matters considered in a conference.

(3) The ALJ may at any time order a party to make a more clear statement of the issues the party intends to raise at a hearing.

(4) The ALJ may:

(a) require the parties to submit proposed schedules for the proceeding; and

(b) change deadlines and page limits for submissions established by this Rule.

(5) ~~[The parties]~~Any party may request the ALJ ~~[hold]conduct~~ a ~~[conference]~~hearing for the purpose of addressing the matters described in R305-7-308(1).

R305-7-309. Agency Record.

(1) The final agency record shall consist of an Initial Record and an Adjudicative Record.

(2)(a) The Initial Record shall be prepared by the Director and shall consist of background documents for the matter that shall be deemed to be authenticated for purposes of the hearing and motions, and may be introduced as evidence by any party. The Initial Record is not intended to take the place of discovery or of the proffer by parties of documentary evidence.

(b) The Initial Record shall be indexed and compiled in chronological order. Each page of the Initial Record shall be numbered for ease of reference. An ~~paper and an~~ electronic copy of the Initial Record shall be filed with the ALJ. An electronic copy of the Initial Record shall be filed and served as provided in R305-7-104(3). Electronic records shall meet the requirements for electronic filing and service in R305-7-104(3).

(3) The Initial Record document index shall include, to the extent they exist and are relevant to the issues raised in the Request for Agency Action, any documentation designated by the Director as part of the basis for issuing the Notice of Violation or Initial Order.

(4) Documents other than those specified in R305-7-309(3) may be included in the Initial Record only upon the agreement of the parties. Documents that the parties cannot agree upon may be submitted in the course of the proceeding. Failure of a party to object to inclusion of a document in the Initial Record shall be deemed to be agreement to its inclusion in the initial record and to its authenticity.

(5) If many of the documents or large parts of the documents that would ordinarily constitute the Initial Record are irrelevant to the issues raised in the proceeding, the Director may propose a more limited Initial Record. If a matter involves a multi-volume document, for example, the Director may propose to exclude the parts of the permit that are unrelated, e.g., emergency response requirements if the dispute is about waste sampling.

(6) Results of ~~analytical~~ analyses of samples documented in the Initial Record are deemed to be accurate unless specifically objected to no later than 15 days before the date the Director's preliminary witness lists are due.

(7) Procedure for preparing the Initial Record.

(a) Unless the ALJ directs otherwise ~~or the parties otherwise agree~~, the Director shall ~~[compile a draft index of documents in the Initial Record,]~~ compile and provide a [the] draft index of documents in the Initial Record to the other parties no sooner than 60 days after entry of the Notice of Further Proceedings. The Director shall allow reasonable time for the other parties to comment on the draft index.

(b) After consideration of the comments, the Director shall prepare the Initial Record by compiling it in chronological order, numbering each page and preparing an index. The Director shall:

(i) file and serve an electronic copy of the record in accordance with the requirements of R305-7-104(3); or

(ii) make a paper copy of the record available for review during normal working hours, and file and serve a copy of the record's index as provided in R305-7-104.

(8) Any challenges to the Initial Record shall be made by motion within 10 business days of the date the record or index is served under paragraph (7)(b).

(9) The Adjudicatory Record consists of all documents filed or issued in the proceeding beginning with the contested Notice of Violation and/or Initial Order, followed by the Request for Agency Action.

R305-7-310. Disclosures and Discovery.

~~[(1) Informal discovery by agreement of the parties is preferred. All parties shall have access to information contained in the agency's records unless the records are not required to be disclosed under the Government Records Access and Management Act, Title 63G, Chapter 2, as modified by Section 19-1-306 of the Utah Environmental Quality Code.~~

~~_____ (2) Formal discovery is allowed in a matter by agreement of the parties involved in the formal discovery or if so directed by the ALJ in a formal proceeding. The ALJ may order formal discovery when each of the following elements is present:~~

~~_____ (a) informal discovery is inadequate to obtain the information required;~~

~~_____ (b) there is no other available alternative that would be less costly or less burdensome;~~

~~_____ (c) the formal discovery proposed is not unduly burdensome;~~

~~_____ (d) the formal discovery proposed is necessary for the parties to properly prepare for the hearing;~~

~~_____ (e) the formal discovery does not seek a party's position regarding a question of law or about the application of facts to law that could be addressed in a motion to dismiss or a motion for summary judgment; and~~

~~_____ (f) the formal discovery proposed will not cause unreasonable delays.~~

~~_____ (3)(a) Except as otherwise provided in this Section R305-7-310, the time periods, limitations and other requirements for discovery in the Utah Rules of Civil Procedure shall apply unless otherwise ordered by the ALJ after consideration of the specific formal discovery proposed.~~

~~_____ (b) No initial disclosure shall be required as provided in Utah Rules of Civil Procedure Rule 26(a)(1)(B) through (D).~~

~~_____ (4) Each party shall provide to the other parties copies of any documents it intends to introduce as provided in R305-7-313(1). This information shall be provided and updated in accordance with a schedule established in the pre-hearing order. (1) The ALJ shall allow reasonable formal discovery if requested by any party. The ALJ may limit the scope of formal discovery for the reasons stated in Rule 37(a) (7) of the Utah Rules of Civil Procedure. The ALJ may also enter an order imposing sanctions provided in Rule 37(b) of the Utah Rules of Civil Procedure, except that the ALJ has no power of contempt and may not impose financial sanctions under Rule 37.~~

~~_____ (2)(a) Except as otherwise provided in this Section R305-7-310, the time periods, limitations and other requirements for discovery in the Utah Rules of Civil Procedure shall apply unless otherwise ordered by the ALJ after consideration of the specific formal discovery proposed.~~

~~_____ (b) Initial disclosures shall be required as provided in Utah Rules of Civil Procedure Rule 26(a)(1)(B) through (D), except that the Director's preparation of the Initial Record as provided in R305-7-309 will be deemed to be adequate to satisfy the Director's duty to provide initial disclosure of records under Rule 26. Unless otherwise ordered by the ALJ, initial disclosures must be filed within fifteen (15) days of the date of entry of the Notice of Further Proceedings.~~

~~_____ (3) If applicable, expert disclosures, as defined under Rule 26, Utah Rules of Civil Procedure, will also be required in connection with an evidentiary hearing on the merits. The due dates as provided in Rule 26 shall apply, unless otherwise ordered by the ALJ.~~

~~_____ (4) Prehearing disclosures and related matters will be governed by R305-7-313, or by order of the ALJ, and not by Rule 26, Utah Rules of Civil Procedure.~~

~~_____ (5) All requests for the production of documents submitted to the Director shall be limited by the Government Records Access and Management Act, Title 63G, Chapter 2, as modified by Section 19-1-306 of the Utah Environmental Quality Code. Documents that are not required to be disclosed under these statutes are not subject to discovery in an enforcement proceeding.~~

R305-7-311. Subpoenas.

(1) A party requesting an administrative subpoena must prepare it and submit it to the Administrative Proceedings Records Officer for the signature of the ALJ. Each administrative subpoena form shall have the following statement prominently displayed on the form: This Administrative Subpoena is issued under the authority of the Utah Administrative Procedures Act, Section 63G-4-205(2). If you believe that this subpoena is inappropriate, you may object. The standards of Rule 45 of the Utah Rules of Civil Procedure will be used to determine whether a subpoena is appropriate. File any objection with [(requestor to-)insert [title]name and email address of ALJ]-]. See also Utah Admin. Code R305-7-311.

(2) Service of the subpoena shall be made by the party requesting it in a manner consistent with Rule 45(b) of the Utah Rules of Civil Procedure.

(3) A party or other person served with a subpoena may file an objection for the reasons specified in the Utah Rules of Civil Procedure, Rule 45. In response, the party that served the subpoena may file a Motion to Compel. The ALJ shall consider the Motion to Compel and require compliance with the existing subpoena, issue a new subpoena on specified conditions, or quash the subpoena.

R305-7-312. Motions.

(1) Motions may be made in writing at or before a hearing, or orally during a hearing. Each motion shall include the grounds upon which it is based and the relief or order sought. Copies of motions that are not made orally shall be filed and served in accordance with R305-7-104. A separate memorandum in support of the motion is not required.

(2) A response to a motion, if any, shall be filed within 21 days of service of the motion.

(3) A reply, if any, may be filed within 10 days of service of the response. A reply shall be limited to matters raised in the response.

(4) A motion may not exceed 20 pages. If a separate memorandum in support of a motion is filed, the motion and memorandum together shall not exceed 20 pages. A response may not exceed 15 pages. A reply may not exceed 10 pages.

(5) Deadlines and page limits may be modified by order of the ALJ.

(6) When appropriate, parties are encouraged to file dispositive motions, such as a Motion for Judgment on the Pleadings, a Motion to Dismiss or a Motion for Summary Judgment. Parties are encouraged to file dispositive motions no later than 45 days prior to the scheduled hearing. Dispositive motions shall be prepared in accordance with requirements of Rule 12 or Rule 56 of the Utah Rules of Civil Procedure, as appropriate.

R305-7-313. Pre-hearing Briefs and other Pre-hearing Submissions.

(1) At least 30 days before a scheduled hearing on the merits, the parties shall exchange proposed exhibits and thereafter shall meet to attempt to stipulate to the admission of exhibits.

(2) At least 14 days before a scheduled hearing on the merits, the parties shall jointly file any stipulation regarding admission of exhibits and shall file copies of all of its exhibits that are subject to a stipulation. Electronic copies of the exhibits, as described in R305-7-104(3), shall be filed with the ALJ and the Administrative Proceedings Records Officer, and served on all other parties. Electronic and paper copies of the exhibits shall be served on the Administrative Proceedings Records Officer.

(3) Unless otherwise ordered by the ALJ, each party may, but is not required to file, at least 14 days before a scheduled hearing on the merits:

(a) A pre-hearing brief, limited to 25 pages, not including exhibits or any statement of facts; and

(b) Any motions related to the way the hearing will be conducted, or to the admission of exhibits and other evidence that will be presented at the hearing.

(4) A party may object to an exhibit when it is introduced in a hearing, except that no party may object to:

(a) the authenticity of a record included in the Initial Record;

(b) the accuracy of analytical analysis of samples documented in the Initial Record, except as provided in R305-7-309(6).

(5)(a) Any party may file testimony and evidence using pre-filed testimony of a witness, unless otherwise ordered by the ALJ.

(b) For lengthy or complex proceedings, pre-filed testimony is preferred and may be required by the ALJ.

(c) Pre-filed testimony shall be submitted at least 13 business days before a scheduled hearing.

R305-7-314. Hearings.

(1) The ALJ shall govern the conduct of a hearing, and may establish reasonable limits on the length of witness testimony, cross-examination, oral arguments or opening and closing statements while affording to all parties the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence. The ALJ shall also establish the order of presentation at the hearing.

~~[(2)(a) All hearings shall, at a minimum, be recorded at the agency's expense using audio recording devices. The agency may elect instead to use a court reporter.~~

~~[(b) Any party may request that the agency use a court reporter for the hearing, which request shall be granted by the ALJ. Unless otherwise ordered by the ALJ, the requesting party shall bear the cost associated with these requests. Any such requests shall be submitted to the ALJ at least 10 business days before the scheduled hearing.]~~ (2) The provisions of R305-7-107(4) govern recordings and transcripts of hearings.

(3) Evidence.

(a) Every party to an adjudicative proceeding has the right to introduce evidence, subject to Section 63G-4-206 and the Utah Rules of Evidence, to the extent those rules are not inconsistent with Section 63G-4-206 or this Rule. The evidence may be oral or written, real or demonstrative, direct or circumstantial.

(i) The ALJ may admit any reliable evidence possessing probative value that would be accepted by a reasonably prudent person in the conduct of his affairs.

(ii) The ALJ may admit hearsay evidence. ~~[however]~~ However, no finding of fact may be based solely on hearsay evidence unless that evidence is admissible under Section 63G-4-206 and, to the extent it is not inconsistent with that section, the Utah Rules of Evidence.

(iii) If a party attempts to introduce evidence into a hearing, and it is excluded, the party may proffer the excluded testimony or evidence to allow any reviewing authority to pass on the correctness of the ruling of exclusion.

(b) Except as provided in R305-7-314(3)(d), all witnesses who have provided pre-filed testimony shall be present at the hearing unless:

(i) otherwise agreed to by the parties; and

(ii) ordered by the ALJ.

(c) A witness for whom pre-filed testimony has been submitted shall be allowed to give a brief summary of that testimony, and shall then be made available for cross-examination.

(d) Except as otherwise agreed to by the parties and ordered by the ALJ, the pre-filed testimony of any witness who is not present at the hearing will be treated as other hearsay evidence as provided in Utah Code Ann. Subsections 63G-4-206(1)(c) and 63G-4-208(3).

(e) Oral testimony at a formal hearing will be sworn. The oath will be administered by the reporter or the ALJ. Anyone testifying falsely under oath may be subject to prosecution for perjury in accordance with the provisions of Sections 76-8-502 and 76-8-503.

R305-7-315. Post-hearing Findings and Conclusions.

Unless otherwise ordered by the ALJ, not later than 14 days after a hearing, each party may, but is not required to submit proposed findings of fact, ~~identifying~~ ~~[identifying]~~ with specificity supporting evidence in the record, and proposed conclusions of law.

R305-7-316. Executive Director's Decision on the Merits.

(1) The parties may submit comments on the ALJ's recommended decision to the Executive Director. Comments shall not exceed 15 pages, and shall be submitted within ten business days of the service of the recommended decision. A party may file a response to another party's comments, not to exceed five pages, within five business days of the date of the service of the comments.

(2) The Executive Director shall issue an order that meets the requirements of Section 63G-4-208.

R305-7-317. Interlocutory Orders.

(1) Interlocutory review is not favored. Ordinarily, a party may challenge an order issued by the ALJ only after the ALJ has made a final recommended decision.

(2) A party may file, in accordance with R305-7-104, a motion for interlocutory review of a non-final ALJ order only if a ruling that is alleged to be in error could not be corrected through a challenge to the final recommended decision (e.g., a ruling denying privileged status to records), ~~[or]~~ where early resolution of a material issue may materially advance the termination of the proceeding, where multiple evidentiary hearings may be avoided through resolution of issues through an interlocutory appeal, or where the interests of judicial economy are otherwise served.

(3) The Executive Director's determination to consider a motion for an interlocutory review is discretionary.

R305-7-318. Stays of Orders Pending Hearing.

~~(1) [Stay of Orders Pending Administrative Adjudication. (a)]~~ The filing of a Request for Agency Action does not stay a director's enforcement orders. A party seeking a stay of an Initial Order during an adjudicative proceeding ~~[shall]~~ may file a motion with the ALJ.

~~(b)](a)~~ An ALJ shall grant a stay if the party seeking the stay demonstrates all of the following elements:

(i) The party seeking the stay will suffer irreparable harm unless the stay is issued;

(ii) The threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;

(iii) The stay, if issued, would not be adverse to the public interest; and

(iv) There is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits which should be the subject of further adjudication.

(2) The potential imposition of civil penalties does not constitute "harm" or "injury" within the meaning of this Rule. The standards specified in R305-7-318(1)(a)~~(b)]~~ shall apply to any interlocutory review of an order regarding a requested stay of an Initial Order.

(3) Stay of ~~[the]~~ Executive Director's Order Pending Judicial Review.

(a) A party seeking a stay of a final order by the Executive Director ~~[shall]~~ may file a motion with the Executive Director.

(b) The standards specified in R305-7-318(1)(a)~~(b)]~~ shall apply to any such request.

~~**R305-7-319. Effectiveness and Finality of Initial Orders and Notices of Violation.**~~

~~(1) Unless otherwise stated in the order or notice, an Initial Order or a Notice of Violation is effective upon issuance and, even if it is contested, remains effective unless a stay is issued or the Initial Order or a Notice of Violation is rescinded, vacated or otherwise terminated.~~

~~(2) The date of issuance of an Initial Order or a Notice of Violation is the date the Initial Order or a Notice of Violation is signed and dated.~~

~~(3) Failure to contest an Initial Order or a Notice of Violation within the period provided in R305-7-303(5) waives any right of administrative contest, reconsideration, review or judicial appeal.~~

R305-7-320. Settlement.

The parties may agree to settle all or any portion of an action at any time during an administrative proceeding through a settlement agreement, an administrative settlement order, or a proposed judicial consent decree. Upon notice by the Director that there is a proposed settlement that will be subject to a public comment period, the ALJ shall suspend the administrative proceeding, in whole or in part, until notified by the Director or another party that the suspension should be lifted. The ALJ may order an update on the status of the settlement.

R305-7-401. Purpose of Part.

Part 4 of this Rule (R305-7-401 through 403) governs proceedings initiated by a Director~~[the agency with]~~ through a Notice of Agency Action.

R305-7-402. Notices of Agency Action to Impose a Penalty.

Before issuing a Notice of Agency Action assessing penalties, the Director shall provide at least 30 days' notice of the proposed penalty, and shall provide the recipient with an opportunity to comment on the proposed penalty.

R305-7-403. Procedures following a Notice of Agency Action.

If the recipient of a Notice of Agency Action filed by a Director does not file a written response within 30 days of the date the Notice of Agency Action is issued, the Director may issue a final order under Section 63G-4-209(1)(c) and R305-7-109. If the recipient does file a timely written response, an ALJ will conduct a formal proceeding on the matter using, as appropriate, the procedures specified in UAPA and Parts 1, 2 (for Permit Orders), 3 (for all other orders) and 6 of this Rule.

R305-7-501. Purpose of Part.

Part 5 of this Rule (R305-7-501 through 503) governs requests for declaratory and emergency actions.

R305-7-502. Declaratory Orders.

(1) Any Request for a Declaratory Order shall be addressed first to the Director specified in Part 6 of this Rule,

(2) Any person who seeks to obtain a declaratory order shall file a Request for Declaratory Order that meets these requirements. The request shall:

(a) Clearly designate the Request for Agency Action as one requesting a declaratory order;

(b) Identify the statute, department or division rule or order to be reviewed;

(c) Describe in detail the situation or circumstances in which the applicability of the statute, rule or order is to be reviewed;

(d) Describe the Requestor's reason or need for the order;

(e) Set out a proposed order;

(f) As appropriate, address with specificity each of the circumstances described in R305-7-502(4) and demonstrate that the condition does not apply.

(3) Failure to submit a complete Request for Declaratory Order is grounds for denying the Request.

(4) The following classes of circumstances are exempt from declaratory order, as provided in Section 63G-4-503(3)(b):

(a) Circumstances in which a declaratory order would substantially prejudice the rights of a person who would be a necessary party under the Utah Rules of Civil Procedure, unless the Petitioner has that person's consent in writing;

(b) Circumstances in which the person requesting the declaratory order does not have standing;

(c) Circumstances in which informal agency opinion or other agency action is sufficient to meet the need described in the Petition;

(d) Circumstances in which questions have already been adequately addressed by the agency in an order or in informal advice;

(e) Circumstances that raise questions that are clear and do not warrant an order;

(f) Circumstances that are more properly addressed by a statutory change or rulemaking proceedings;

(g) Circumstances that arise out of pending or anticipated litigation in a civil, criminal or administrative forum and that are more properly addressed by that forum;

(h) Circumstances under which the critical facts are not clear and may be altered by subsequent events, or the issues are otherwise not yet ripe for consideration;

(i) Circumstances under which the person making the request is unable to show that real risk to that person will be confronted if the intended course of conduct is taken; and

(j) Circumstances involving use of the agency's emergency authority.

(5) If no declaratory order or order setting the matter for hearing is issued within 60 days of the Request, the Request shall be deemed denied.

(6) An Initial Order of the Director on a Request for Declaratory Action may be challenged by filing a request for agency action under this Rule.

R305-7-503. Emergency Actions.

Emergency orders may be issued as provided in Section 63G-4-502. See R305-7-111.

R305-7-601. Purpose of Part.

(1) Part 6 of this Rule (R305-7-601 through 623) provides definitions and other provisions that will govern the way the procedures specified in Parts 2 through 5 of this Rule will apply to adjudicative procedures brought under specific statutes.

(2) For all statutes, Parts 1, 2 and 6 of this Rule apply to a proceeding to challenge a Permit Order.

(3) For all statutes, Parts 1, 3 and 6 of this Rule apply to a proceeding to challenge a Notice of Violation or other Initial Order.

R305-7-602. Addresses for Filing.

(1) Documents submitted to the Executive Director of the Department of Environmental Quality shall be sent to:

Executive Director
Department of Environmental Quality
P.O. Box 144810
Salt Lake City, Utah 84114-4810

Alternatively, these documents may be delivered by courier or hand delivery to:

Executive Director
Department of Environmental Quality
195 North 1950 West, 4th Floor
Salt Lake City, Utah 84116-3097

(2) Documents submitted to the Director of the Division of Air Quality shall be sent to:

Director, Division of Air Quality
P.O. Box 144820
Salt Lake City, Utah 84114-4820

Alternatively, these documents may be delivered by courier or hand delivery to:

Director, Division of Air Quality
195 North 1950 West, 4th Floor
Salt Lake City, Utah 84116-3097

(3) Documents submitted to the Director of the Division of Drinking Water shall be sent to:

Director, Division of Drinking Water
P.O. Box 144830
Salt Lake City, Utah 84114-4830

Alternatively, these documents may be delivered by courier or hand delivery to:

Director, Division of Drinking Water
195 North 1950 West, 3rd Floor
Salt Lake City, Utah 84116-3097

(4) Documents submitted to the Director of the Division of Waste Management and Radiation Control shall be sent to:

Director, Division of Waste Management and Radiation Control

P.O. Box 144880
Salt Lake City, Utah 84114-4880

Alternatively, these documents may be delivered by courier or hand delivery to:

Director, Division of Waste Management and Radiation Control

195 North 1950 West, 2nd Floor
Salt Lake City, Utah 84116-3097

(5) Documents submitted to the Director of the Division of Environmental Response and Remediation shall be sent to:

Director, Division of Environmental Response and Remediation

P.O. Box 144840
Salt Lake City, Utah 84114-4840

Alternatively, these documents may be delivered by courier or hand delivery to:

Director, Division of Environmental Response and Remediation

195 North 1950 West, 1st Floor
Salt Lake City, Utah 84116-3097

(6) Documents submitted to the Director of the Division of Water Quality shall be sent to:

Director, Division of Water Quality
P.O. Box 144870
Salt Lake City, Utah 84114-4870

Alternatively, these documents may be delivered by courier or hand delivery to:

Director
Division of Water Quality
195 North 1950 West, 3rd Floor
Salt Lake City, Utah 84116-3097

R305-7-603. Matters Governed by Title 19, Chapter 1 of the Environmental Quality Code, but not Including Title 19, Chapter 1, Part 4.

(1) Scope. This subsection R305-7-603 applies to all matters governed by Title 19, Chapter 1, of the Environmental Quality Code.

(2) Definitions.

"Director" shall refer to the Executive Director.

(3) Orders and notices issued under the authority of Title 19, Chapter 1 of the Environmental Quality Code are not exempt from the requirements of UAPA. The provisions of UAPA and of Parts 1, 4 and 6 of this Rule shall apply to proceedings initiated under the authority of Title 19, Chapter 1, the "Environmental Quality Code."

(4) Initiating and intervening in a proceeding. Nothing in this Rule constitutes authority for any person other than the agency to initiate adjudicative proceedings under Title 19, Chapter 1. Nothing in this Rule constitutes authority for any person to intervene in an action commenced under Title 19, Chapter 1.

(5) Proceedings under Title 19, Chapter 1 of the Environmental Quality Code, and specifically under Section 19-1-202(2)(a), will be conducted formally under UAPA.

(6) Agency review under Section 63G-4-301 is not available. A request for reconsideration may be filed under Section 63G-4-302.

R305-7-604. Matters Governed by the Air Conservation Act, Title 19, Chapter 2, but not Including Sections 19-2-112 or 19-2-123 through 19-2-126.

(1) This subsection R305-7-604 applies to all matters governed by the Air Conservation Act, Title 19, Chapter 2, but not including Sections 19-2-112 or 19-2-123 through 19-2-126.

(2) "Director" means the Director of the Division of Air Quality.

R305-7-605. Matters Governed by Section 19-2-112 of the Air Conservation Act.

(1) This subsection R305-7-605 describes matters governed by Section 19-2-112(1) of the Air Conservation Act, and applies to matters governed by Section 19-2-112(2) of that Act.

(2) Actions taken under the authority of Section 19-2-112(1) are subject to the procedures specified in that subsection only; neither this Rule nor UAPA applies.

(3) Orders and notices issued under the authority of 19-2-112(2) are subject to the requirements of and procedure specified in 63G-4-502. There is no administrative review available for orders issued under this provision. Any request for reconsideration shall be addressed to the Executive Director at the address specified in R305-7-602(1).

(4) Initiating and intervening in a proceeding. Nothing in this Rule constitutes authority for:

(a) any person other than a Director~~[the agency]~~ to initiate adjudicative proceedings under 19-2-112(2); or

(b) any person to intervene in an action commenced under 19-2-112(2).

R305-7-606. Matters Governed by Sections 19-2-123 through 19-2-126 of the Air Conservation Act.

(1) This subsection R305-7-606 applies to matters governed by Sections 19-2-123 through 19-2-126 of the Air Conservation Act. Sections 59-7-605 and 59-10-1009 of the Utah Tax Code also apply to these matters.

(2) Definitions.

"Director" means the Director of the Division of Air Quality for Requests relating to air pollution control equipment, or the Director of the Division of Water Quality for requests relating to water pollution control equipment.

R305-7-607. Matters Governed by the Radiation Control Act, Title 19, Chapter 3, but not Including Section 19-3-109.

(1) This subsection R305-7-607 applies to all matters governed by the Radiation Control Act, Title 19, Chapter 3, but not including Section 19-3-109.

(2) Definitions.

"Director" means the Director of the Division of Waste Management and Radiation Control.

R305-7-608. Matters Governed by the Radiation Control Act, Title 19, Chapter 3, Section 19-3-109.

(1) This subsection R305-7-608 applies to all matters governed by Section 19-3-109 of the Radiation Control Act.

(2) Definitions.

"Director" means the Director of the Division of Waste Management and Radiation Control.

(3) The provisions of UAPA and of Parts 1, 4 and 6 of this Rule shall apply to proceedings initiated by filing a notice of agency action under the authority of Section 19-3-109.

R305-7-609. Matters Governed by the Safe Drinking Water Act, Title 19, Chapter 4, but not Including Section 19-4-109(1).

(1) This subsection R305-7-609 applies to all matters governed by the Safe Drinking Water Act, Title 19, Chapter 4, but not included Section 19-4-109(1).

(2) Definitions.

"Director" means the Director of the Division of Drinking Water.

R305-7-610. Matters Governed by the Safe Drinking Water Act, Title 19, Chapter 4, Section 19-4-109(1).

(1) This subsection R305-7-610 applies to all matters governed by Section 19-4-109(1) of the Safe Drinking Water Act.

(2) Definitions.

"Director" means the Director of the Drinking Water Division.

(3) The provisions of UAPA and of Parts 1, 4 and 6 of this Rule shall apply to proceedings initiated by filing a notice of agency action under the authority of Section 19-4-109(1).

R305-7-611. Matters Governed by the Water Quality Act, Title 19, Chapter 5.

(1) This subsection R305-7-611 applies to all matters governed by the Water Quality Act, Title 19, Chapter 5.

(2) Definitions.

"Director" means the Director of the Division of Water Quality or, for purposes of groundwater quality at a facility licensed by and under the jurisdiction of the Division of Radiation Control, the Director of the Division of Radiation Control.

R305-7-612. Matters Governed by the Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 1.

(1) This subsection R305-7-612 applies to all matters governed by Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 1.

(2) Definitions.

"Director" means the Director of the [~~Solid and Hazardous Waste~~] Division of Waste Management and Radiation Control.

R305-7-613. Matters Governed by the Hazardous Substances Mitigation Act, Title 19, Chapter 6, Part 3.

(1) This subsection R305-7-613 applies to all matters governed by the Hazardous Substances Mitigation Act, Title 19, Chapter 6, Part 3.

(2) Definitions.

"Director" means the Executive Director.

R305-7-614. Matters Governed by the Underground Storage Tank Act, Title 19, Chapter 6, Part 4, but not Including Sections 19-6-405.3, 19-6-407, 19-6-408, 19-6-416 and 19-6-416.5.

(1) This subsection R305-7-614 applies to all matters governed by the Underground Storage Tank Act, Title 19, Chapter 6, Part 4, but not including Sections 19-6-405.3, 19-6-407, 19-6-408, 19-6-416 and 19-6-416.5.

(2) Definitions.

"Director" means the Director of the Division of Environmental Response and Remediation.

R305-7-615. Matters Governed by the Underground Storage Tank Act, Title 19, Chapter 6, Sections 19-6-407, 19-6-408, 19-6-416 and 19-6-416.5.

(1) This subsection R305-7-615 applies to all matters governed by Sections 19-6-407, 19-6-408, 19-6-416, and 19-6-416.5 of the Underground Storage Tank Act.

(2) Definitions.

"Director" means the Director of the Division of Environmental Response and Remediation.

(3) The provisions of UAPA and of Parts 1, 4 and 6 of this Rule shall apply to proceedings initiated by filing a notice of agency action under the authority of Sections 19-6-407, 19-6-408, 19-6-416 and 19-6-416.5.

R305-7-616. Matters Governed by the Used Oil Management Act, Title 19, Chapter 6, Part 7.

(1) This subsection R305-7-616 applies to all matters governed by the Used Oil Management Act, Title 19, Chapter 6, Part 7.

(2) Definitions.

"Director" means the Director of the Division of ~~[Solid]Waste Management~~ and ~~[Hazardous Waste]Radiation Control~~.

R305-7-617. Matters Governed by the Waste Tire Recycling Act, Title 19, Chapter 6, Part 8.

(1) This subsection R305-7-617 applies to all matters governed by Waste Tire Recycling Act, Title 19, Chapter 6, Part 8.

(2) Definitions.

"Director" means the Director of the Division of ~~[Solid]Waste Management~~ and ~~[Hazardous Waste]Radiation Control~~.

(3) The provisions of UAPA and of Parts 1, 4 and 6 of this Rule shall apply to proceedings initiated by filing a notice of agency action under the authority of the Waste Tire Recycling Act, Title 19, Chapter 6, Part 8.

R305-7-618. Matters Governed by the Illegal Drug Operations Site Reporting and Decontamination Act, Title 19, Chapter 6, Part 9.

(1) This subsection R305-7-618 applies to all matters over which the Director has authority under the Illegal Drug Operations Site Reporting and Decontamination Act, Title 19, Chapter 6, Part 9, and under the authority of the Board.

(2) Definitions.

"Director" means the Director of the Division of Environmental Response and Remediation.

(3) The provisions of UAPA and of Parts 1, 4 and 6 of this Rule shall apply to proceedings initiated by filing a notice of agency action under the authority of the Illegal Drug Operations Site Reporting and Decontamination Act, Title 19, Chapter 6, Part 9.

R305-7-619. Matters Governed by the Mercury Switch Removal Act, Title 19, Chapter 6, Part 10.

(1) This subsection R305-7-619 applies to all matters governed by the Mercury Switch Removal Act, Title 19, Chapter 6, Part 10.

(2) Definitions.

"Director" means the Director of the Division of ~~[Solid]Waste Management~~ and ~~[Hazardous Waste]Radiation Control~~.

(3) The provisions of UAPA and of Parts 1, 4 and 6 of this Rule shall apply to proceedings initiated by filing a notice of agency action under the authority of the Mercury Switch Removal Act, Title 19, Chapter 6, Part 10.

R305-7-620. Matters Governed by the Industrial Byproduct Reuse Act, Title 19, Chapter 6, Part 11.

(1) Scope. This subsection R305-7-620 applies to all matters governed by the Industrial Byproduct Reuse Act, Title 19, Chapter 6, Part 11.

(2) Definitions.

"Director" means the Director of the Division of ~~[Solid]Waste Management~~ and ~~[Hazardous Waste]Radiation Control~~.

R305-7-621. Matters Governed by the Voluntary Cleanup Program Statute, Title 19, Chapter 8.

(1) This subsection R305-7-621 applies to all matters governed by the Voluntary Cleanup Program statute, Title 19, Chapter 8.

(2) Determinations about whether to enter into an agreement under this program lie within the sole discretion of the Executive Director or a person appointed by the Executive Director.

(3) The Executive Director delegates to the Director of the Division of Environmental Response and Remediation authority to issue orders and other Notices of Agency Action regarding:

(a) proposed determinations regarding approvals, disapprovals or modifications of work plans and reports;

(b) approvals, denials or modifications of certificates of completion; and

(c) declaratory orders under Section 63G-4-503 and R305-7-502.

R305-7-622. Matters Governed by the Environmental Institutional Control Act, Title 19, Chapter 10.

(1) This subsection R305-7-622 applies to all matters governed by the Environmental Institutional Control Act, Title 19, Chapter 10.

(2) A request to approve a proposed termination or modification of an environmental institutional control adopted under this act shall be considered a Request for Agency Action and Parts 1, 2 and 6 of this Rule shall apply.

R305-7-623. Matters Governed by the Uniform Environmental Covenants Act, Title 57, Chapter 25.

(1) This subsection R305-7-623 applies to all matters governed by the Uniform Environmental Covenants Act, Title 57, Chapter 25.

(2) A request to approve a proposed agreement, modification of an agreement, or termination of an agreement shall be considered to be a Request for Agency Action and Parts 1, 2 and 6 of this Rule shall apply.

KEY: administrative procedures, adjudicative procedures, hearings

Date of Enactment or Last Substantive Amendment: [November 20, 2015]2018

Notice of Continuation: October 26, 2017

Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-1-301.5; 63G-4-102; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-205; 63G-4-503

**Environmental Quality, Waste
Management and Radiation Control,
Radiation
R313-37-3
Clarifications or Exceptions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42798

FILED: 04/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed change to Section R313-37-3 is made in order to meet Utah's agreement with the U.S. Nuclear Regulatory Commission (NRC), as an Agreement State, to maintain regulatory compatibility with the corresponding federal radioactive materials regulations. This proposed change to Section R313-37-3 updates the date of the incorporation of selected sections of 10 CFR Part 37 in order to adopt federal regulatory changes made by the U.S. NRC to the requirements related to the physical protection of certain (Category 1 and Category 2) radioactive material. This proposed change incorporates corresponding revisions made by the U.S. NRC in a direct final rule published in the Federal Register on 09/30/2014 (79 FR 58664) under the title of Distribution of Safeguards Information - Modified Handling Categorization; Change for Materials Facilities and a final rule published on 08/03/2015 (79 FR 45841) under the title of Miscellaneous Corrections.

SUMMARY OF THE RULE OR CHANGE: On 09/30/2014, the NRC amended the federal radioactive materials regulations in 10 CFR Part 37 to address security-related information requirements for large irradiators and manufacturers, distributors, and transporters of Category 1

and Category 2 quantities of radioactive materials. Additionally, on 08/03/2015 the NRC made various technical corrections to the federal radioactive materials regulations, including a correction to a reference in 10 CFR Part 37 (specifically paragraph 37.23(b)(2)). However, based on the compatibility designations, the majority of NRC's revisions published in the noted Federal Registers are not required for an Agreement State, such as Utah, to adopt into the state radioactive materials rules. This proposed rule change incorporates those revisions associated with maintaining regulatory compatibility with the federal radioactive materials regulations. Because Rule R313-37 incorporates by reference 10 CFR Part 37, updating the date of the incorporation by reference from 2014 to 2017 results in incorporating the changes published by the NRC on 09/30/2014 and 08/03/2015. Consequently, only the change to the date of the incorporation by reference in Section R313-37-3 is necessary in order to maintain regulatory compatibility with NRC rules as an Agreement State with the NRC.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Section 19-6-104

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material, published by U.S. Printing Office, 01/01/2017

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** An entity of state government that may have a radioactive material license and be subject to the security-related information requirements under Rule R313-37 (which incorporates by reference selected sections of 10 CFR Part 37) may realize an approximate annual savings of \$302, as determined by the NRC. (Regulatory Analysis for Direct Final Rule: Safeguards Information – Modified Handling Categorization Change for Materials Facilities, December 2012. Note: As a technical correction, a regulatory analysis was not necessary for the federal regulatory changes to 10 CFR Part 37 that were published by the NRC on 08/03/2015.)
- ◆ **LOCAL GOVERNMENTS:** No local governments have a radioactive materials license subject to the security and protection requirements of Rule R313-37.
- ◆ **SMALL BUSINESSES:** A small business that may have a radioactive material license and be subject to the security-related information requirements under Rule R313-37 (which incorporates by reference selected sections of 10 CFR Part 37) may realize an approximate annual savings of \$302, as determined by the NRC. (Regulatory Analysis for Direct Final Rule: Safeguards Information – Modified Handling Categorization Change for Materials Facilities, December 2012. Note: As a technical correction, a regulatory analysis was not necessary for the federal regulatory changes to 10 CFR Part 37 that were published by the NRC on 08/03/2015.)
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** A person who may have a radioactive material license and be

subject to the security-related information requirements under Rule R313-37 (which incorporates by reference selected sections of 10 CFR Part 37) may realize an approximate annual savings of \$302, as determined by the NRC. (Regulatory Analysis for Direct Final Rule: Safeguards Information – Modified Handling Categorization Change for Materials Facilities, December 2012. Note: As a technical correction, a regulatory analysis was not necessary for the federal regulatory changes to 10 CFR Part 37 that were published by the NRC on 08/03/2015.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: A radioactive material licensee who is subject to the security-related information requirements under Rule R313-37 (which incorporates by reference selected sections of 10 CFR Part 37) may realize an approximate annual savings of \$302, as determined by the NRC. (Regulatory Analysis for Direct Final Rule: Safeguards Information – Modified Handling Categorization Change for Materials Facilities, December 2012. Note: As a technical correction, a regulatory analysis was not necessary for the federal regulatory changes to 10 CFR Part 37 that were published by the NRC on 08/03/2015.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A radioactive material licensee who is subject to the security-related information requirements under Rule R313-37 (which incorporates by reference selected sections of 10 CFR Part 37) may realize an approximate annual savings of \$302, as determined by the NRC. (Regulatory Analysis for Direct Final Rule: Safeguards Information – Modified Handling Categorization Change for Materials Facilities, December 2012. Note: As a technical correction, a regulatory analysis was not necessary for the federal regulatory changes to 10 CFR Part 37 that were published by the NRC on 08/03/2015.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WASTE MANAGEMENT AND RADIATION CONTROL, RADIATION
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-4880
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
 ♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 07/13/2018

AUTHORIZED BY: Scott Anderson, Director

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

A radioactive material licensee who is subject to the security-related information requirements under Rule R313-37 (which incorporates by reference selected sections of 10 CFR Part 37) may realize an approximate annual savings of \$302, as determined by the U.S. Nuclear Regulatory Commission (NRC). (Regulatory Analysis for Direct Final Rule: Safeguards Information – Modified Handling Categorization Change for Materials Facilities, December 2012. Note: As a technical correction, a regulatory analysis was not necessary for the federal regulatory changes to 10 CFR Part 37 that were published by the NRC on 08/03/2015.) There are 17 licensees in the state of Utah who could be affected by this regulatory change resulting in an annual benefit to those licensees of \$5,134. For security reasons the categories (state

government, local governments, small businesses, etc.) of these licensees cannot be provided in this analysis.

The Executive Director of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-37. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.

R313-37-3. Clarifications or Exceptions.

For purposes of R313-37, 10 CFR 37.5, 37.11(c), 37.21 through 37.43(d)(8), 37.45 through 37.103, and Appendix A to 10 CFR 37 (~~[2014]~~2017), are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 37.5, exclude definitions for "Act", "Agreement State", "Becquerel", "Byproduct Material", "Commission", "Curie", "Government Agency", "License", "License issuing authority", "Lost or missing licensed material", "Person", "State", and "United States";

(b) In 10 CFR 37.77(a)(1), exclude the wording "Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by email to RAMQC_SHIPMENTS@nrc.gov or by fax to 301-816-5151."; and

(c) In 10 CFR 37.81(g), exclude the wording "In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.".

(2) The substitution of the following wording:

(a) "Utah Radiation Control Rule" for references to:

(i) "Commission regulation" in 10 CFR 37.101; and

(ii) "regulation" in 10 CFR 37.103;

(b) "Utah Radiation Control Rules" for reference to:

(i) "regulations and laws" in 10 CFR 37.31(d);

(ii) "Commission requirements" in 10 CFR 37.43(a)(3) and 37.43(c)(1)(ii); and

(iii) "regulations in this part" in 10 CFR 37.103;

(c) "Director" for references to:

(i) "appropriate NRC regional office listed in Section 30.6(a)(2) of this Chapter" in 10 CFR 37.45(b);

(ii) "Commission" in 10 CFR 37.103;

(iii) "NRC" in 10 CFR 37.31(d), 37.43(c)(3)(iii), 37.57(a) (second instance of NRC) and (c), 37.77, and 37.77(a)(1) (first instance) and (3), and 37.81(g);

(iv) "NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(2) and 37.77(d);

(v) "NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(1) (second instance);

(vi) "NRC's Operations Center" in 10 CFR 37.81(a) and (b);

(vii) "NRC's Operations Center (301-816-5100)" in 10 CFR 37.57(a) and (b) and 37.81(a) through (f);

(viii) "NRC regional office listed in section 30.6(a)(2) of this chapter" in 10 CFR 37.41(a)(3); and

(ix) "NRC regional office specified in section 30.6 of this chapter" in 10 CFR 37.41(a)(3);

(d) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for references to "Commission or an Agreement State" in 10 CFR 37.71 and 37.71(a) and (b);

(e) "U.S. Nuclear Regulatory Commission's Security Orders or the legally binding requirement issued by Agreement States" for references to "Security Orders" in 10 CFR 37.21(a)(3), 37.25(b)(2), and 37.41(a)(3);

(f) "mail, hand delivery, or electronic submission" for references to "an appropriate method listed in section 37.7" in 10 CFR 37.57(c) and 37.81(g); and

(g) "shall, by mail, hand delivery, or electronic submission," for reference to "shall use an appropriate method listed in section 37.7 to" in 10 CFR 37.27(c).

(3) The substitution of the following rule references:

(a) "R313-19-41(4)" for reference to "section 30.41(d) of this chapter." In 10 CFR 37.71;

(b) "R313-19-100 (incorporating 10 CFR 71.97 by reference)" for reference to "section 71.97 of this chapter" in 10 CFR 37.73(b);

(c) "R313-19-100 (incorporating 10 CFR 71.97(b) by reference)" for reference to "section 71.97(b) of this chapter" in 10 CFR 37.73(b); and

(d) "10 CFR 73" for references to "part 73 of this chapter" in 10 CFR 37.21(c)(4), 37.25(b)(2), and 37.27(a)(4).

KEY: radioactive materials, security, fingerprinting, transportation

Date of Enactment or Last Substantive Amendment: ~~June 29, 2015~~2018

Notice of Continuation: January 17, 2017

Authorizing, and Implemented or Interpreted Law: 19-3-104; ~~19-6-107~~19-6-104

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-60A

Drug Utilization Review Board

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42787

FILED: 04/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify requirements, responsibilities, and functions for the Drug Utilization Review Board (DURB) members.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies terms of appointment and meeting requirements for

DURB members. It also removes language already spelled out in the Utah Code and makes other technical changes.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only clarifies requirements for DURB membership. It neither affects Medicaid member services nor provider reimbursement.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund the DURB nor make administrative decisions regarding its membership.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only clarifies requirements for DURB membership. It neither affects Medicaid member services nor provider reimbursement.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers or to Medicaid members because this change only clarifies requirements for DURB membership. It neither affects Medicaid member services nor provider reimbursement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid member because this change only clarifies requirements for DURB membership. It neither affects Medicaid member services nor provider reimbursement.

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

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

None of the 735 providers of pharmacy services will see a fiscal impact because this rule only clarifies membership requirements for the Drug Utilization Review Board, and does not affect provider reimbursement.

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

R414-60A. Drug Utilization Review Board.

R414-60A-1. Introduction and Authority.

(1) The Drug Utilization Review ~~Board~~ (DURB) [~~Board~~] aids in pharmacy policy oversight and drug utilization.

(2) The ~~DUR Board~~ DURB is authorized under 42 CFR 456.716 and Sections 26-18-2, 3, and 102.

R414-60A-2. ~~[DUR Board]~~DURB Composition and Membership Requirements.

(1) The Director of the Division of Medicaid and Health Financing (DMHF) shall act on behalf of the Executive Director of the Utah Department of Health regarding all ~~[DUR Board]~~DURB issues, and shall appoint ~~[the following groups of individuals to four-year terms on the DUR Board:]~~membership to the DURB in accordance with Section 26-18-102. In addition, the Director shall appoint one pharmacist from recommendations received from the Accountable Care Organizations (ACOs).

~~_____ (a) Four physicians from recommendations received from the Utah Medical Association.~~

~~_____ (b) One physician engaged in Academic Medicine.~~

~~_____ (c) Three pharmacists from recommendations received from the Utah Pharmacy Association.~~

~~_____ (d) One pharmacist engaged in Academic Pharmacy.~~

~~_____ (e) One dentist from recommendations received from the Utah Dental Association.~~

~~_____ (f) One individual from recommendations received from the Pharmaceutical Manufacturers Association (PhRMA).~~

~~_____ (g) One consumer representative.~~

~~_____ (h) One pharmacist from recommendations received from the Accountable Care Organizations (ACOs).]~~

(2) Membership Requirements.

(a) An appointee may not serve more than two consecutive terms in one of the ~~[42-]~~board positions listed in Section 26-18-102. ~~[Subsection R414-60A-2(1).]~~ Terms separated by an interruption of more than ~~[an interruption of]~~two months are not consecutive.

(b) If DMHF does not receive recommendations to fill a vacant position within 30 days of a request, DMHF may appoint a qualified individual to fill the vacancy.

(c) If there are no willing nominees for appointment when an appointed term has expired, the DMHF Director may reappoint members on the board to additional non-consecutive terms as needed.

~~_____ (3) Notwithstanding the requirements in Subsection R414-60A-2(1), the Director shall adjust the length of terms upon appointment so that one-half of the DUR Board is appointed every two years.~~

~~_____ (4) The DUR Board shall elect a chairperson to a one-year term from among its members. The chairperson may serve consecutive terms if reelected by the board.]~~

~~[[5]3] When a vacancy occurs on the board, the Director shall appoint a replacement for the unexpired term of the vacating member.~~

(4) DURB members serve at the discretion of the DMHF Director.

~~[[6]5] The DURB ~~[Board-]~~shall be managed by a non-voting board manager appointed from the pharmacy group within DMHF.~~

~~[[7]6] Other individuals of the DMHF pharmacy ~~[group]team~~ are non-voting ex-officio advisory members of the DURB ~~[Board-]~~~~

R414-60A-3. Responsibilities and Functions.

(1) The ~~[DUR Board]~~DURB shall meet ~~[monthly-]~~in a public forum, except when meeting in executive session or in petitions subcommittee.

~~(2) [The board may elect to not meet in a given month if circumstances do not require a meeting.-]The board shall meet at least ~~[ten]four~~ times per year.~~

(3) The ~~[DUR Board]~~DURB chairperson shall conduct all meetings. The ~~[DUR Board]~~DURB manager shall conduct meetings if the chairperson is not present.

~~_____ (4) In accordance with Section 26-18-105, notice shall be given for a DUR Board meeting in which prior authorization criteria is considered.]~~

~~[[5]4] The ~~[DUR Board]~~DURB manager shall schedule meetings, set agendas, provide meeting materials, keep minutes, record ~~[DUR Board]~~DURB business, notify ~~[DHCF]~~DMHF when vacancies occur, provide meeting notices, and coordinate functions between the ~~[DUR Board]~~DURB and ~~[DHCF]~~DMHF.~~

~~_____ (6) DHCF shall rely upon the DUR Board to carry out the Division's federal and state responsibilities for the Medicaid drug program to address the following issues:~~

~~_____ (a) Adverse reactions to drugs.~~

~~_____ (b) Therapeutic appropriateness.~~

~~_____ (c) Overutilization and underutilization.~~

~~_____ (d) Appropriate use of generic drugs.~~

~~_____ (e) Therapeutic duplication.~~

~~_____ (f) Drug-disease contraindications.~~

~~_____ (g) Drug-drug interactions.~~

~~_____ (h) Incorrect drug dosage and duration of treatment.~~

~~_____ (i) Drug allergy interactions.~~

~~_____ (j) Clinical abuse and misuse.~~

~~_____ (k) Identification and reduction of the frequency of patterns of fraud, abuse, and gross overuse.~~

~~_____ (l) Inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.~~

~~_____ (m) Prior Authorization criteria.]~~

~~[[7]5] The ~~[DUR Board]~~DURB may consider recommendations, criteria, and standards produced by the Pharmacy and Therapeutics (P ~~[and-]~~&T) Committee.~~

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[April 1, 2017]2018~~

Notice of Continuation: June 13, 2017

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

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-60B
Preferred Drug List**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 42788

FILED: 04/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify the criteria upon which the Pharmacy and Therapeutics (P&T) Committee makes its recommendations to cover therapeutic drugs.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies clinical and cost-related factors for the P&T Committee to recommend which therapeutic drugs to cover in the Preferred Drug List (PDL). It also makes other technical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-2.4 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only clarifies criteria upon which to base recommendations. It neither affects member services nor provider reimbursement.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund the P&T Committee nor determine the criteria used to make recommendations.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only clarifies criteria upon which to base recommendations. It neither affects member services nor provider reimbursement.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers or to Medicaid members because this change only clarifies criteria upon which to base recommendations. It neither affects member services nor provider reimbursement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid member because this change only clarifies criteria upon which to base recommendations. It neither affects member services nor provider reimbursement.

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

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|------------|------------|------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

None of the 735 providers of pharmacy services will see a fiscal impact because this rule only clarifies criteria upon which to base drug recommendations, and does not affect provider reimbursement.

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-60B. Preferred Drug List.****R414-60B-1. Introduction and Authority.**

(1) The Division of ~~[Health]~~Medicaid and ~~[Care]~~Health Financing (~~[DHCF]~~DMHF) has established a Preferred Drug List (PDL) to operate within the pharmacy program and at the Division's discretion.

(2) The Preferred Drug List is authorized under Section 26-18-2.4.

R414-60B-2. Client Eligibility Requirements.

A PDL is available to categorically and medically needy individuals.

R414-60B-3. Program Access Requirements.

A PDL is established for certain therapeutic classes of drugs and is available through the point of sale system of any Medicaid provider. At its discretion, ~~[DHCF]~~DMHF establishes and implements the scope and therapeutic classes of drugs.

R414-60B-4. Service Coverage.

(1) Upon the recommendation of the Pharmacy and Therapeutics (P&T) Committee, ~~[DHCF]~~DMHF pharmacy staff select the therapeutic classes and select the most clinically effective and cost effective drug or drugs within each class.

(2) The prescriber must obtain prior authorization from the Department to dispense drugs designated as "non-preferred" in each class, through the Department's current prior authorization system. Criteria for a Non-preferred Prior Authorization (NPA) is established by the Department in consultation with the ~~[Pharmacy and Therapeutics]~~P&T Committee.

(3) A prior authorization is not placed on any preferred drugs under Section R414-60B-4. Nevertheless, a prior authorization may apply if set by the Drug Utilization Review Board (DURB).

(4) For NPA requests submitted during normal business hours, Monday through Friday, 8 a.m. to 5 p.m., the prior authorization system shall provide either telephone or fax approval or denial within 24 hours of the receipt of the request.

(5) In an emergency situation for a prior authorization needed outside of normal business hours, a 72-hour supply of a non-preferred drug may be dispensed and the Department shall issue an NPA for the 72-hour supply on the next business day. Further quantity requests shall be subject to all NPA requirements.

R414-60B-5. P&T Committee Composition and Membership Requirements.

(1) There is created a ~~[Pharmacy and Therapeutics]~~P&T Committee within ~~[DHCF]~~DMHF. The ~~[DHCF]~~DMHF Director shall appoint the members of the P&T Committee for a two-year term. ~~[DHCF]~~DMHF has the option of making the appointments renewable.

(2) ~~[DHCF]~~DMHF staff request nominations for appointees from professional organizations within the state. These nominations are then given to the Director for selection and appointment.

(a) If there are no recommendations within 30 days of a request, ~~[DHCF]~~DMHF may submit a list of potential candidates to professional organizations for consideration.

(b) If there are no willing nominees for appointment from professional organizations, the Director may seek recommendations from ~~[DHCF]~~DMHF staff.

(3) The P&T Committee consists of one physician from each of the following specialty areas:

- (a) Internal Medicine;
- (b) Family Practice Medicine;
- (c) Psychiatry; and
- (d) Pediatrics.

(4) The ~~[Pharm]~~P&T Committee consists of one pharmacist from each of the following areas:

- (a) Pharmacist in Academia;
- (b) Independent Pharmacy;
- (c) Chain Pharmacy; and
- (d) Hospital Pharmacy.

(5) ~~[DHCF]~~DMHF shall appoint one voting committee manager.

(6) Up to two non-voting ad hoc specialists participate on the committee at the committee's invitation.

(7) An individual considered for nomination must demonstrate no direct connection to and must be independent of the pharmaceutical manufacturing industry.

(8) The P&T Committee shall elect a chairperson to a one-year term from among its members. The chairperson may serve consecutive terms if reelected by the committee.

(9) When a vacancy occurs on the committee, the Director shall appoint a replacement for the unexpired term of the vacating member.

(10) P&T Committee members serve at the discretion of the DMHF Director.

R414-60B-6. P&T Committee Responsibilities and Functions.

(1) The P&T Committee functions as a professional and technical advisory board to ~~[DHCF]~~DMHF in the formulation of a PDL.

(2) P&T Committee recommendations must:

(a) represent the majority vote at meetings in which a majority of voting members are present; and

(b) include votes by at least one committee member from the group identified in Subsection R414-60B-5(3) and one member from the group identified in Subsection R414-60B-5(4)

(3) The P&T Committee manager shall schedule meetings, set agendas, provide meeting materials, keep minutes, record committee business, notify the Director when vacancies occur, provide meeting notices, and coordinate functions between the committee and ~~[DHCF]~~DMHF.

(4) Notice for a P&T Committee meeting shall be given in accordance with applicable law.

(5) The P&T Committee chairperson shall conduct all meetings. The P&T Committee manager shall conduct meetings if the chairperson is not present.

- (6) P&T Committee meetings shall occur at least quarterly.
- (7) P&T Committee meetings shall be open to the public except when meeting in executive session.
- (8) The committee shall:
- (a) review drug classes and make recommendations to [~~DHCF~~]DMHF for PDL implementation;
- (b) review new drugs, new drug classes or both, to make recommendations to [~~DHCF~~]DMHF for PDL implementation;
- (c) review drugs or drug classes as [~~DHCF~~]DMHF assigns or requests;
- (d) review drugs within a therapeutic class and make a recommendation to [~~DHCF~~]DMHF for the preferred drug or drugs within the therapeutic class; and
- (e) review evidence based criteria and drug information.

R414-60B-7. Clinical and Cost-Related Factors.

The P&T Committee shall base its determinations on the following [~~clinical and cost-related~~] factors as established by the [~~Drug Utilization Review Board~~]DURB:

- (1) If clinical and therapeutic considerations are substantially equal, then the P&T Committee shall recommend to [~~DHCF~~]DMHF that it consider only cost.
- [~~(2) If cost information available to the P&T Committee indicates that costs are substantially the same, then the P&T Committee makes its recommendation to DHCF based on the clinical and therapeutic profiles of the drugs.~~]
- (3) In making its recommendations to [~~DHCF~~]DMHF, the P&T Committee may also consider whether the clinical, therapeutic effects, and medical necessity requirements justify the cost differential between drugs within a therapeutic class.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~July 22, 2009~~]2018

Notice of Continuation: June 14, 2017

Authorizing, and Implemented or Interpreted Law: 26-18-2.4; 26-18-3; 26-1-5

Labor Commission, Industrial Accidents **R612-100-4** Designation as Informal Proceedings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42786

FILED: 04/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to designate a proceeding initiated under Section 34A-2-114 as an informal adjudicatory proceeding.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change provides that proceedings initiated against employers who unlawfully interfere with an employee's workers'

compensation claim will be designated as informal adjudicatory proceedings.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-2-114 and Section 63G-4-202

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Designating adjudicatory proceedings as informal imposes no cost upon the state and should allow for certain savings by not requiring a formal adjudicatory process.
- ◆ **LOCAL GOVERNMENTS:** Designating adjudicatory proceedings as informal imposes no cost upon local governments and should allow for certain savings by not requiring a formal adjudicatory process.
- ◆ **SMALL BUSINESSES:** Designating adjudicatory proceedings as informal imposes no cost upon small businesses and should allow for certain savings by not requiring a formal adjudicatory process.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Designating adjudicatory proceedings as informal imposes no cost upon any other persons and should allow for certain savings by not requiring a formal adjudicatory process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Designating adjudicatory proceedings as informal imposes no cost upon affected persons and should allow for certain savings by not requiring a formal adjudicatory process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not anticipated that there will be any fiscal impact on businesses by designating these adjudicatory proceedings as informal proceedings. There might be a savings by not requiring a formal adjudicatory process.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christopher Hill by phone at 801-530-6113, by FAX at 801-530-6390, or by Internet E-mail at chill@utah.gov
- ◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Jaceson Maughan, Commissioner

Appendix 1: Regulatory Impact Summary Table*

| Fiscal Costs | FY 2018 | FY 2019 | FY 2020 |
|-------------------------------|----------------|----------------|----------------|
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Person | \$0 | \$0 | \$0 |
| Total Fiscal Costs: | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits: | \$0 | \$0 | \$0 |
| Net Fiscal Benefits: | \$0 | \$0 | \$0 |

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses

and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The designation of certain proceedings as informal proceedings has the potential of saving all businesses the cost of defending a claim in a formal proceeding. All businesses that have employees could be affected by this rule change. There is no means of estimating the cost or savings of this rule change, because it will only affect those businesses that interfere with an employee's right to file a workers' compensation claim.

**R612. Labor Commission, Industrial Accidents.
R612-100. Workers' Compensation Rules - General Provisions.
R612-100-4. Designation as Informal Proceedings.**

A. Pursuant to Section 63G-4-202, the following are designated as informal adjudicatory proceedings:

1. Assessment of penalty under Section 34A-2-211 against an employer conducting business without obtaining workers' compensation coverage;
2. Assessment of penalty under Section 34A-2-201.3 against an insured employer for direct payment of workers' compensation benefits; ~~and~~
3. Assessment of penalty under Section 34A-2-407 against an employer or insurance carrier who does not timely report an industrial accident[-];
4. Assessment of penalty under Section 34A-2-205 against an insurance carrier for improperly notifying the division of coverage written in this state or for this state[-];
5. Assessment of penalty under Section 34A-2-114 against an employer for unlawfully interfering with an employee's workers' compensation claim.

B. All subsequent adjudicative proceedings in the above-identified matters are designated as formal proceedings.

KEY: workers' compensation, administrative procedures
Date of Enactment or Last Substantive Amendment: [December 8, 2015]2018
Notice of Continuation: February 8, 2018
Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104 et seq.; 63G-4-102 et seq.

End of the Notices of 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 <https://www.rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

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

Career Service Review Office, Administration **R137-2** Government Records Access and Management Act

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42779
FILED: 04/09/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63G-2-204(2)(d) and Section 63A-12-104 grant governmental entities the authority to make rules in accordance with the Government Records Access and Management Act (GRAMA).

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is essential; it enables the Career Service Review Office to manage requests for documents under GRAMA. The rule is necessary to assure that document requests are answered expeditiously and in a manner consistent with GRAMA. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAREER SERVICE REVIEW OFFICE
ADMINISTRATION
ROOM 1120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Akiko Kawamura by phone at 801-538-3047, by FAX at 801-538-3139, or by Internet E-mail at akawamura@utah.gov
♦ Annette Morgan by phone at 801-538-3048, by FAX at 801-538-3139, or by Internet E-mail at amorgan@utah.gov

AUTHORIZED BY: Akiko Kawamura, Administrator

EFFECTIVE: 04/09/2018

Health, Administration **R380-250** HIPAA Privacy Rule Implementation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42784
FILED: 04/10/2018

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 of Health (Department) the power to adopt,

amend, or rescind rules, and Section 26-1-17 implements standards of employee conduct that safeguard protected health information (PHI).

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 safeguards health information in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and because it allows individuals to access their PHI, request to amend or restrict their PHI, request an accounting of disclosures, and to file a complaint over a HIPAA violation.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
ADMINISTRATION
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ 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: Joseph Miner, MD, Executive Director

EFFECTIVE: 04/10/2018

**Health, Children's Health Insurance
Program
R382-1
Benefits and Administration**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42790
FILED: 04/11/2018

**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 of Health (Department) the power to adopt, amend, or rescind rules, and Section 26-40-103 requires the Department to administer and implement by rule the Children's Health Insurance Program (CHIP).

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 provisions for benefits, limitations, enrollment, reimbursement, cost sharing, and the fair-hearing process under CHIP.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 04/11/2018

**Health, Children's Health Insurance
Program
R382-10
Eligibility**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42791
FILED: 04/11/2018

**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 of Health (Department) the power to adopt, amend, or rescind rules, and Section 26-40-103 requires the

Department to administer and implement by rule the Children's Health Insurance Program (CHIP).

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 eligibility requirements for children to receive CHIP coverage.

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

HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 04/11/2018

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 implements optometry services for Medicaid members as described in the Vision Care Services Provider Manual and in the Medicaid State Plan.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 04/10/2018

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-52
Optometry Services**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42782
FILED: 04/10/2018

**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 26-18-3 requires the Department of Health (Department) to implement, by rule, vision services for eligible Medicaid members, and 42 CFR 440.60 allows Medicaid to cover vision services performed by a licensed optometrist.

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-53
Eyeglasses Services**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42783
FILED: 04/10/2018

**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 26-18-3 requires the Department of Health (Department) to implement, by rule, vision services for eligible Medicaid members, and 42 CFR 440.120(d) defines eyeglasses in relation to Medicaid coverage.

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 implements eyeglasses services for Medicaid members as described in the Vision Care Services Provider Manual and in the Medicaid State Plan.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 04/10/2018

Natural Resources, Wildlife Resources
R657-34
Procedures for Confirmation of Ordinances on Hunting Closures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42796
FILED: 04/12/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 23-14-1(3)(b) states: "Communities may close areas to hunting for safety reasons after confirmation by the Wildlife Board." This rule provides the standards and procedures for a political subdivision within a community to obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-34 were received since 05/06/2013 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-34 is necessary to provide the procedures for a political subdivision within a community to obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety. The provisions adopted in this rule are effective. Continuation of this rule is necessary to provide the standards and procedures for obtaining confirmation from the Wildlife Board.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Deputy Director

EFFECTIVE: 04/12/2018

Natural Resources, Wildlife Resources
R657-37
Cooperative Wildlife Management Units for Big Game or Turkey

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42795
FILED: 04/12/2018

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: Under Section 23-23-3, the Wildlife Board is authorized to provide the standards and procedures applicable to Cooperative Wildlife Management units organized for the hunting of big game or turkey.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-37 were received since 05/06/2013 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-37 is established for setting the standards and procedures applicable to Cooperative Wildlife Management units for big game or turkey. The provisions adopted in this rule are effective in increasing wildlife resources, providing income to landowners, providing the general public access to private and public lands for hunting big game or turkey, creating satisfying hunting opportunities, and providing adequate protection to landowners who open their lands for hunting. Continuation of this rule is necessary for success with this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Deputy Director

EFFECTIVE: 04/12/2018

**Natural Resources, Wildlife Resources
 R657-42**

**Fees, Exchanges, Surrenders, Refunds
 and Reallocation of Wildlife Documents**

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

DAR FILE NO.: 42794
 FILED: 04/12/2018

**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: Under Sections 23-19-1 and 23-19-38, the Division of Wildlife Resources under authorization from the Wildlife Board is required to issue wildlife documents

along with providing the standards and procedures for the exchange permits, surrender of wildlife documents, refund of wildlife documents, reallocation of permits, and assessment of late fees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-42 were received since 05/06/2013 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-42 is established for setting the standards and procedures for exchanges, surrenders, refunds and reallocations of wildlife permits. The provisions adopted in this rule are effective in maintaining a set practice of guidelines assuring continuity and consistency in handling circumstances pertaining to exchanges, surrenders, refunds, reallocations, and late fees. Continuation of this rule is necessary for success with this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Deputy Director

EFFECTIVE: 04/12/2018

**Natural Resources, Wildlife Resources
 R657-45**

**Wildlife License, Permit, and Certificate
 of Registration Forms and Terms**

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

DAR FILE NO.: 42793
 FILED: 04/12/2018

**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: Under Sections 23-14-19 and 23-19-2, the Wildlife Board is authorized and required to prescribe the form of a wildlife license, permit, and certificate of registration.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-45 were received since 05/06/2013 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-45 is established for prescribing the forms of a wildlife license, permit, and certificate of registration. The provisions adopted in this rule are effective in prescribing the form of a license, permit, and certificate of registration. Continuation of this rule is necessary for prescribing the form of a license, permit, and certificate of registration.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Deputy Director

EFFECTIVE: 04/12/2018

OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means to allow the collection, importation, exportation, transportation, and possession of amphibians, reptiles, and their parts.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-53 were received since May 2013 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-53 governs the collection, importation, exportation, transportation, and possession of amphibians, reptiles, and their parts. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of this program.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Deputy Director

EFFECTIVE: 04/12/2018

Natural Resources, Wildlife Resources
R657-53
Amphibian and Reptile Collection,
Importation, Transportation and
Possession

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42792
FILED: 04/12/2018

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

Public Safety, Administration
R698-7
Emergency Vehicles

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42797
FILED: 04/12/2018

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 41-6a-310 and Subsection 53-1-108(1)(c) authorize the commissioner of the Department of Public Safety (Department) to make rules,

consistent with the chapter, governing the use, in emergencies, of signal lights on privately-owned vehicles, and to authorize such vehicles to be designated for part-time emergency use.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Department 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: Continuation of this rule is necessary in order to clarify the requirements for a privately-owned vehicle to be designated as emergency vehicles as authorized under Section 41-6a-310.

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

PUBLIC SAFETY
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 1ST FLR
SALT LAKE CITY, UT 84119-5994
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov

AUTHORIZED BY: Keith Squires, Commissioner

EFFECTIVE: 04/12/2018

Public Service Commission,
Administration
R746-110

Uncontested Matters to be Adjudicated
Informally

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

DAR FILE NO.: 42768
FILED: 04/05/2018

**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 54-4-1 provides the Public Service Commission (PSC) general jurisdiction to regulate every public utility in Utah, to supervise all of the

business of every such public utility in Utah, and to do all things necessary or convenient in the exercise of that power and jurisdiction. Section 63G-4-203 requires the PSC to enact rules governing procedures for informal adjudicative proceedings.

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 last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued to allow the PSC to continue to comply with Sections 54-4-1 and 63G-4-203.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Melanie Reif by phone at 801-530-6709, by FAX at 801-530-6796, or by Internet E-mail at mreif@utah.gov
♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Melanie Reif, Legal Counsel

EFFECTIVE: 04/05/2018

Public Service Commission,
Administration
R746-210

Utility Service Rules Applicable Only to
Electric Utilities

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

DAR FILE NO.: 42767
FILED: 04/05/2018

**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: Sections 113 and 115 of the

Public Utility Regulatory Policy Act of 1978 (PURPA), codified at 16 U.S.C 2623 and 2625, establish standards for Master Metered multiple tenancy dwellings that make it necessary for the Public Service Commission (PSC) to set the standards and exemptions in this rule. Sections 54-4-1 and 54-3-1 direct the PSC to ensure and require public utilities to provide, "just and reasonable" service, including reduction of periodic variations in demand and encouraging conservation of resources and energy.

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 last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The standards in this rule for Master Metered multiple tenancy dwellings continue to be relevant and necessary to the PSC's duty to supervise and regulate electric utility companies in Utah. Therefore, the rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Melanie Reif by phone at 801-530-6709, by FAX at 801-530-6796, or by Internet E-mail at mreif@utah.gov
 ♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Melanie Reif, Legal Counsel

EFFECTIVE: 04/05/2018

**Public Service Commission,
 Administration
 R746-240
 Telecommunication Service Rules**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42769
 FILED: 04/05/2018

**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 54-4-1 authorizes the Public Service Commission (PSC) to regulate every public utility in Utah and supervise the business of those public utilities necessary to accomplish that regulation and supervision. Section 54-4-7 requires that the PSC provide rules to ensure that utility service and equipment is just, safe, proper, and adequate. Subsection 54-8b-18(10) states that "the commission may promulgate rules: (a) necessary to implement this section; (b) consistent with any rules promulgated by the Federal Communications Commission; and (c) in a nondiscriminatory and competitively neutral manner." Subsection 54-4-37(23) states the commission is granted authority to enforce and implement rules to carry out the requirements of this section.

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 last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary to provide guidelines for telecommunication service and resolution of customer complaints. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Michael Hammer by phone at 801-530-6729, or by Internet E-mail at michaelhammer@utah.gov
 ♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Michael Hammer, Administrative Law Judge

EFFECTIVE: 04/05/2018

**Public Service Commission,
Administration
R746-340
Service Quality for Telecommunications
Corporations**

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

DAR FILE NO.: 42770
FILED: 04/05/2018

**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 54-4-1 provides the Public Service Commission (PSC) general jurisdiction to regulate every public utility in Utah and to supervise all of the business of every such public utility in Utah, and to do all things necessary or convenient in the exercise of that power and jurisdiction. Section 54-4-14 authorizes the PSC to make rules that require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks and premises that promote and safeguard the health and safety of its employees, customers, and the public, and the installation, use, maintenance, and operation of appropriate safety or other devices or appliances, and to establish standards of construction and equipment, and to require the performance of any other acts which the health or safety of its employees, customers, or the public may demand. Section 54-4-23 authorizes the PSC to establish a system of accounts to be kept by public utilities subject to its jurisdiction and to determine the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts, records, and memorandum to be kept by such public utilities and any forms, records, and memorandum which in the judgment of the commission may be necessary to comply with the provisions of this section.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In March 2014, an amendment was made removing Sections R746-340-8 and R746-340-9 entirely. The Office of Consumer Services responded in May 2014 in favor of the change. However, they did recommend a minor change to the rule, striking the word "Committee" and replacing with "Office" in Section R746-340-2. No other comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary to ensure that adequate and satisfactory service will be rendered to the

public by telecommunications utilities under the jurisdiction of the PSC. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Michael Hammer by phone at 801-530-6729, or by Internet E-mail at michaelhammer@utah.gov
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Michael Hammer, Administrative Law Judge

EFFECTIVE: 04/05/2018

**Regents (Board of), Administration
R765-605
Higher Education Success Stipend
Program**

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

DAR FILE NO.: 42789
FILED: 04/11/2018

**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 13a, established the Success Stipend Program (Program) to provide financial assistance to Utah residents attending an eligible institution. This Program was enacted in H.B. 64 by the 1996 General Session of the Utah Legislature, as amended in 1997, 1998, and 2004 by S.B. 40, Cesar Chavez Scholarship Program, and 2011 by S.B. 107, Higher Education Success Stipend Program (HESSP). This law requires the Board of Regents to develop and administer the Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received on 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: This Program receives annual funding from the state legislature and the continuation of this rule is required to administer the Program. 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 Office 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: 04/11/2018

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

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

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

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

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Commerce

Occupational and Professional Licensing

No. 42582 (AMD): R156-1. General Rule of the Division of

Occupational and Professional Licensing

Published: 03/01/2018

Effective: 04/09/2018

Education

Administration

No. 42609 (AMD): R277-116. Audit Procedure

Published: 03/01/2018

Effective: 04/09/2018

No. 42608 (AMD): R277-122. Board of Education

Procurement

Published: 03/01/2018

Effective: 04/09/2018

No. 42610 (AMD): R277-482. Charter School Timelines and

Approval Processes

Published: 03/01/2018

Effective: 04/09/2018

No. 42611 (AMD): R277-610. Released-Time Classes and
Public Schools

Published: 03/01/2018

Effective: 04/09/2018

No. 42613 (AMD): R277-709. Education Programs Serving
Youth in Custody

Published: 03/01/2018

Effective: 04/09/2018

No. 42614 (AMD): R277-719. Standards for Selling Foods

Outside of the Reimbursable Meal in Schools

Published: 03/01/2018

Effective: 04/09/2018

Environmental Quality

Waste Management and Radiation Control, Radiation

No. 42204 (AMD): R313-25. License Requirements for Land

Disposal of Radioactive Waste – General Provisions

Published: 11/01/2017

Effective: 04/09/2018

No. 42204 (CPR): R313-25. License Requirements for Land

Disposal of Radioactive Waste – General Provisions

Published: 03/01/2018

Effective: 04/16/2018

Waste Management and Radiation Control, Waste
Management

No. 42451 (AMD): R315-15. Standards for the Management

of Used Oil

Published: 02/01/2018

Effective: 04/19/2018

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 42490 (REP): R414-509. Medicaid Autism Waiver Open

Enrollment Process

Published: 02/15/2018

Effective: 04/11/2018

Center for Health Data, Vital Records and Statistics

No. 42339 (REP): R436-6. Delayed Registration of Birth or

Death

Published: 12/15/2017

Effective: 04/03/2018

NOTICES OF RULE EFFECTIVE DATES

Labor Commission

Industrial Accidents

No. 42567 (AMD): R612-300-4. General Method for Computing Medical Fees
Published: 03/01/2018
Effective: 04/09/2018

Boiler, Elevator and Coal Mine Safety

No. 42565 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels
Published: 03/01/2018
Effective: 04/09/2018

No. 42566 (AMD): R616-3-3. Safety Codes for Elevators
Published: 03/01/2018
Effective: 04/09/2018

Natural Resources

Water Rights

No. 42606 (R&R): R655-1. Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah
Published: 03/01/2018
Effective: 04/09/2018

No. 42607 (R&R): R655-4. Water Wells

Published: 03/01/2018
Effective: 04/09/2018

Regents (Board Of)

University of Utah, Commuter Services

No. 42512 (NEW): R810-1. University of Utah Parking Regulations
Published: 02/15/2018
Effective: 04/05/2018

No. 42513 (NEW): R810-8. Vendor Regulations

Published: 02/15/2018
Effective: 04/05/2018

End of the Notices of Rule Effective Dates Section

**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, 2018 through April 16, 2018. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

| | |
|---|--|
| <p>AMD = Amendment (Proposed Rule) CPR = Change in Proposed Rule EMR = 120-Day (Emergency) Rule EXD = Expired Rule EXP = Expedited Rule EXT = Five-Year Review Extension GEX = Governor's Extension</p> | <p>LNR = Legislative Nonreauthorization NEW = New Rule (Proposed Rule) NSC = Nonsubstantive Rule Change R&R = Repeal and Reenact (Proposed Rule) REP = Repeal (Proposed Rule) 5YR = Five-Year Notice of Review and Statement of Continuation</p> |
|---|--|

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|--|---|-------------|--------|----------------|---------------------|
| ADMINISTRATIVE SERVICES | | | | | |
| <u>Facilities Construction and Management</u> | | | | | |
| R23-5 | Contingency Funds | 42347 | AMD | 01/23/2018 | 2017-24/8 |
| R23-9 | Cooperation with Local Government Planning | 42348 | AMD | 01/23/2018 | 2017-24/9 |
| <u>Finance</u> | | | | | |
| R25-5 | Payment of Meeting Compensation (Per Diem) to Boards | 42570 | 5YR | 02/08/2018 | 2018-5/141 |
| R25-6 | Relocation Reimbursement | 42571 | 5YR | 02/08/2018 | 2018-5/141 |
| R25-7 | Travel-Related Reimbursements for State Employees | 42572 | 5YR | 02/08/2018 | 2018-5/142 |
| R25-8 | Overtime Meal Allowance | 42573 | 5YR | 02/08/2018 | 2018-5/142 |
| AGRICULTURE AND FOOD | | | | | |
| <u>Administration</u> | | | | | |
| R51-6 | Agricultural Advisory Board Electronic Meeting | 42472 | NEW | 03/23/2018 | 2018-3/4 |
| <u>Plant Industry</u> | | | | | |
| R68-5 | Grain Inspection | 42530 | 5YR | 01/30/2018 | 2018-4/95 |
| R68-5 | Grain Inspection | 42531 | NSC | 02/27/2018 | Not Printed |
| R68-14 | Quarantine Pertaining to Gypsy Moth - Lymantria Dispar | 42721 | 5YR | 03/26/2018 | 2018-8/145 |
| <u>Regulatory Services</u> | | | | | |
| R70-940 | Standards and Testing of Motor Fuel | 42422 | R&R | 02/22/2018 | 2018-2/6 |
| ATTORNEY GENERAL | | | | | |
| <u>Administration</u> | | | | | |
| R105-2 | Records Access and Management | 42367 | AMD | 02/07/2018 | 2018-1/2 |
| CAREER SERVICE REVIEW OFFICE | | | | | |
| <u>Administration</u> | | | | | |
| R137-2 | Government Records Access and Management Act | 42779 | 5YR | 04/09/2018 | Not Printed |
| COMMERCE | | | | | |
| <u>Occupational and Professional Licensing</u> | | | | | |
| R156-1 | General Rule of the Division of Occupational and Professional Licensing | 42582 | AMD | 04/09/2018 | 2018-5/7 |
| R156-24b-102 | Definitions | 42623 | NSC | 03/14/2018 | Not Printed |
| R156-31b | Nurse Practice Act Rule | 42448 | 5YR | 01/08/2018 | 2018-3/69 |

| | | | | | |
|--------------|--|-------|-----|------------|-------------|
| R156-46b-401 | In General | 42428 | NSC | 01/18/2018 | Not Printed |
| R156-55b-102 | Definitions | 42429 | NSC | 01/18/2018 | Not Printed |
| R156-68 | Utah Osteopathic Medical Practice Act Rule | 42447 | 5YR | 01/08/2018 | 2018-3/70 |
| R156-72 | Acupuncture Licensing Act Rule | 42338 | AMD | 01/23/2018 | 2017-24/11 |
| R156-78-502 | Unprofessional Conduct | 42243 | AMD | 01/02/2018 | 2017-22/28 |

CORRECTIONS

Administration

| | | | | | |
|----------|---|-------|-----|------------|------------|
| R251-114 | Offender Long-Term Health Care - Notice | 42637 | 5YR | 03/07/2018 | 2018-7/161 |
|----------|---|-------|-----|------------|------------|

EDUCATION

Administration

| | | | | | |
|------------|---|-------|-----|------------|-------------|
| R277-100 | Definitions for Utah State Board of Education (Board) Rules | 42749 | NSC | 04/12/2018 | Not Printed |
| R277-101 | Public Participation in Utah State Board of Education Meetings | 42750 | NSC | 04/12/2018 | Not Printed |
| R277-102 | Adjudicative Proceedings | 42751 | NSC | 04/12/2018 | Not Printed |
| R277-105 | Recognizing Constitutional Freedoms in the Schools | 42752 | NSC | 04/12/2018 | Not Printed |
| R277-106 | Utah Professional Practices Advisory Commission Appointment Process | 42753 | NSC | 04/12/2018 | Not Printed |
| R277-108 | Annual Assurance of Compliance by Local School Boards | 42754 | NSC | 04/12/2018 | Not Printed |
| R277-109 | Legislative Reporting and Accountability | 42755 | NSC | 04/12/2018 | Not Printed |
| R277-110 | Educator Salary Adjustment | 42756 | NSC | 04/12/2018 | Not Printed |
| R277-114 | Corrective Action and Withdrawal or Reduction of Program Funds | 42757 | NSC | 04/12/2018 | Not Printed |
| R277-116 | Audit Procedure | 42609 | AMD | 04/09/2018 | 2018-5/14 |
| R277-117 | Utah State Board of Education Protected Documents | 42758 | NSC | 04/12/2018 | Not Printed |
| R277-119 | Discretionary Funds | 42759 | NSC | 04/12/2018 | Not Printed |
| R277-120 | Licensing of Material Developed with Public Education Funds | 42760 | NSC | 04/12/2018 | Not Printed |
| R277-121 | Board Waiver of Administrative Rules | 42761 | NSC | 04/12/2018 | Not Printed |
| R277-122 | Board of Education Procurement | 42608 | AMD | 04/09/2018 | 2018-5/19 |
| R277-122 | Board of Education Procurement | 42780 | NSC | 04/13/2018 | Not Printed |
| R277-210 | Utah Professional Practices Advisory Commission (UPPAC), Definitions | 42771 | NSC | 04/13/2018 | Not Printed |
| R277-211 | Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions | 42772 | NSC | 04/13/2018 | Not Printed |
| R277-212 | UPPAC Hearing Procedures and Reports | 42773 | NSC | 04/13/2018 | Not Printed |
| R277-213 | Request for Licensure Reinstatement and Reinstatement Procedures | 42774 | NSC | 04/13/2018 | Not Printed |
| R277-214 | Utah Professional Practices Advisory Commission Criminal Background Review | 42775 | NSC | 04/13/2018 | Not Printed |
| R277-215 | Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions | 42776 | NSC | 04/13/2018 | Not Printed |
| R277-216 | Surrender of License with UPPAC Investigation Pending | 42777 | NSC | 04/13/2018 | Not Printed |
| R277-404 | Requirements for Assessments of Student Achievement | 42479 | AMD | 03/14/2018 | 2018-3/5 |
| R277-415 | School Nurses Matching Funds | 42480 | NEW | 03/14/2018 | 2018-3/11 |
| R277-469 | Instructional Materials Commission Operating Procedures | 42322 | AMD | 01/09/2018 | 2017-23/4 |
| R277-482 | Charter School Timelines and Approval Processes | 42610 | AMD | 04/09/2018 | 2018-5/22 |
| R277-490 | Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP) | 42471 | 5YR | 01/12/2018 | 2018-3/70 |
| R277-490 | Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP) | 42481 | AMD | 03/14/2018 | 2018-3/13 |
| R277-491-4 | School Community Council Principal Responsibilities | 42323 | AMD | 01/09/2018 | 2017-23/9 |

RULES INDEX

| | | | | | |
|------------|---|-------|-----|------------|-------------|
| R277-508 | Employment of Substitute Teachers | 42762 | 5YR | 04/02/2018 | 2018-8/145 |
| R277-515 | Utah Educator Professional Standards | 42324 | AMD | 01/09/2018 | 2017-23/11 |
| R277-518 | Career and Technical Education Licenses | 42618 | 5YR | 02/26/2018 | 2018-6/47 |
| R277-519 | Educator Professional Learning Procedures and Credit | 42325 | AMD | 01/09/2018 | 2017-23/16 |
| R277-530-3 | Board Expectations for Effective Teaching, Educational Leadership, and Educational School Counselor Standards | 42439 | NSC | 01/25/2018 | Not Printed |
| R277-532 | Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees) | 42763 | 5YR | 04/02/2018 | 2018-8/146 |
| R277-610 | Released-Time Classes and Public Schools | 42621 | 5YR | 02/26/2018 | 2018-6/47 |
| R277-610 | Released-Time Classes and Public Schools | 42611 | AMD | 04/09/2018 | 2018-5/26 |
| R277-621 | District of Residence | 42326 | NEW | 01/09/2018 | 2017-23/17 |
| R277-700 | The Elementary and Secondary School General Core | 42482 | AMD | 03/14/2018 | 2018-3/16 |
| R277-705 | Secondary School Completion and Diplomas | 42394 | AMD | 02/28/2018 | 2018-1/5 |
| R277-708 | Enhancement for At-Risk Students | 42483 | AMD | 03/14/2018 | 2018-3/23 |
| R277-709 | Education Programs Serving Youth in Custody | 42619 | 5YR | 02/26/2018 | 2018-6/48 |
| R277-709 | Education Programs Serving Youth in Custody | 42613 | AMD | 04/09/2018 | 2018-5/34 |
| R277-717 | High School Course Grading Requirements | 42484 | AMD | 03/14/2018 | 2018-3/26 |
| R277-719 | Standards for Selling Foods Outside of the Reimbursable Meal in Schools | 42620 | 5YR | 02/26/2018 | 2018-6/48 |
| R277-719 | Standards for Selling Foods Outside of the Reimbursable Meal in Schools | 42614 | AMD | 04/09/2018 | 2018-5/39 |
| R277-746 | Driver Education Programs for Utah Schools | 42764 | 5YR | 04/02/2018 | 2018-8/146 |
| R277-751 | Special Education Extended School Year (ESY) | 42765 | 5YR | 04/02/2018 | 2018-8/147 |
| R277-920 | Implementation of the School Turnaround and Leadership Development Act | 42327 | AMD | 01/09/2018 | 2017-23/19 |

ENVIRONMENTAL QUALITY

Air Quality

| | | | | | |
|----------|--|-------|-----|------------|------------|
| R307-102 | General Requirements: Broadly Applicable Requirements | 42546 | EXT | 01/31/2018 | 2018-4/111 |
| R307-102 | General Requirements: Broadly Applicable Requirements | 42639 | 5YR | 03/08/2018 | 2018-7/161 |
| R307-107 | General Requirements: Breakdowns | 42640 | 5YR | 03/08/2018 | 2018-7/162 |
| R307-115 | General Conformity | 42548 | EXT | 01/31/2018 | 2018-4/111 |
| R307-115 | General Conformity | 42641 | 5YR | 03/08/2018 | 2018-7/163 |
| R307-123 | General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program | 42642 | 5YR | 03/08/2018 | 2018-7/163 |
| R307-150 | Emission Inventories | 42107 | AMD | 03/05/2018 | 2017-19/55 |
| R307-150 | Emission Inventories | 42107 | CPR | 03/05/2018 | 2018-3/46 |
| R307-170 | Continuous Emission Monitoring Program | 42550 | EXT | 01/31/2018 | 2018-4/111 |
| R307-170 | Continuous Emission Monitoring Program | 42643 | 5YR | 03/08/2018 | 2018-7/164 |
| R307-208 | Outdoor Wood Boilers | 42644 | 5YR | 03/08/2018 | 2018-7/164 |
| R307-220 | Emission Standards: Plan for Designated Facilities | 42553 | EXT | 01/31/2018 | 2018-4/111 |
| R307-220 | Emission Standards: Plan for Designated Facilities | 42645 | 5YR | 03/08/2018 | 2018-7/165 |
| R307-221 | Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills | 42552 | EXT | 01/31/2018 | 2018-4/112 |
| R307-221 | Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills | 42646 | 5YR | 03/08/2018 | 2018-7/166 |
| R307-222 | Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste | 42532 | EXT | 01/31/2018 | 2018-4/112 |
| R307-222 | Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste | 42647 | 5YR | 03/08/2018 | 2018-7/166 |
| R307-223 | Emission Standards: Existing Small Municipal Waste Combustion Units | 42533 | EXT | 01/31/2018 | 2018-4/112 |
| R307-223 | Emission Standards: Existing Small Municipal Waste Combustion Units | 42648 | 5YR | 03/08/2018 | 2018-7/167 |
| R307-224 | Mercury Emission Standards: Coal-Fired Electric Generating Units | 42534 | EXT | 01/31/2018 | 2018-4/112 |

| | | | | | |
|------------|---|-------|-----|------------|-------------|
| R307-224 | Mercury Emission Standards: Coal-Fired Electric Generating Units | 42649 | 5YR | 03/08/2018 | 2018-7/167 |
| R307-250 | Western Backstop Sulfur Dioxide Trading Program | 42535 | EXT | 01/31/2018 | 2018-4/113 |
| R307-250 | Western Backstop Sulfur Dioxide Trading Program | 42650 | 5YR | 03/08/2018 | 2018-7/168 |
| R307-303 | Commercial Cooking | 42651 | 5YR | 03/08/2018 | 2018-7/168 |
| R307-312 | Aggregate Processing Operations for PM2.5 Nonattainment Areas | 42536 | EXT | 01/31/2018 | 2018-4/113 |
| R307-312 | Aggregate Processing Operations for PM2.5 Nonattainment Areas | 42652 | 5YR | 03/08/2018 | 2018-7/169 |
| R307-342 | Adhesives and Sealants | 42653 | 5YR | 03/08/2018 | 2018-7/170 |
| R307-344 | Paper, Film, and Foil Coatings | 42537 | EXT | 01/31/2018 | 2018-4/113 |
| R307-344 | Paper, Film, and Foil Coatings | 42654 | 5YR | 03/08/2018 | 2018-7/170 |
| R307-345 | Fabric and Vinyl Coatings | 42538 | EXT | 01/31/2018 | 2018-4/113 |
| R307-345 | Fabric and Vinyl Coatings | 42655 | 5YR | 03/08/2018 | 2018-7/171 |
| R307-346 | Metal Furniture Surface Coatings | 42539 | EXT | 01/31/2018 | 2018-4/114 |
| R307-346 | Metal Furniture Surface Coatings | 42656 | 5YR | 03/08/2018 | 2018-7/171 |
| R307-347 | Large Appliance Surface Coatings | 42541 | EXT | 01/31/2018 | 2018-4/114 |
| R307-347 | Large Appliance Surface Coatings | 42657 | 5YR | 03/08/2018 | 2018-7/172 |
| R307-348 | Magnet Wire Coatings | 42543 | EXT | 01/31/2018 | 2018-4/114 |
| R307-348 | Magnet Wire Coatings | 42659 | 5YR | 03/08/2018 | 2018-7/172 |
| R307-349 | Flat Wood Panel Coatings | 42540 | EXT | 01/31/2018 | 2018-4/114 |
| R307-349 | Flat Wood Paneling Coatings | 42660 | 5YR | 03/08/2018 | 2018-7/173 |
| R307-350 | Miscellaneous Metal Parts and Products Coatings | 42542 | EXT | 01/31/2018 | 2018-4/114 |
| R307-350 | Miscellaneous Metal Parts and Products Coatings | 42661 | 5YR | 03/08/2018 | 2018-7/174 |
| R307-351 | Graphic Arts | 42544 | EXT | 01/31/2018 | 2018-4/115 |
| R307-351 | Graphic Arts | 42662 | 5YR | 03/08/2018 | 2018-7/174 |
| R307-352 | Metal Container, Closure, and Coil Coatings | 42545 | EXT | 01/31/2018 | 2018-4/115 |
| R307-352 | Metal Container, Closure, and Coil Coatings | 42663 | 5YR | 03/08/2018 | 2018-7/175 |
| R307-353 | Plastic Parts Coatings | 42664 | 5YR | 03/08/2018 | 2018-7/176 |
| R307-354 | Automotive Refinishing Coatings | 42547 | EXT | 01/31/2018 | 2018-4/115 |
| R307-354 | Automotive Refinishing Coatings | 42665 | 5YR | 03/08/2018 | 2018-7/176 |
| R307-355 | Control of Emissions from Aerospace Manufacture and Rework Facilities | 42549 | EXT | 01/31/2018 | 2018-4/115 |
| R307-355 | Aerospace Manufacture and Rework Facilities | 42666 | 5YR | 03/08/2018 | 2018-7/177 |
| R307-355-3 | Exemptions | 42370 | AMD | 03/08/2018 | 2018-1/10 |
| R307-356 | Appliance Pilot Light | 42430 | EXT | 01/02/2018 | 2018-2/59 |
| R307-356 | Appliance Pilot Light | 42667 | 5YR | 03/08/2018 | 2018-7/177 |
| R307-357 | Consumer Products | 42668 | 5YR | 03/08/2018 | 2018-7/178 |
| R307-401 | Permit: New and Modified Sources | 42108 | AMD | 03/05/2018 | 2017-19/58 |
| R307-401 | Permit: New and Modified Sources | 42108 | CPR | 03/05/2018 | 2018-3/49 |
| R307-401 | Permit: New and Modified Sources | 42574 | NSC | 03/05/2018 | Not Printed |
| R307-504 | Oil and Gas Industry: Tank Truck Loading | 42109 | AMD | 03/05/2018 | 2017-19/70 |
| R307-504 | Oil and Gas Industry: Tank Truck Loading | 42109 | CPR | 03/05/2018 | 2018-3/56 |
| R307-505 | Oil and Gas Industry: Registration Requirements | 42110 | NEW | 01/26/2018 | 2017-19/71 |
| R307-506 | Oil and Gas Industry: Storage Vessels | 42111 | NEW | 03/05/2018 | 2017-19/73 |
| R307-506 | Oil and Gas Industry: Storage Vessels | 42111 | CPR | 03/05/2018 | 2018-3/58 |
| R307-507 | Oil and Gas Industry: Dehydrators | 42112 | NEW | 03/05/2018 | 2017-19/75 |
| R307-507 | Oil and Gas Industry: Dehydrators | 42112 | CPR | 03/05/2018 | 2018-3/60 |
| R307-508 | Oil and Gas Industry: VOC Control Devices | 42113 | NEW | 03/05/2018 | 2017-19/77 |
| R307-508 | Oil and Gas Industry: VOC Control Devices | 42113 | CPR | 03/05/2018 | 2018-3/62 |
| R307-509 | Oil and Gas Industry: Leak Detection and Repair Requirements | 42114 | NEW | 03/05/2018 | 2017-19/79 |
| R307-509 | Oil and Gas Industry: Leak Detection and Repair Requirements | 42114 | CPR | 03/05/2018 | 2018-3/63 |
| R307-510 | Oil and Gas Industry: Natural Gas Engine Requirements | 42115 | NEW | 03/05/2018 | 2017-19/81 |
| R307-510 | Oil and Gas Industry: Natural Gas Engine Requirements | 42115 | CPR | 03/05/2018 | 2018-3/65 |
| R307-801 | Utah Asbestos Rule | 42551 | EXT | 01/31/2018 | 2018-4/115 |
| R307-801 | Utah Asbestos Rule | 42669 | 5YR | 03/08/2018 | 2018-7/179 |

RULES INDEX

Waste Management and Radiation Control, Radiation

| | | | | | |
|---------|--|-------|-----|------------|------------|
| R313-25 | License Requirements for Land Disposal of Radioactive Waste – General Provisions | 42204 | AMD | 04/09/2018 | 2017-21/83 |
| R313-25 | License Requirements for Land Disposal of Radioactive Waste – General Provisions | 42204 | CPR | 04/16/2018 | 2018-5/128 |

Waste Management and Radiation Control, Waste Management

| | | | | | |
|-------------|---|-------|-----|------------|-------------|
| R315-15-5 | Standards for Used Oil Processors and Re-Refiners | 42615 | NSC | 03/14/2018 | Not Printed |
| R315-262-17 | General -- Conditions for Exemption for a Large Quantity Generator that Accumulates Hazardous Waste | 42672 | NSC | 03/30/2018 | Not Printed |
| R315-301 | Solid Waste Authority; Definitions, and General Requirements | 42452 | 5YR | 01/12/2018 | 2018-3/71 |
| R315-302 | Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements | 42453 | 5YR | 01/12/2018 | 2018-3/72 |
| R315-303 | Landfilling Standards | 42454 | 5YR | 01/12/2018 | 2018-3/72 |
| R315-304 | Industrial Solid Waste Landfill Requirements | 42455 | 5YR | 01/12/2018 | 2018-3/73 |
| R315-305 | Class IV and VI Landfill Requirements | 42456 | 5YR | 01/12/2018 | 2018-3/74 |
| R315-306 | Incinerator Standards | 42457 | 5YR | 01/12/2018 | 2018-3/74 |
| R315-307 | Landtreatment Disposal Standards | 42458 | 5YR | 01/12/2018 | 2018-3/75 |
| R315-308 | Ground Water Monitoring Requirements | 42459 | 5YR | 01/12/2018 | 2018-3/75 |
| R315-309 | Financial Assurance | 42460 | 5YR | 01/12/2018 | 2018-3/76 |
| R315-310 | Permit Requirements for Solid Waste Facilities | 42461 | 5YR | 01/12/2018 | 2018-3/77 |
| R315-311 | Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities | 42462 | 5YR | 01/12/2018 | 2018-3/77 |
| R315-312 | Recycling and Composting Facility Standards | 42463 | 5YR | 01/12/2018 | 2018-3/78 |
| R315-313 | Transfer Stations and Drop Box Facilities | 42464 | 5YR | 01/12/2018 | 2018-3/79 |
| R315-314 | Facility Standards for Piles Used for Storage and Treatment | 42465 | 5YR | 01/12/2018 | 2018-3/79 |
| R315-315 | Special Waste Requirements | 42466 | 5YR | 01/12/2018 | 2018-3/80 |
| R315-316 | Infectious Waste Requirements | 42467 | 5YR | 01/12/2018 | 2018-3/80 |
| R315-317 | Other Processes, Variances, Violations, and Petition for Rule Change | 42468 | 5YR | 01/12/2018 | 2018-3/81 |
| R315-318 | Permit by Rule | 42469 | 5YR | 01/12/2018 | 2018-3/82 |
| R315-320 | Waste Tire Transporter and Recycler Requirements | 42470 | 5YR | 01/12/2018 | 2018-3/82 |

Water Quality

| | | | | | |
|------------|--|-------|-----|------------|------------|
| R317-9 | Administrative Procedures | 42509 | 5YR | 01/24/2018 | 2018-4/95 |
| R317-10-10 | Examination | 42274 | AMD | 01/24/2018 | 2017-22/29 |
| R317-13 | Approvals and Permits for a Water Reuse Project | 42510 | 5YR | 01/24/2018 | 2018-4/96 |
| R317-14 | Approval of Change in Point of Discharge of POTW | 42511 | 5YR | 01/24/2018 | 2018-4/96 |
| R317-101 | Utah Wastewater Project Assistance Program | 42705 | 5YR | 03/20/2018 | 2018-8/147 |

GOVERNOR

Criminal and Juvenile Justice (State Commission on)

| | | | | | |
|-----------|----------------------|-------|-----|------------|------------|
| R356-2-10 | Evaluation Criteria | 42337 | AMD | 04/02/2018 | 2017-24/13 |
| R356-4 | Juvenile Confinement | 42055 | NEW | 01/02/2018 | 2017-18/26 |

Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission

| | | | | | |
|--------|---|-------|-----|------------|------------|
| R364-1 | Conflicts of Interest for Indigent Defense Commission Members | 42351 | NEW | 01/29/2018 | 2017-24/14 |
|--------|---|-------|-----|------------|------------|

Economic Development

| | | | | | |
|---------|--|-------|-----|------------|-------------|
| R357-16 | Utah Outdoor Recreation Infrastructure Grant | 42332 | AMD | 01/17/2018 | 2017-23/25 |
| R357-16 | Utah Outdoor Recreation Infrastructure Grant | 42633 | NSC | 03/14/2018 | Not Printed |

HEALTH

Administration

| | | | | | |
|----------|-----------------------------------|-------|-----|------------|-------------|
| R380-250 | HIPAA Privacy Rule Implementation | 42784 | 5YR | 04/10/2018 | Not Printed |
|----------|-----------------------------------|-------|-----|------------|-------------|

Center for Health Data, Vital Records and Statistics

| | | | | | |
|---------|---|-------|-----|------------|------------|
| R436-1 | Duties of the Department of Health | 42704 | 5YR | 03/19/2018 | 2018-8/149 |
| R436-2 | Infants of Unknown Parentage; Foundling Registration | 42706 | 5YR | 03/20/2018 | 2018-8/149 |
| R436-3 | Amendment of Vital Records | 42707 | 5YR | 03/20/2018 | 2018-8/150 |
| R436-4 | Delayed Registration of Birth | 42708 | 5YR | 03/20/2018 | 2018-8/150 |
| R436-6 | Delayed Registration of Birth or Death | 42339 | REP | 04/03/2018 | 2017-24/20 |
| R436-7 | Death Registration | 42713 | 5YR | 03/21/2018 | 2018-8/151 |
| R436-8 | Authorization for Final Disposition of Deceased Persons | 42709 | 5YR | 03/20/2018 | 2018-8/151 |
| R436-9 | Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events | 42712 | 5YR | 03/21/2018 | 2018-8/152 |
| R436-10 | Birth and Death Certificates | 42710 | 5YR | 03/20/2018 | 2018-8/152 |
| R436-12 | Certified Copies of Vital Statistics Records | 42714 | 5YR | 03/21/2018 | 2018-8/153 |
| R436-13 | Disclosure of Records | 42715 | 5YR | 03/21/2018 | 2018-8/153 |
| R436-14 | Copies of Data From Vital Records | 42716 | 5YR | 03/21/2018 | 2018-8/154 |
| R436-15 | Fees | 42717 | 5YR | 03/21/2018 | 2018-8/154 |
| R436-16 | Violation of Rules | 42718 | 5YR | 03/21/2018 | 2018-8/155 |
| R436-17 | Review and Approval of Research Requests | 42719 | 5YR | 03/21/2018 | 2018-8/155 |

Children's Health Insurance Program

| | | | | | |
|---------|-----------------------------|-------|-----|------------|-------------|
| R382-1 | Benefits and Administration | 42790 | 5YR | 04/11/2018 | Not Printed |
| R382-10 | Eligibility | 42791 | 5YR | 04/11/2018 | Not Printed |

Disease Control and Prevention, Environmental Services

| | | | | | |
|----------|------------------------------------|-------|-----|------------|-----------|
| R392-300 | Recreation Camp Sanitation | 42516 | R&R | 03/26/2018 | 2018-4/4 |
| R392-401 | Roadway Rest Stop Sanitation | 42514 | R&R | 03/26/2018 | 2018-4/27 |
| R392-502 | Hotel, Motel and Resort Sanitation | 42515 | R&R | 03/26/2018 | 2018-4/31 |
| R392-700 | Indoor Tanning Bed Sanitation | 42491 | 5YR | 01/19/2018 | 2018-4/97 |

Disease Control and Prevention, Epidemiology

| | | | | | |
|----------|---------------------------|-------|-----|------------|------------|
| R386-702 | Communicable Disease Rule | 42285 | AMD | 01/02/2018 | 2017-22/31 |
|----------|---------------------------|-------|-----|------------|------------|

Disease Control and Prevention, Health Promotion

| | | | | | |
|----------|--|-------|-----|------------|------------|
| R384-201 | School-Based Vision Screening for Students in Public Schools | 42569 | EXT | 02/08/2018 | 2018-5/161 |
|----------|--|-------|-----|------------|------------|

Disease Control and Prevention, Laboratory Services

| | | | | | |
|---------|-------------------|-------|-----|------------|------------|
| R438-15 | Newborn Screening | 42282 | NEW | 01/29/2018 | 2017-22/60 |
|---------|-------------------|-------|-----|------------|------------|

Disease Control and Prevention: HIV/AIDS, Tuberculosis Control/Refugee Health

| | | | | | |
|----------|---------------------------|-------|-----|------------|------------|
| R388-805 | Ryan White Part B Program | 42328 | AMD | 02/01/2018 | 2017-23/28 |
|----------|---------------------------|-------|-----|------------|------------|

Family Health and Preparedness, Children with Special Health Care Needs

| | | | | | |
|--------|-------------------|-------|-----|------------|------------|
| R398-1 | Newborn Screening | 42279 | REP | 01/29/2018 | 2017-22/46 |
|--------|-------------------|-------|-----|------------|------------|

Family Health and Preparedness, Emergency Medical Services

| | | | | | |
|--------|--|-------|-----|------------|------------|
| R426-6 | Emergency Medical Services Per Capita and Competitive Grant Programs Rules | 42724 | 5YR | 03/28/2018 | 2018-8/148 |
|--------|--|-------|-----|------------|------------|

Family Health and Preparedness, Licensing

| | | | | | |
|-------------|---|-------|-----|------------|-------------|
| R432-1 | General Health Care Facility Rules | 42520 | 5YR | 01/29/2018 | 2018-4/98 |
| R432-2 | General Licensing Provisions | 42521 | 5YR | 01/29/2018 | 2018-4/98 |
| R432-2-5 | Requirements for a Satellite Service Operation | 42397 | AMD | 03/22/2018 | 2018-2/9 |
| R432-2-13 | New License Required | 42396 | AMD | 03/22/2018 | 2018-2/11 |
| R432-3 | General Health Care Facility Rules Inspection and Enforcement | 42522 | 5YR | 01/29/2018 | 2018-4/99 |
| R432-4 | General Construction | 42523 | 5YR | 01/29/2018 | 2018-4/99 |
| R432-5 | Nursing Facility Construction | 42524 | 5YR | 01/29/2018 | 2018-4/100 |
| R432-6 | Assisted Living Facility General Construction | 42525 | 5YR | 01/29/2018 | 2018-4/100 |
| R432-16 | Hospice Inpatient Facility Construction | 42518 | 5YR | 01/29/2018 | 2018-4/101 |
| R432-35 | Background Screening -- Health Facilities | 42519 | 5YR | 01/29/2018 | 2018-4/101 |
| R432-150-8 | Administrator | 42201 | AMD | 01/11/2018 | 2017-21/108 |
| R432-270-19 | Medication Administration | 42200 | AMD | 01/11/2018 | 2017-21/109 |

RULES INDEX

Family Health and Preparedness, Primary Care and Rural Health

| | | | | | |
|----------|---|-------|-----|------------|-------------|
| R434-150 | Adverse Events from the Administration of Sedation or Anesthesia; Recording and Reporting | 42334 | NEW | 04/14/2018 | 2017-24/18 |
| R434-150 | Adverse Events from the Administration of Sedation or Anesthesia; Recording and Reporting | 42671 | NSC | 04/14/2018 | Not Printed |

Health Care Financing

| | | | | | |
|---------|-----------------------------------|-------|-----|------------|-----------|
| R410-14 | Administrative Hearing Procedures | 42517 | EMR | 01/29/2018 | 2018-4/81 |
|---------|-----------------------------------|-------|-----|------------|-----------|

Health Care Financing, Coverage and Reimbursement Policy

| | | | | | |
|------------|--|-------|-----|------------|-------------|
| R414-3A | Outpatient Hospital Services | 42180 | AMD | 03/05/2018 | 2017-20/26 |
| R414-3A | Outpatient Hospital Services | 42180 | CPR | 03/05/2018 | 2018-2/42 |
| R414-4x | Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment | 42306 | REP | 01/19/2018 | 2017-23/49 |
| R414-27 | Medicaid Enrollment Process for Nursing Care Facilities | 42427 | 5YR | 01/02/2018 | 2018-2/54 |
| R414-52 | Optometry Services | 42782 | 5YR | 04/10/2018 | Not Printed |
| R414-53 | Eyeglasses Services | 42783 | 5YR | 04/10/2018 | Not Printed |
| R414-301 | Medicaid General Provisions | 42440 | 5YR | 01/08/2018 | 2018-3/83 |
| R414-302 | Eligibility Requirements | 42441 | 5YR | 01/08/2018 | 2018-3/84 |
| R414-302-6 | Residents of Institutions | 42487 | EMR | 01/19/2018 | 2018-4/85 |
| R414-303 | Coverage Groups | 42442 | 5YR | 01/08/2018 | 2018-3/84 |
| R414-304 | Income and Budgeting | 42443 | 5YR | 01/08/2018 | 2018-3/85 |
| R414-305 | Resources | 42444 | 5YR | 01/08/2018 | 2018-3/85 |
| R414-306 | Program Benefits and Date of Eligibility | 42445 | 5YR | 01/08/2018 | 2018-3/86 |
| R414-308 | Application, Eligibility Determinations and Improper Medical Assistance | 42446 | 5YR | 01/08/2018 | 2018-3/86 |
| R414-308-3 | Application and Signature | 42488 | EMR | 01/19/2018 | 2018-4/87 |
| R414-311 | Targeted Adult Medicaid | 42489 | EMR | 01/19/2018 | 2018-4/90 |
| R414-509 | Medicaid Autism Waiver Open Enrollment Process | 42490 | REP | 04/11/2018 | 2018-4/41 |
| R414-517 | Inpatient Hospital Provider Assessments | 42353 | AMD | 01/29/2018 | 2017-24/16 |

HUMAN SERVICES

Administration

| | | | | | |
|----------|---|-------|-----|------------|------------|
| R495-881 | Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Implementation | 42766 | 5YR | 04/02/2018 | 2018-8/156 |
| R495-885 | Employee Background Screenings | 42417 | AMD | 02/23/2018 | 2018-2/13 |

Administration, Administrative Services, Licensing

| | | | | | |
|---------|--|-------|-----|------------|-------------|
| R501-1 | General Provisions for Licensing | 42216 | AMD | 02/23/2018 | 2017-21/111 |
| R501-12 | Foster Care Services | 42217 | AMD | 02/23/2018 | 2017-21/120 |
| R501-14 | Human Service Program Background Screening | 42233 | AMD | 02/23/2018 | 2017-21/130 |
| R501-18 | Recovery Residence Services | 42234 | AMD | 02/07/2018 | 2017-21/136 |

Aging and Adult Services

| | | | | | |
|----------|--|-------|-----|------------|------------|
| R510-105 | "Out and About" Homebound Transportation Assistance Fund Rules | 42485 | 5YR | 01/17/2018 | 2018-4/102 |
|----------|--|-------|-----|------------|------------|

Child and Family Services

| | | | | | |
|----------|---|-------|-----|------------|------------|
| R512-100 | In-Home Services | 42596 | 5YR | 02/15/2018 | 2018-5/143 |
| R512-200 | Child Protective Services, Intake Services | 42597 | 5YR | 02/15/2018 | 2018-5/143 |
| R512-201 | Child Protective Services, Investigation Services | 42598 | 5YR | 02/15/2018 | 2018-5/144 |
| R512-202 | Child Protective Services, General Allegation Categories | 42599 | 5YR | 02/15/2018 | 2018-5/144 |
| R512-300 | Out-of-Home Services | 42600 | 5YR | 02/15/2018 | 2018-5/145 |
| R512-301 | Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian | 42601 | 5YR | 02/15/2018 | 2018-5/145 |
| R512-302 | Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver | 42602 | 5YR | 02/15/2018 | 2018-5/146 |

| | | | | | |
|--|---|-------|-----|------------|-------------|
| R512-305 | Out-of-Home Services, Transition to Adult Living Services | 42603 | 5YR | 02/15/2018 | 2018-5/146 |
| R512-309 | Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care | 42604 | 5YR | 02/15/2018 | 2018-5/147 |
| R512-500 | Kinship Services, Placement and Background Screening | 42605 | 5YR | 02/15/2018 | 2018-5/147 |
| <u>Recovery Services</u> | | | | | |
| R527-920 | Mandatory Disbursement to Oblige Through Electronic Funds Transfer | 42720 | 5YR | 03/23/2018 | 2018-8/156 |
| <u>Services for People with Disabilities</u> | | | | | |
| R539-1 | Eligibility | 42560 | NSC | 03/01/2018 | Not Printed |
| <u>Substance Abuse and Mental Health, State Hospital</u> | | | | | |
| R525-2 | Patient Rights | 42473 | 5YR | 01/16/2018 | 2018-3/87 |
| R525-3 | Medication Treatment of Patients | 42474 | 5YR | 01/16/2018 | 2018-3/87 |
| R525-3 | Medication Treatment of Patients | 42558 | NSC | 03/01/2018 | Not Printed |
| R525-4 | Visitors | 42475 | 5YR | 01/16/2018 | 2018-3/88 |
| R525-5 | Background Checks | 42476 | 5YR | 01/16/2018 | 2018-3/88 |
| R525-6 | Prohibited Items and Devices | 42477 | 5YR | 01/16/2018 | 2018-3/89 |
| R525-6 | Prohibited Items and Devices | 42557 | NSC | 03/01/2018 | Not Printed |
| R525-7 | Complaints/Suggestions/Concerns | 42478 | 5YR | 01/16/2018 | 2018-3/89 |
| INSURANCE | | | | | |
| <u>Administration</u> | | | | | |
| R590-94 | Rule Permitting Smoker/Nonsmoker Mortality Tables For Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits | 42686 | 5YR | 03/14/2018 | 2018-7/179 |
| R590-102 | Insurance Department Fee Payment Rule | 42395 | AMD | 02/08/2018 | 2018-1/11 |
| R590-154 | Unfair Marketing Practices Rule; Misleading Names | 42687 | 5YR | 03/14/2018 | 2018-7/180 |
| R590-157 | Surplus Lines Insurance Premium Tax and Stamping Fee | 42438 | 5YR | 01/04/2018 | 2018-3/90 |
| R590-218 | Permitted Language for Reservation of Discretion Clauses | 42437 | 5YR | 01/04/2018 | 2018-3/90 |
| R590-243 | Commercial Motor Vehicle Insurance Coverage | 42436 | 5YR | 01/04/2018 | 2018-3/91 |
| R590-266-1 | Authority | 42319 | AMD | 01/10/2018 | 2017-23/66 |
| JUDICIAL PERFORMANCE EVALUATION COMMISSION | | | | | |
| <u>Administration</u> | | | | | |
| R597-5 | Electronic Meetings | 42262 | NEW | 01/02/2018 | 2017-22/68 |
| LABOR COMMISSION | | | | | |
| <u>Administration</u> | | | | | |
| R600-1 | Declaratory Orders | 42622 | 5YR | 02/26/2018 | 2018-6/49 |
| <u>Boiler, Elevator and Coal Mine Safety</u> | | | | | |
| R616-2-3 | Safety Codes and Rules for Boilers and Pressure Vessels | 42565 | AMD | 04/09/2018 | 2018-5/49 |
| R616-3-3 | Safety Codes for Elevators | 42566 | AMD | 04/09/2018 | 2018-5/51 |
| <u>Industrial Accidents</u> | | | | | |
| R612-100 | Workers' Compensation Rules - General Provisions | 42561 | 5YR | 02/08/2018 | 2018-5/148 |
| R612-200 | Workers' Compensation Rules - Filing and Paying Claims | 42562 | 5YR | 02/08/2018 | 2018-5/149 |
| R612-300 | Workers' Compensation Rules - Medical Care | 42563 | 5YR | 02/08/2018 | 2018-5/149 |
| R612-300-4 | General Method for Computing Medical Fees | 42567 | AMD | 04/09/2018 | 2018-5/46 |
| R612-400 | Workers' Compensation Insurance, Self-Insurance and Waivers | 42564 | 5YR | 02/08/2018 | 2018-5/150 |

RULES INDEX

NATURAL RESOURCES

Administration

| | | | | | |
|--------|---------------------------------|-------|-----|------------|------------|
| R634-3 | Compensatory Mitigation Program | 42309 | NEW | 03/26/2018 | 2017-23/67 |
| R634-3 | Compensatory Mitigation Program | 42309 | CPR | 03/26/2018 | 2018-4/71 |

Oil, Gas and Mining: Administration

| | | | | | |
|----------|---------------|-------|-----|------------|------------|
| R642-200 | Applicability | 42495 | 5YR | 01/24/2018 | 2018-4/102 |
|----------|---------------|-------|-----|------------|------------|

Oil, Gas and Mining: Coal

| | | | | | |
|----------|---|-------|-----|------------|------------|
| R645-101 | Restrictions on State Employees | 42496 | 5YR | 01/24/2018 | 2018-4/103 |
| R645-102 | Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction | 42497 | 5YR | 01/24/2018 | 2018-4/103 |
| R645-104 | Protection of Employees | 42498 | 5YR | 01/24/2018 | 2018-4/104 |
| R645-401 | Inspection and Enforcement: Civil Penalties | 42499 | 5YR | 01/24/2018 | 2018-4/104 |

Oil, Gas and Mining: Non-Coal

| | | | | | |
|--------|---|-------|-----|------------|------------|
| R647-1 | Minerals Regulatory Program | 42500 | 5YR | 01/24/2018 | 2018-4/105 |
| R647-2 | Exploration | 42501 | 5YR | 01/24/2018 | 2018-4/105 |
| R647-3 | Small Mining Operations | 42502 | 5YR | 01/24/2018 | 2018-4/106 |
| R647-4 | Large Mining Operations | 42503 | 5YR | 01/24/2018 | 2018-4/106 |
| R647-5 | Administrative Procedures | 42504 | 5YR | 01/24/2018 | 2018-4/107 |
| R647-6 | Inspection and Enforcement: Division Authority and Procedures | 42505 | 5YR | 01/24/2018 | 2018-4/108 |
| R647-7 | Inspection and Enforcement: Civil Penalties | 42506 | 5YR | 01/24/2018 | 2018-4/108 |
| R647-8 | Inspection and Enforcement: Individual Civil Penalties | 42507 | 5YR | 01/24/2018 | 2018-4/109 |

Oil, Gas and Mining: Oil and Gas

| | | | | | |
|--------|--|-------|-----|------------|------------|
| R649-6 | Gas Processing and Waste Crude Oil Treatment | 42508 | 5YR | 01/24/2018 | 2018-4/109 |
|--------|--|-------|-----|------------|------------|

Parks and Recreation

| | | | | | |
|----------|---------------------------------------|-------|-----|------------|------------|
| R651-406 | Off-Highway Vehicle Registration Fees | 42431 | AMD | 02/21/2018 | 2018-2/16 |
| R651-407 | Off-Highway Vehicle Advisory Council | 42682 | 5YR | 03/13/2018 | 2018-7/181 |

Water Resources

| | | | | | |
|--------|---------------------|-------|-----|------------|------------|
| R653-9 | Electronic Meetings | 42257 | NEW | 03/02/2018 | 2017-22/74 |
|--------|---------------------|-------|-----|------------|------------|

Water Rights

| | | | | | |
|--------|---|-------|-----|------------|-----------|
| R655-1 | Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah | 42606 | R&R | 04/09/2018 | 2018-5/53 |
| R655-4 | Water Wells | 42607 | R&R | 04/09/2018 | 2018-5/67 |

Wildlife Resources

| | | | | | |
|---------|--|-------|-----|------------|-------------|
| R657-3 | Collection, Importation, Transportation, and Possession of Animals | 42624 | 5YR | 02/27/2018 | 2018-6/49 |
| R657-5 | Taking Big Game | 42371 | AMD | 02/07/2018 | 2018-1/19 |
| R657-9 | Taking Waterfowl, Wilson's Snipe and Coot | 42376 | AMD | 02/07/2018 | 2018-1/33 |
| R657-12 | Hunting and Fishing Accommodations for People With Disabilities | 42375 | NSC | 02/13/2018 | Not Printed |
| R657-19 | Taking Nongame Mammals | 42377 | AMD | 02/07/2018 | 2018-1/35 |
| R657-33 | Taking Bear | 42492 | AMD | 03/26/2018 | 2018-4/55 |
| R657-34 | Procedures for Confirmation of Ordinances on Hunting Closures | 42796 | 5YR | 04/12/2018 | Not Printed |
| R657-37 | Cooperative Wildlife Management Units for Big Game or Turkey | 42795 | 5YR | 04/12/2018 | Not Printed |
| R657-41 | Conservation and Sportsman Permits | 42379 | AMD | 02/07/2018 | 2018-1/38 |
| R657-42 | Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents | 42794 | 5YR | 04/12/2018 | Not Printed |
| R657-45 | Wildlife License, Permit, and Certificate of Registration Forms and Terms | 42793 | 5YR | 04/12/2018 | Not Printed |
| R657-53 | Amphibian and Reptile Collection, Importation, Transportation and Possession | 42792 | 5YR | 04/12/2018 | Not Printed |
| R657-58 | Fishing Contests and Clinics | 42449 | 5YR | 01/09/2018 | 2018-3/91 |
| R657-62 | Drawing Application Procedures | 42374 | AMD | 02/07/2018 | 2018-1/41 |

| | | | | | |
|---------|---|-------|-----|------------|-----------|
| R657-62 | Drawing Application Procedures | 42493 | AMD | 03/26/2018 | 2018-4/57 |
| R657-67 | Utah Hunter Mentoring Program | 42372 | AMD | 02/07/2018 | 2018-1/44 |
| R657-70 | Taking Utah Prairie Dogs | 42378 | REP | 02/07/2018 | 2018-1/46 |
| R657-71 | Removal of Wild Deer from Domesticated Elk Facilities | 42373 | NEW | 02/07/2018 | 2018-1/52 |

PARDONS (BOARD OF)

Administration

| | | | | | |
|----------|---|-------|-----|------------|-------------|
| R671-201 | Original Hearing Schedule and Notice | 42295 | AMD | 01/08/2018 | 2017-22/75 |
| R671-202 | Notification of Hearings | 42294 | AMD | 01/08/2018 | 2017-22/77 |
| R671-203 | Victim Input and Notification | 42297 | AMD | 01/08/2018 | 2017-22/78 |
| R671-205 | Credit for Time Served | 42227 | AMD | 01/08/2018 | 2017-21/169 |
| R671-206 | Competency of Offenders | 42296 | NEW | 01/08/2018 | 2017-22/81 |
| R671-304 | Hearing Record | 42231 | AMD | 01/08/2018 | 2017-21/171 |
| R671-312 | Commutation Hearings for Death Penalty Cases | 42575 | 5YR | 02/13/2018 | 2018-5/150 |
| R671-509 | Parole Progress/Violation Reports | 42576 | 5YR | 02/13/2018 | 2018-5/151 |
| R671-510 | Evidence for Issuance of Warrants | 42577 | 5YR | 02/13/2018 | 2018-5/151 |
| R671-512 | Execution of the Warrant | 42578 | 5YR | 02/13/2018 | 2018-5/152 |
| R671-513 | Expedited Determination of Parolee Challenge to Probable Cause | 42579 | 5YR | 02/13/2018 | 2018-5/152 |
| R671-514 | Waiver and Pleas of Guilt | 42580 | 5YR | 02/13/2018 | 2018-5/153 |
| R671-515 | Timeliness of Parole Revocation Hearings | 42581 | 5YR | 02/13/2018 | 2018-5/153 |
| R671-516 | Parole Revocation Hearings | 42583 | 5YR | 02/13/2018 | 2018-5/154 |
| R671-517 | Evidentiary Hearings and Proceedings | 42584 | 5YR | 02/13/2018 | 2018-5/154 |
| R671-518 | Conduct of Proceedings When a Criminal Charge Results in Conviction | 42585 | 5YR | 02/13/2018 | 2018-5/155 |
| R671-519 | Proceedings When Criminal Charges Result in Acquittal | 42586 | 5YR | 02/13/2018 | 2018-5/155 |
| R671-520 | Treatment of Confidential Testimony | 42587 | 5YR | 02/13/2018 | 2018-5/156 |
| R671-522 | Continuances Due to Pending Criminal Charges | 42588 | 5YR | 02/13/2018 | 2018-5/156 |

PUBLIC SAFETY

Administration

| | | | | | |
|---------|---|-------|-----|------------|-------------|
| R698-7 | Emergency Vehicles | 42797 | 5YR | 04/12/2018 | Not Printed |
| R698-11 | Submission and Testing of Sexual Assault Kits | 42269 | NEW | 01/10/2018 | 2017-22/82 |

Criminal Investigations and Technical Services, Criminal Identification

| | | | | | |
|----------|--|-------|-----|------------|------------|
| R722-300 | Concealed Firearm Permit and Instructor Rule | 42258 | AMD | 01/10/2018 | 2017-22/89 |
| R722-350 | Certificate of Eligibility | 42259 | AMD | 01/10/2018 | 2017-22/94 |
| R722-380 | Firearm Background Check Information | 42260 | AMD | 01/10/2018 | 2017-22/96 |

Fire Marshal

| | | | | | |
|---------|--|-------|-----|------------|------------|
| R710-5 | Automatic Fire Sprinkler System Inspecting and Testing | 42683 | 5YR | 03/14/2018 | 2018-7/181 |
| R710-12 | Hazardous Materials Training and Certification | 42674 | EXD | 03/12/2018 | 2018-7/183 |

PUBLIC SERVICE COMMISSION

Administration

| | | | | | |
|----------|--|-------|-----|------------|-------------|
| R746-8 | Utah Universal Public Telecommunications Service Support Fund (UUSF) | 42424 | NEW | 02/21/2018 | 2018-2/18 |
| R746-110 | Uncontested Matters to be Adjudicated Informally | 42768 | 5YR | 04/05/2018 | Not Printed |
| R746-210 | Utility Service Rules Applicable Only to Electric Utilities | 42767 | 5YR | 04/05/2018 | Not Printed |
| R746-240 | Telecommunication Service Rules | 42769 | 5YR | 04/05/2018 | Not Printed |
| R746-330 | Rules for Water and Sewer Utilities Operating in Utah | 42590 | 5YR | 02/14/2018 | 2018-5/157 |
| R746-332 | Depreciation Rates for Water Utilities | 42593 | 5YR | 02/14/2018 | 2018-5/157 |
| R746-340 | Service Quality for Telecommunications Corporations | 42770 | 5YR | 04/05/2018 | Not Printed |
| R746-341 | Lifeline Rule | 42423 | REP | 02/21/2018 | 2018-2/24 |

RULES INDEX

| | | | | | |
|------------|---|-------|-----|------------|------------|
| R746-343 | Rule for Deaf, Severely Hearing or Speech Impaired Person | 42425 | REP | 02/21/2018 | 2018-2/28 |
| R746-347 | Extended Area Service (EAS) | 42589 | 5YR | 02/14/2018 | 2018-5/158 |
| R746-360 | Universal Public Telecommunications Service Support Fund | 42426 | REP | 02/21/2018 | 2018-2/31 |
| R746-402 | Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities | 42592 | 5YR | 02/14/2018 | 2018-5/158 |
| R746-405 | Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities | 42591 | 5YR | 02/14/2018 | 2018-5/159 |
| R746-409-1 | General Provisions | 42331 | AMD | 01/09/2018 | 2017-23/75 |

REGENTS (BOARD OF)

Administration

| | | | | | |
|----------|--|-------|-----|------------|-------------|
| R765-605 | Higher Education Success Stipend Program | 42789 | 5YR | 04/11/2018 | Not Printed |
| R765-605 | Higher Education Success Stipend Program | 42722 | NSC | 04/12/2018 | Not Printed |

University of Utah, Administration

| | | | | | |
|--------|---|-------|-----|------------|-----------|
| R805-1 | Operating Regulations for Bicycles, Skateboards, Rollerskates and Scooters (Non-Motorized Riding Devices) | 42617 | 5YR | 02/22/2018 | 2018-6/50 |
|--------|---|-------|-----|------------|-----------|

University of Utah, Commuter Services

| | | | | | |
|--------|--|-------|-----|------------|-----------|
| R810-1 | University of Utah Parking Regulations | 42512 | NEW | 04/05/2018 | 2018-4/60 |
| R810-8 | Vendor Regulations | 42513 | NEW | 04/05/2018 | 2018-4/62 |

SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Administration

| | | | | | |
|--------|--|-------|-----|------------|------------|
| R856-1 | USTAR Technology Acceleration Program Grants | 42360 | R&R | 01/23/2018 | 2017-24/22 |
| R856-2 | USTAR University-Industry Partnership Program Grants | 42357 | R&R | 01/23/2018 | 2017-24/28 |
| R856-3 | USTAR University Technology Acceleration Grants | 42359 | R&R | 01/23/2018 | 2017-24/36 |
| R856-4 | USTAR Science Technology Initiation Grant | 42358 | R&R | 01/23/2018 | 2017-24/41 |
| R856-5 | Utah Science, Technology, and Research (USTAR) Energy Research Triangle Professors (ERT-P) Grant | 42356 | R&R | 01/23/2018 | 2017-24/48 |
| R856-6 | Utah Science, Technology and Research (USTAR) Energy Research Triangle Scholars (ERT-S) Grant | 42355 | R&R | 01/23/2018 | 2017-24/54 |

TECHNOLOGY SERVICES

Administration

| | | | | | |
|---------|--|-------|-----|------------|------------|
| R895-12 | Telecommunications Services and Requirements | 42528 | EXD | 01/30/2018 | 2018-4/117 |
| R895-12 | Telecommunications Services and Requirements | 42529 | EMR | 01/30/2018 | 2018-4/92 |

TRANSPORTATION

Motor Carrier

| | | | | | |
|---------|--|-------|-----|------------|------------|
| R909-1 | Safety Regulations for Motor Carriers | 42494 | AMD | 03/28/2018 | 2018-4/63 |
| R909-19 | Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification | 42336 | AMD | 01/24/2018 | 2017-24/60 |

Operations, Maintenance

| | | | | | |
|--------|---|-------|-----|------------|-----------|
| R918-6 | Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads | 42392 | AMD | 02/07/2018 | 2018-1/53 |
|--------|---|-------|-----|------------|-----------|

WORKFORCE SERVICES

Administration

R982-800 Utah Data Research Center 42421 NEW 03/01/2018 2018-2/38

Unemployment Insurance

R994-201 Definition of Terms in Employment Security Act 42735 5YR 03/29/2018 2018-8/157
 R994-202 Employing Units 42736 5YR 03/29/2018 2018-8/157
 R994-208 Wages 42737 5YR 03/29/2018 2018-8/158
 R994-306 Charging Benefit Costs to Employers 42738 5YR 03/29/2018 2018-8/158
 R994-307 Social Costs -- Relief of Charges 42739 5YR 03/29/2018 2018-8/159
 R994-315 Centralized New Hire Registry Reporting 42740 5YR 03/29/2018 2018-8/159
 R994-403 Claim for Benefits 42741 5YR 03/29/2018 2018-8/160
 R994-405 Ineligibility for Benefits 42742 5YR 03/29/2018 2018-8/161
 R994-508 Appeal Procedures 42743 5YR 03/29/2018 2018-8/161

RULES INDEX - BY KEYWORD (SUBJECT)

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
 GEX = Governor's Extension Statement of Continuation

| KEYWORD AGENCY | FILE NUMBER | CODE REFERENCE | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|--|-------------------------|--------------------------------------|-------------------|--|--|
| <u>accountability</u> Education, Administration | 42755 | R277-109 | NSC | 04/12/2018 | Not Printed |
| <u>acquit</u> Pardons (Board Of), Administration | 42586 | R671-519 | 5YR | 02/13/2018 | 2018-5/155 |
| <u>acupuncture</u> Commerce, Occupational and Professional Licensing | 42338 | R156-72 | AMD | 01/23/2018 | 2017-24/11 |
| <u>ADAP</u> Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health | 42328 | R388-805 | AMD | 02/01/2018 | 2017-23/28 |
| <u>adhesives</u> Environmental Quality, Air Quality | 42653 | R307-342 | 5YR | 03/08/2018 | 2018-7/170 |
| <u>adjudicative proceedings</u> Environmental Quality, Water Quality | 42509 | R317-9 | 5YR | 01/24/2018 | 2018-4/95 |
| <u>administrative necessary proceedings</u> Labor Commission, Industrial Accidents | 42562 | R612-200 | 5YR | 02/08/2018 | 2018-5/149 |
| <u>administrative procedures</u> Commerce, Occupational and Professional Licensing Education, Administration Labor Commission, Industrial Accidents | 42428 42751 42561 | R156-46b-401 R277-102 R612-100 | NSC NSC 5YR | 01/18/2018 04/12/2018 02/08/2018 | Not Printed Not Printed 2018-5/148 |
| <u>administrative proceedings</u> Environmental Quality, Water Quality | 42509 | R317-9 | 5YR | 01/24/2018 | 2018-4/95 |

RULES INDEX

| | | | | | |
|---|-------|------------|-----|------------|-------------|
| <u>administrative rules</u> | | | | | |
| Education, Administration | 42761 | R277-121 | NSC | 04/12/2018 | Not Printed |
| <u>adult education</u> | | | | | |
| Education, Administration | 42394 | R277-705 | AMD | 02/28/2018 | 2018-1/5 |
| <u>aerospace</u> | | | | | |
| Environmental Quality, Air Quality | 42549 | R307-355 | EXT | 01/31/2018 | 2018-4/115 |
| | 42666 | R307-355 | 5YR | 03/08/2018 | 2018-7/177 |
| | 42370 | R307-355-3 | AMD | 03/08/2018 | 2018-1/10 |
| <u>affordable base rate</u> | | | | | |
| Public Service Commission, Administration | 42426 | R746-360 | REP | 02/21/2018 | 2018-2/31 |
| <u>aggregate</u> | | | | | |
| Environmental Quality, Air Quality | 42536 | R307-312 | EXT | 01/31/2018 | 2018-4/113 |
| | 42652 | R307-312 | 5YR | 03/08/2018 | 2018-7/169 |
| <u>air pollution</u> | | | | | |
| Environmental Quality, Air Quality | 42546 | R307-102 | EXT | 01/31/2018 | 2018-4/111 |
| | 42639 | R307-102 | 5YR | 03/08/2018 | 2018-7/161 |
| | 42640 | R307-107 | 5YR | 03/08/2018 | 2018-7/162 |
| | 42548 | R307-115 | EXT | 01/31/2018 | 2018-4/111 |
| | 42641 | R307-115 | 5YR | 03/08/2018 | 2018-7/163 |
| | 42642 | R307-123 | 5YR | 03/08/2018 | 2018-7/163 |
| | 42107 | R307-150 | AMD | 03/05/2018 | 2017-19/55 |
| | 42107 | R307-150 | CPR | 03/05/2018 | 2018-3/46 |
| | 42550 | R307-170 | EXT | 01/31/2018 | 2018-4/111 |
| | 42643 | R307-170 | 5YR | 03/08/2018 | 2018-7/164 |
| | 42644 | R307-208 | 5YR | 03/08/2018 | 2018-7/164 |
| | 42553 | R307-220 | EXT | 01/31/2018 | 2018-4/111 |
| | 42645 | R307-220 | 5YR | 03/08/2018 | 2018-7/165 |
| | 42552 | R307-221 | EXT | 01/31/2018 | 2018-4/112 |
| | 42646 | R307-221 | 5YR | 03/08/2018 | 2018-7/166 |
| | 42532 | R307-222 | EXT | 01/31/2018 | 2018-4/112 |
| | 42647 | R307-222 | 5YR | 03/08/2018 | 2018-7/166 |
| | 42533 | R307-223 | EXT | 01/31/2018 | 2018-4/112 |
| | 42648 | R307-223 | 5YR | 03/08/2018 | 2018-7/167 |
| | 42534 | R307-224 | EXT | 01/31/2018 | 2018-4/112 |
| | 42649 | R307-224 | 5YR | 03/08/2018 | 2018-7/167 |
| | 42535 | R307-250 | EXT | 01/31/2018 | 2018-4/113 |
| | 42650 | R307-250 | 5YR | 03/08/2018 | 2018-7/168 |
| | 42536 | R307-312 | EXT | 01/31/2018 | 2018-4/113 |
| | 42652 | R307-312 | 5YR | 03/08/2018 | 2018-7/169 |
| | 42653 | R307-342 | 5YR | 03/08/2018 | 2018-7/170 |
| | 42538 | R307-345 | EXT | 01/31/2018 | 2018-4/113 |
| | 42655 | R307-345 | 5YR | 03/08/2018 | 2018-7/171 |
| | 42539 | R307-346 | EXT | 01/31/2018 | 2018-4/114 |
| | 42656 | R307-346 | 5YR | 03/08/2018 | 2018-7/171 |
| | 42541 | R307-347 | EXT | 01/31/2018 | 2018-4/114 |
| | 42657 | R307-347 | 5YR | 03/08/2018 | 2018-7/172 |
| | 42543 | R307-348 | EXT | 01/31/2018 | 2018-4/114 |
| | 42659 | R307-348 | 5YR | 03/08/2018 | 2018-7/172 |
| | 42540 | R307-349 | EXT | 01/31/2018 | 2018-4/114 |
| | 42660 | R307-349 | 5YR | 03/08/2018 | 2018-7/173 |
| | 42542 | R307-350 | EXT | 01/31/2018 | 2018-4/114 |
| | 42661 | R307-350 | 5YR | 03/08/2018 | 2018-7/174 |
| | 42544 | R307-351 | EXT | 01/31/2018 | 2018-4/115 |
| | 42662 | R307-351 | 5YR | 03/08/2018 | 2018-7/174 |
| | 42545 | R307-352 | EXT | 01/31/2018 | 2018-4/115 |
| | 42663 | R307-352 | 5YR | 03/08/2018 | 2018-7/175 |
| | 42664 | R307-353 | 5YR | 03/08/2018 | 2018-7/176 |
| | 42547 | R307-354 | EXT | 01/31/2018 | 2018-4/115 |
| | 42665 | R307-354 | 5YR | 03/08/2018 | 2018-7/176 |
| | 42549 | R307-355 | EXT | 01/31/2018 | 2018-4/115 |
| | 42666 | R307-355 | 5YR | 03/08/2018 | 2018-7/177 |

| | | | | | |
|---|-------|------------|-----|------------|-------------|
| | 42370 | R307-355-3 | AMD | 03/08/2018 | 2018-1/10 |
| | 42668 | R307-357 | 5YR | 03/08/2018 | 2018-7/178 |
| | 42108 | R307-401 | AMD | 03/05/2018 | 2017-19/58 |
| | 42108 | R307-401 | CPR | 03/05/2018 | 2018-3/49 |
| | 42574 | R307-401 | NSC | 03/05/2018 | Not Printed |
| | 42109 | R307-504 | AMD | 03/05/2018 | 2017-19/70 |
| | 42109 | R307-504 | CPR | 03/05/2018 | 2018-3/56 |
| | 42110 | R307-505 | NEW | 01/26/2018 | 2017-19/71 |
| | 42111 | R307-506 | NEW | 03/05/2018 | 2017-19/73 |
| | 42111 | R307-506 | CPR | 03/05/2018 | 2018-3/58 |
| | 42112 | R307-507 | NEW | 03/05/2018 | 2017-19/75 |
| | 42112 | R307-507 | CPR | 03/05/2018 | 2018-3/60 |
| | 42113 | R307-508 | NEW | 03/05/2018 | 2017-19/77 |
| | 42113 | R307-508 | CPR | 03/05/2018 | 2018-3/62 |
| | 42114 | R307-509 | NEW | 03/05/2018 | 2017-19/79 |
| | 42114 | R307-509 | CPR | 03/05/2018 | 2018-3/63 |
| | 42115 | R307-510 | NEW | 03/05/2018 | 2017-19/81 |
| | 42115 | R307-510 | CPR | 03/05/2018 | 2018-3/65 |
| | 42551 | R307-801 | EXT | 01/31/2018 | 2018-4/115 |
| | 42669 | R307-801 | 5YR | 03/08/2018 | 2018-7/179 |
| <u>air travel</u> | | | | | |
| Administrative Services, Finance | 42572 | R25-7 | 5YR | 02/08/2018 | 2018-5/142 |
| <u>allegations</u> | | | | | |
| Pardons (Board Of), Administration | 42580 | R671-514 | 5YR | 02/13/2018 | 2018-5/153 |
| <u>allowance</u> | | | | | |
| Administrative Services, Finance | 42573 | R25-8 | 5YR | 02/08/2018 | 2018-5/142 |
| <u>alternative district of residency</u> | | | | | |
| Education, Administration | 42326 | R277-621 | NEW | 01/09/2018 | 2017-23/17 |
| <u>alternative fuels</u> | | | | | |
| Environmental Quality, Air Quality | 42642 | R307-123 | 5YR | 03/08/2018 | 2018-7/163 |
| <u>amendments</u> | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42707 | R436-3 | 5YR | 03/20/2018 | 2018-8/150 |
| <u>amphibians</u> | | | | | |
| Natural Resources, Wildlife Resources | 42792 | R657-53 | 5YR | 04/12/2018 | Not Printed |
| <u>anesthesia adverse events</u> | | | | | |
| Health, Family Health and Preparedness, Primary Care and Rural Health | 42334 | R434-150 | NEW | 04/14/2018 | 2017-24/18 |
| | 42671 | R434-150 | NSC | 04/14/2018 | Not Printed |
| <u>animal protection</u> | | | | | |
| Natural Resources, Wildlife Resources | 42624 | R657-3 | 5YR | 02/27/2018 | 2018-6/49 |
| <u>appellate procedures</u> | | | | | |
| Technology Services, Administration | 42528 | R895-12 | EXD | 01/30/2018 | 2018-4/117 |
| Workforce Services, Unemployment Insurance | 42743 | R994-508 | 5YR | 03/29/2018 | 2018-8/161 |
| <u>applications</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42446 | R414-308 | 5YR | 01/08/2018 | 2018-3/86 |
| | 42488 | R414-308-3 | EMR | 01/19/2018 | 2018-4/87 |
| <u>appointment to office</u> | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42704 | R436-1 | 5YR | 03/19/2018 | 2018-8/149 |
| <u>approval orders</u> | | | | | |
| Environmental Quality, Air Quality | 42108 | R307-401 | AMD | 03/05/2018 | 2017-19/58 |
| | 42108 | R307-401 | CPR | 03/05/2018 | 2018-3/49 |

RULES INDEX

| | | | | | |
|--|-------|----------|-----|------------|-------------|
| | 42574 | R307-401 | NSC | 03/05/2018 | Not Printed |
| <u>arts programs</u> | | | | | |
| Education, Administration | 42471 | R277-490 | 5YR | 01/12/2018 | 2018-3/70 |
| | 42481 | R277-490 | AMD | 03/14/2018 | 2018-3/13 |
| <u>asbestos</u> | | | | | |
| Environmental Quality, Air Quality | 42551 | R307-801 | EXT | 01/31/2018 | 2018-4/115 |
| | 42669 | R307-801 | 5YR | 03/08/2018 | 2018-7/179 |
| <u>asbestos hazard emergency response</u> | | | | | |
| Environmental Quality, Air Quality | 42551 | R307-801 | EXT | 01/31/2018 | 2018-4/115 |
| | 42669 | R307-801 | 5YR | 03/08/2018 | 2018-7/179 |
| <u>asphalt</u> | | | | | |
| Environmental Quality, Air Quality | 42536 | R307-312 | EXT | 01/31/2018 | 2018-4/113 |
| | 42652 | R307-312 | 5YR | 03/08/2018 | 2018-7/169 |
| <u>assessment</u> | | | | | |
| Education, Administration | 42479 | R277-404 | AMD | 03/14/2018 | 2018-3/5 |
| <u>assistive devices and technology</u> | | | | | |
| Public Service Commission, Administration | 42424 | R746-8 | NEW | 02/21/2018 | 2018-2/18 |
| | 42425 | R746-343 | REP | 02/21/2018 | 2018-2/28 |
| <u>automatic fire sprinklers</u> | | | | | |
| Public Safety, Fire Marshal | 42683 | R710-5 | 5YR | 03/14/2018 | 2018-7/181 |
| <u>automotive refinishing</u> | | | | | |
| Environmental Quality, Air Quality | 42547 | R307-354 | EXT | 01/31/2018 | 2018-4/115 |
| | 42665 | R307-354 | 5YR | 03/08/2018 | 2018-7/176 |
| <u>awarding</u> | | | | | |
| Education, Administration | 42480 | R277-415 | NEW | 03/14/2018 | 2018-3/11 |
| <u>background</u> | | | | | |
| Human Services, Administration | 42417 | R495-885 | AMD | 02/23/2018 | 2018-2/13 |
| <u>background checks</u> | | | | | |
| Education, Administration | 42775 | R277-214 | NSC | 04/13/2018 | Not Printed |
| Human Services, Substance Abuse and Mental Health, State Hospital | 42476 | R525-5 | 5YR | 01/16/2018 | 2018-3/88 |
| <u>background reviews</u> | | | | | |
| Education, Administration | 42775 | R277-214 | NSC | 04/13/2018 | Not Printed |
| <u>background screening</u> | | | | | |
| Human Services, Administration, Administrative Services, Licensing | 42233 | R501-14 | AMD | 02/23/2018 | 2017-21/130 |
| <u>bear</u> | | | | | |
| Natural Resources, Wildlife Resources | 42492 | R657-33 | AMD | 03/26/2018 | 2018-4/55 |
| <u>bicycles</u> | | | | | |
| Regents (Board Of), University of Utah, Administration | 42617 | R805-1 | 5YR | 02/22/2018 | 2018-6/50 |
| <u>big game seasons</u> | | | | | |
| Natural Resources, Wildlife Resources | 42371 | R657-5 | AMD | 02/07/2018 | 2018-1/19 |
| | 42373 | R657-71 | NEW | 02/07/2018 | 2018-1/52 |
| <u>birds</u> | | | | | |
| Natural Resources, Wildlife Resources | 42376 | R657-9 | AMD | 02/07/2018 | 2018-1/33 |
| <u>birth registration</u> | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42339 | R436-6 | REP | 04/03/2018 | 2017-24/20 |

| | | | | | | |
|--|-------|----------|-----|------------|-------------|--|
| <u>Board of Education rules</u> | | | | | | |
| Education, Administration | 42749 | R277-100 | NSC | 04/12/2018 | Not Printed | |
| <u>boards</u> | | | | | | |
| Administrative Services, Finance | 42570 | R25-5 | 5YR | 02/08/2018 | 2018-5/141 | |
| <u>boilers</u> | | | | | | |
| Labor Commission, Boiler, Elevator and Coal Mine Safety | 42565 | R616-2-3 | AMD | 04/09/2018 | 2018-5/49 | |
| <u>budgeting</u> | | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42443 | R414-304 | 5YR | 01/08/2018 | 2018-3/85 | |
| <u>buildings</u> | | | | | | |
| Administrative Services, Facilities Construction and Management | 42347 | R23-5 | AMD | 01/23/2018 | 2017-24/8 | |
| <u>campgrounds</u> | | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42516 | R392-300 | R&R | 03/26/2018 | 2018-4/4 | |
| <u>camps</u> | | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42516 | R392-300 | R&R | 03/26/2018 | 2018-4/4 | |
| <u>capital punishment</u> | | | | | | |
| Pardons (Board Of), Administration | 42575 | R671-312 | 5YR | 02/13/2018 | 2018-5/150 | |
| <u>career and technical education</u> | | | | | | |
| Education, Administration | 42618 | R277-518 | 5YR | 02/26/2018 | 2018-6/47 | |
| <u>certificate of eligibility</u> | | | | | | |
| Public Safety, Criminal Investigations and Technical Services, Criminal Identification | 42259 | R722-350 | AMD | 01/10/2018 | 2017-22/94 | |
| <u>certificate of registration</u> | | | | | | |
| Natural Resources, Wildlife Resources | 42793 | R657-45 | 5YR | 04/12/2018 | Not Printed | |
| <u>certification</u> | | | | | | |
| Labor Commission, Boiler, Elevator and Coal Mine Safety | 42565 | R616-2-3 | AMD | 04/09/2018 | 2018-5/49 | |
| | 42566 | R616-3-3 | AMD | 04/09/2018 | 2018-5/51 | |
| <u>certifications</u> | | | | | | |
| Transportation, Motor Carrier | 42336 | R909-19 | AMD | 01/24/2018 | 2017-24/60 | |
| <u>certified foster care</u> | | | | | | |
| Human Services, Administration, Administrative Services, Licensing | 42217 | R501-12 | AMD | 02/23/2018 | 2017-21/120 | |
| <u>charbroilers</u> | | | | | | |
| Environmental Quality, Air Quality | 42651 | R307-303 | 5YR | 03/08/2018 | 2018-7/168 | |
| <u>child abuse</u> | | | | | | |
| Human Services, Child and Family Services | 42597 | R512-200 | 5YR | 02/15/2018 | 2018-5/143 | |
| | 42598 | R512-201 | 5YR | 02/15/2018 | 2018-5/144 | |
| | 42599 | R512-202 | 5YR | 02/15/2018 | 2018-5/144 | |
| | 42600 | R512-300 | 5YR | 02/15/2018 | 2018-5/145 | |
| | 42601 | R512-301 | 5YR | 02/15/2018 | 2018-5/145 | |
| <u>child support</u> | | | | | | |
| Human Services, Recovery Services | 42720 | R527-920 | 5YR | 03/23/2018 | 2018-8/156 | |
| <u>child welfare</u> | | | | | | |
| Human Services, Child and Family Services | 42596 | R512-100 | 5YR | 02/15/2018 | 2018-5/143 | |

RULES INDEX

| | | | | | |
|---|-------|------------|-----|------------|-------------|
| | 42597 | R512-200 | 5YR | 02/15/2018 | 2018-5/143 |
| | 42598 | R512-201 | 5YR | 02/15/2018 | 2018-5/144 |
| | 42599 | R512-202 | 5YR | 02/15/2018 | 2018-5/144 |
| | 42600 | R512-300 | 5YR | 02/15/2018 | 2018-5/145 |
| | 42601 | R512-301 | 5YR | 02/15/2018 | 2018-5/145 |
| | 42602 | R512-302 | 5YR | 02/15/2018 | 2018-5/146 |
| | 42603 | R512-305 | 5YR | 02/15/2018 | 2018-5/146 |
| | 42604 | R512-309 | 5YR | 02/15/2018 | 2018-5/147 |
| | 42605 | R512-500 | 5YR | 02/15/2018 | 2018-5/147 |
| <u>children's health benefits</u> | | | | | |
| Health, Children's Health Insurance Program | 42790 | R382-1 | 5YR | 04/11/2018 | Not Printed |
| | 42791 | R382-10 | 5YR | 04/11/2018 | Not Printed |
| <u>chronically ill</u> | | | | | |
| Corrections, Administration | 42637 | R251-114 | 5YR | 03/07/2018 | 2018-7/161 |
| <u>citizenship</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42441 | R414-302 | 5YR | 01/08/2018 | 2018-3/84 |
| | 42487 | R414-302-6 | EMR | 01/19/2018 | 2018-4/85 |
| <u>client rights</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42440 | R414-301 | 5YR | 01/08/2018 | 2018-3/83 |
| <u>coal mines</u> | | | | | |
| Natural Resources, Oil, Gas and Mining; Coal | 42496 | R645-101 | 5YR | 01/24/2018 | 2018-4/103 |
| | 42497 | R645-102 | 5YR | 01/24/2018 | 2018-4/103 |
| | 42498 | R645-104 | 5YR | 01/24/2018 | 2018-4/104 |
| | 42499 | R645-401 | 5YR | 01/24/2018 | 2018-4/104 |
| <u>coatings</u> | | | | | |
| Environmental Quality, Air Quality | 42540 | R307-349 | EXT | 01/31/2018 | 2018-4/114 |
| | 42660 | R307-349 | 5YR | 03/08/2018 | 2018-7/173 |
| | 42542 | R307-350 | EXT | 01/31/2018 | 2018-4/114 |
| | 42661 | R307-350 | 5YR | 03/08/2018 | 2018-7/174 |
| | 42664 | R307-353 | 5YR | 03/08/2018 | 2018-7/176 |
| | 42547 | R307-354 | EXT | 01/31/2018 | 2018-4/115 |
| | 42665 | R307-354 | 5YR | 03/08/2018 | 2018-7/176 |
| | 42549 | R307-355 | EXT | 01/31/2018 | 2018-4/115 |
| | 42666 | R307-355 | 5YR | 03/08/2018 | 2018-7/177 |
| | 42370 | R307-355-3 | AMD | 03/08/2018 | 2018-1/10 |
| <u>coil coatings</u> | | | | | |
| Environmental Quality, Air Quality | 42545 | R307-352 | EXT | 01/31/2018 | 2018-4/115 |
| | 42663 | R307-352 | 5YR | 03/08/2018 | 2018-7/175 |
| <u>commercial cooking</u> | | | | | |
| Environmental Quality, Air Quality | 42651 | R307-303 | 5YR | 03/08/2018 | 2018-7/168 |
| <u>commercial motor vehicle insurance</u> | | | | | |
| Insurance, Administration | 42436 | R590-243 | 5YR | 01/04/2018 | 2018-3/91 |
| <u>communicable disease</u> | | | | | |
| Health, Disease Control and Prevention, Epidemiology | 42285 | R386-702 | AMD | 01/02/2018 | 2017-22/31 |
| <u>Compensatory Mitigation Program</u> | | | | | |
| Natural Resources, Administration | 42309 | R634-3 | NEW | 03/26/2018 | 2017-23/67 |
| <u>complaints</u> | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 42478 | R525-7 | 5YR | 01/16/2018 | 2018-3/89 |
| <u>compliance</u> | | | | | |
| Education, Administration | 42754 | R277-108 | NSC | 04/12/2018 | Not Printed |

| | | | | | |
|---|----------------|----------------------|------------|--------------------------|--------------------------|
| <u>concealed firearm permit instructors</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification | 42258 | R722-300 | AMD | 01/10/2018 | 2017-22/89 |
| <u>concealed firearm permits</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification | 42258 | R722-300 | AMD | 01/10/2018 | 2017-22/89 |
| <u>concerns</u> Human Services, Substance Abuse and Mental Health, State Hospital | 42478 | R525-7 | 5YR | 01/16/2018 | 2018-3/89 |
| <u>concrete</u> Environmental Quality, Air Quality | 42536 42652 | R307-312 R307-312 | EXT 5YR | 01/31/2018 03/08/2018 | 2018-4/113 2018-7/169 |
| <u>conduct</u> Education, Administration | 42772 | R277-211 | NSC | 04/13/2018 | Not Printed |
| <u>confidential testimony</u> Pardons (Board Of), Administration | 42587 | R671-520 | 5YR | 02/13/2018 | 2018-5/156 |
| <u>confidentiality</u> Education, Administration | 42758 | R277-117 | NSC | 04/12/2018 | Not Printed |
| <u>confidentiality of information</u> Environmental Quality, Air Quality | 42546 42639 | R307-102 R307-102 | EXT 5YR | 01/31/2018 03/08/2018 | 2018-4/111 2018-7/161 |
| <u>conflict of interest</u> Governor, Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission | 42351 | R364-1 | NEW | 01/29/2018 | 2017-24/14 |
| <u>conservation permits</u> Natural Resources, Wildlife Resources | 42379 | R657-41 | AMD | 02/07/2018 | 2018-1/38 |
| <u>construction</u> Administrative Services, Facilities Construction and Management | 42348 | R23-9 | AMD | 01/23/2018 | 2017-24/9 |
| <u>consumer products</u> Environmental Quality, Air Quality | 42668 | R307-357 | 5YR | 03/08/2018 | 2018-7/178 |
| <u>contingency fund</u> Administrative Services, Facilities Construction and Management | 42347 | R23-5 | AMD | 01/23/2018 | 2017-24/8 |
| <u>continuing</u> Pardons (Board Of), Administration | 42588 | R671-522 | 5YR | 02/13/2018 | 2018-5/156 |
| <u>continuous monitoring</u> Environmental Quality, Air Quality | 42550 42643 | R307-170 R307-170 | EXT 5YR | 01/31/2018 03/08/2018 | 2018-4/111 2018-7/164 |
| <u>contractors</u> Commerce, Occupational and Professional Licensing | 42429 | R156-55b-102 | NSC | 01/18/2018 | Not Printed |
| <u>conviction</u> Pardons (Board Of), Administration | 42585 | R671-518 | 5YR | 02/13/2018 | 2018-5/155 |
| <u>cooperative wildlife management unit</u> Natural Resources, Wildlife Resources | 42795 | R657-37 | 5YR | 04/12/2018 | Not Printed |
| <u>copying process</u> Health, Center for Health Data, Vital Records and Statistics | 42716 | R436-14 | 5YR | 03/21/2018 | 2018-8/154 |

RULES INDEX

| | | | | | | |
|--|-------|----------|-----|------------|-------------|--|
| <u>copying processes</u> | | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42715 | R436-13 | 5YR | 03/21/2018 | 2018-8/153 | |
| <u>corrective action</u> | | | | | | |
| Education, Administration | 42757 | R277-114 | NSC | 04/12/2018 | Not Printed | |
| <u>costs</u> | | | | | | |
| Administrative Services, Finance | 42571 | R25-6 | 5YR | 02/08/2018 | 2018-5/141 | |
| <u>coverage groups</u> | | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42442 | R414-303 | 5YR | 01/08/2018 | 2018-3/84 | |
| <u>credit</u> | | | | | | |
| Education, Administration | 42484 | R277-717 | AMD | 03/14/2018 | 2018-3/26 | |
| <u>credit for time served</u> | | | | | | |
| Pardons (Board Of), Administration | 42227 | R671-205 | AMD | 01/08/2018 | 2017-21/169 | |
| <u>criminal charges</u> | | | | | | |
| Pardons (Board Of), Administration | 42585 | R671-518 | 5YR | 02/13/2018 | 2018-5/155 | |
| <u>criminal competency</u> | | | | | | |
| Pardons (Board Of), Administration | 42296 | R671-206 | NEW | 01/08/2018 | 2017-22/81 | |
| <u>custody of children</u> | | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42704 | R436-1 | 5YR | 03/19/2018 | 2018-8/149 | |
| | 42706 | R436-2 | 5YR | 03/20/2018 | 2018-8/149 | |
| <u>data processing</u> | | | | | | |
| Technology Services, Administration | 42528 | R895-12 | EXD | 01/30/2018 | 2018-4/117 | |
| <u>data research requests</u> | | | | | | |
| Workforce Services, Administration | 42421 | R982-800 | NEW | 03/01/2018 | 2018-2/38 | |
| <u>death</u> | | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42713 | R436-7 | 5YR | 03/21/2018 | 2018-8/151 | |
| <u>declaratory orders</u> | | | | | | |
| Labor Commission, Administration | 42622 | R600-1 | 5YR | 02/26/2018 | 2018-6/49 | |
| <u>definitions</u> | | | | | | |
| Education, Administration | 42749 | R277-100 | NSC | 04/12/2018 | Not Printed | |
| | 42771 | R277-210 | NSC | 04/13/2018 | Not Printed | |
| Workforce Services, Unemployment Insurance | 42735 | R994-201 | 5YR | 03/29/2018 | 2018-8/157 | |
| <u>depleted uranium</u> | | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Radiation | 42204 | R313-25 | AMD | 04/09/2018 | 2017-21/83 | |
| | 42204 | R313-25 | CPR | 04/16/2018 | 2018-5/128 | |
| <u>disabilities</u> | | | | | | |
| Human Services, Services for People with Disabilities | 42560 | R539-1 | NSC | 03/01/2018 | Not Printed | |
| <u>disabled</u> | | | | | | |
| Human Services, Aging and Adult Services | 42485 | R510-105 | 5YR | 01/17/2018 | 2018-4/102 | |
| <u>disabled persons</u> | | | | | | |
| Natural Resources, Wildlife Resources | 42375 | R657-12 | NSC | 02/13/2018 | Not Printed | |
| <u>discharge</u> | | | | | | |
| Environmental Quality, Water Quality | 42511 | R317-14 | 5YR | 01/24/2018 | 2018-4/96 | |

| | | | | | | |
|--|-------|------------|-----|------------|-------------|--|
| <u>disciplinary presumptions</u> | | | | | | |
| Education, Administration | 42776 | R277-215 | NSC | 04/13/2018 | Not Printed | |
| <u>discretionary funds</u> | | | | | | |
| Education, Administration | 42759 | R277-119 | NSC | 04/12/2018 | Not Printed | |
| <u>diversion programs</u> | | | | | | |
| Commerce, Occupational and Professional Licensing | 42582 | R156-1 | AMD | 04/09/2018 | 2018-5/7 | |
| <u>domestic violence</u> | | | | | | |
| Human Services, Child and Family Services | 42597 | R512-200 | 5YR | 02/15/2018 | 2018-5/143 | |
| | 42598 | R512-201 | 5YR | 02/15/2018 | 2018-5/144 | |
| | 42599 | R512-202 | 5YR | 02/15/2018 | 2018-5/144 | |
| | 42600 | R512-300 | 5YR | 02/15/2018 | 2018-5/145 | |
| | 42601 | R512-301 | 5YR | 02/15/2018 | 2018-5/145 | |
| <u>driver education</u> | | | | | | |
| Education, Administration | 42764 | R277-746 | 5YR | 04/02/2018 | 2018-8/146 | |
| <u>education</u> | | | | | | |
| Education, Administration | 42619 | R277-709 | 5YR | 02/26/2018 | 2018-6/48 | |
| | 42613 | R277-709 | AMD | 04/09/2018 | 2018-5/34 | |
| <u>educational administration</u> | | | | | | |
| Education, Administration | 42609 | R277-116 | AMD | 04/09/2018 | 2018-5/14 | |
| <u>educator licenses</u> | | | | | | |
| Education, Administration | 42775 | R277-214 | NSC | 04/13/2018 | Not Printed | |
| <u>educator licensing</u> | | | | | | |
| Education, Administration | 42618 | R277-518 | 5YR | 02/26/2018 | 2018-6/47 | |
| <u>educators</u> | | | | | | |
| Education, Administration | 42756 | R277-110 | NSC | 04/12/2018 | Not Printed | |
| | 42771 | R277-210 | NSC | 04/13/2018 | Not Printed | |
| | 42773 | R277-212 | NSC | 04/13/2018 | Not Printed | |
| | 42776 | R277-215 | NSC | 04/13/2018 | Not Printed | |
| | 42777 | R277-216 | NSC | 04/13/2018 | Not Printed | |
| | 42324 | R277-515 | AMD | 01/09/2018 | 2017-23/11 | |
| | 42439 | R277-530-3 | NSC | 01/25/2018 | Not Printed | |
| <u>effective date</u> | | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42445 | R414-306 | 5YR | 01/08/2018 | 2018-3/86 | |
| <u>effectiveness</u> | | | | | | |
| Education, Administration | 42439 | R277-530-3 | NSC | 01/25/2018 | Not Printed | |
| <u>efficiency</u> | | | | | | |
| Education, Administration | 42608 | R277-122 | AMD | 04/09/2018 | 2018-5/19 | |
| | 42780 | R277-122 | NSC | 04/13/2018 | Not Printed | |
| <u>effluent standards</u> | | | | | | |
| Environmental Quality, Water Quality | 42510 | R317-13 | 5YR | 01/24/2018 | 2018-4/96 | |
| <u>electric generating unit</u> | | | | | | |
| Environmental Quality, Air Quality | 42534 | R307-224 | EXT | 01/31/2018 | 2018-4/112 | |
| | 42649 | R307-224 | 5YR | 03/08/2018 | 2018-7/167 | |
| <u>electric generating units</u> | | | | | | |
| Environmental Quality, Air Quality | 42553 | R307-220 | EXT | 01/31/2018 | 2018-4/111 | |
| | 42645 | R307-220 | 5YR | 03/08/2018 | 2018-7/165 | |
| <u>electric utility industries</u> | | | | | | |
| Public Service Commission, Administration | 42767 | R746-210 | 5YR | 04/05/2018 | Not Printed | |

RULES INDEX

| | | | | | |
|--|-------|--------------|-----|------------|-------------|
| <u>electricians</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 42429 | R156-55b-102 | NSC | 01/18/2018 | Not Printed |
| <u>electronic funds transfer</u> | | | | | |
| Human Services, Recovery Services | 42720 | R527-920 | 5YR | 03/23/2018 | 2018-8/156 |
| <u>electronic logging devices</u> | | | | | |
| Transportation, Motor Carrier | 42494 | R909-1 | AMD | 03/28/2018 | 2018-4/63 |
| <u>electronic meetings</u> | | | | | |
| Agriculture and Food, Administration | 42472 | R51-6 | NEW | 03/23/2018 | 2018-3/4 |
| Judicial Performance Evaluation Commission, Administration | 42262 | R597-5 | NEW | 01/02/2018 | 2017-22/68 |
| Natural Resources, Water Resources | 42257 | R653-9 | NEW | 03/02/2018 | 2017-22/74 |
| <u>elevators</u> | | | | | |
| Labor Commission, Boiler, Elevator and Coal Mine Safety | 42566 | R616-3-3 | AMD | 04/09/2018 | 2018-5/51 |
| <u>eligibility</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42446 | R414-308 | 5YR | 01/08/2018 | 2018-3/86 |
| | 42488 | R414-308-3 | EMR | 01/19/2018 | 2018-4/87 |
| | 42489 | R414-311 | EMR | 01/19/2018 | 2018-4/90 |
| <u>emergency medical services grants</u> | | | | | |
| Health, Family Health and Preparedness, Emergency Medical Services | 42724 | R426-6 | 5YR | 03/28/2018 | 2018-8/148 |
| <u>emergency vehicles</u> | | | | | |
| Public Safety, Administration | 42797 | R698-7 | 5YR | 04/12/2018 | Not Printed |
| <u>emission controls</u> | | | | | |
| Environmental Quality, Air Quality | 42538 | R307-345 | EXT | 01/31/2018 | 2018-4/113 |
| | 42655 | R307-345 | 5YR | 03/08/2018 | 2018-7/171 |
| | 42539 | R307-346 | EXT | 01/31/2018 | 2018-4/114 |
| | 42656 | R307-346 | 5YR | 03/08/2018 | 2018-7/171 |
| | 42541 | R307-347 | EXT | 01/31/2018 | 2018-4/114 |
| | 42657 | R307-347 | 5YR | 03/08/2018 | 2018-7/172 |
| | 42543 | R307-348 | EXT | 01/31/2018 | 2018-4/114 |
| | 42659 | R307-348 | 5YR | 03/08/2018 | 2018-7/172 |
| | 42540 | R307-349 | EXT | 01/31/2018 | 2018-4/114 |
| | 42660 | R307-349 | 5YR | 03/08/2018 | 2018-7/173 |
| | 42542 | R307-350 | EXT | 01/31/2018 | 2018-4/114 |
| | 42661 | R307-350 | 5YR | 03/08/2018 | 2018-7/174 |
| | 42545 | R307-352 | EXT | 01/31/2018 | 2018-4/115 |
| | 42663 | R307-352 | 5YR | 03/08/2018 | 2018-7/175 |
| | 42664 | R307-353 | 5YR | 03/08/2018 | 2018-7/176 |
| <u>employee termination</u> | | | | | |
| Workforce Services, Unemployment Insurance | 42742 | R994-405 | 5YR | 03/29/2018 | 2018-8/161 |
| <u>employee's rights</u> | | | | | |
| Workforce Services, Unemployment Insurance | 42742 | R994-405 | 5YR | 03/29/2018 | 2018-8/161 |
| <u>employees</u> | | | | | |
| Human Services, Administration | 42417 | R495-885 | AMD | 02/23/2018 | 2018-2/13 |
| <u>employment</u> | | | | | |
| Workforce Services, Unemployment Insurance | 42736 | R994-202 | 5YR | 03/29/2018 | 2018-8/157 |
| | 42742 | R994-405 | 5YR | 03/29/2018 | 2018-8/161 |
| <u>endowed universities</u> | | | | | |
| Education, Administration | 42471 | R277-490 | 5YR | 01/12/2018 | 2018-3/70 |
| | 42481 | R277-490 | AMD | 03/14/2018 | 2018-3/13 |

| | | | | | |
|--|----------------|----------------------|------------|--------------------------|--------------------------|
| <u>Energy Research Triangle Professors Grant (ERT-P)</u> Science Technology and Research Governing Authority, Administration | 42356 | R856-5 | R&R | 01/23/2018 | 2017-24/48 |
| <u>Energy Research Triangle Scholars Grant (ERT-S)</u> Science Technology and Research Governing Authority, Administration | 42355 | R856-6 | R&R | 01/23/2018 | 2017-24/54 |
| <u>environmental protection</u> Environmental Quality, Air Quality | 42548 42641 | R307-115 R307-115 | EXT 5YR | 01/31/2018 03/08/2018 | 2018-4/111 2018-7/163 |
| <u>essential health benefit insurance</u> Insurance, Administration | 42319 | R590-266-1 | AMD | 01/10/2018 | 2017-23/66 |
| <u>evaluations</u> Education, Administration | 42763 | R277-532 | 5YR | 04/02/2018 | 2018-8/146 |
| <u>evidence</u> Health, Center for Health Data, Vital Records and Statistics | 42708 | R436-4 | 5YR | 03/20/2018 | 2018-8/150 |
| <u>evidentiary</u> Pardons (Board Of), Administration | 42584 | R671-517 | 5YR | 02/13/2018 | 2018-5/154 |
| <u>evidentiary restrictions</u> Commerce, Occupational and Professional Licensing | 42582 | R156-1 | AMD | 04/09/2018 | 2018-5/7 |
| <u>exceptional children</u> Education, Administration | 42765 | R277-751 | 5YR | 04/02/2018 | 2018-8/147 |
| <u>excess emissions</u> Environmental Quality, Air Quality | 42640 | R307-107 | 5YR | 03/08/2018 | 2018-7/162 |
| <u>expansion</u> Education, Administration | 42610 | R277-482 | AMD | 04/09/2018 | 2018-5/22 |
| <u>expungement</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification | 42259 | R722-350 | AMD | 01/10/2018 | 2017-22/94 |
| <u>extended area service</u> Public Service Commission, Administration | 42589 | R746-347 | 5YR | 02/14/2018 | 2018-5/158 |
| <u>extended school year</u> Education, Administration | 42765 | R277-751 | 5YR | 04/02/2018 | 2018-8/147 |
| <u>eye exams</u> Health, Disease Control and Prevention, Health Promotion | 42569 | R384-201 | EXT | 02/08/2018 | 2018-5/161 |
| <u>eyeglasses</u> Health, Health Care Financing, Coverage and Reimbursement Policy | 42783 | R414-53 | 5YR | 04/10/2018 | Not Printed |
| <u>fabric coating</u> Environmental Quality, Air Quality | 42538 42655 | R307-345 R307-345 | EXT 5YR | 01/31/2018 03/08/2018 | 2018-4/113 2018-7/171 |
| <u>facility notice</u> Corrections, Administration | 42637 | R251-114 | 5YR | 03/07/2018 | 2018-7/161 |
| <u>fair hearings</u> Health, Children's Health Insurance Program | 42790 | R382-1 | 5YR | 04/11/2018 | Not Printed |

RULES INDEX

fathers

Health, Center for Health Data, Vital Records and Statistics 42707 R436-3 5YR 03/20/2018 2018-8/150

fees

Health, Center for Health Data, Vital Records and Statistics 42717 R436-15 5YR 03/21/2018 2018-8/154

Labor Commission, Industrial Accidents 42563 R612-300 5YR 02/08/2018 2018-5/149
42567 R612-300-4 AMD 04/09/2018 2018-5/46

filing deadlines

Labor Commission, Industrial Accidents 42562 R612-200 5YR 02/08/2018 2018-5/149
Workforce Services, Unemployment Insurance 42741 R994-403 5YR 03/29/2018 2018-8/160

film coating

Environmental Quality, Air Quality 42537 R307-344 EXT 01/31/2018 2018-4/113
42654 R307-344 5YR 03/08/2018 2018-7/170

finance

Administrative Services, Finance 42571 R25-6 5YR 02/08/2018 2018-5/141
42573 R25-8 5YR 02/08/2018 2018-5/142

financial aid

Regents (Board Of), Administration 42789 R765-605 5YR 04/11/2018 Not Printed
42722 R765-605 NSC 04/12/2018 Not Printed

financial disclosures

Health, Health Care Financing, Coverage and Reimbursement Policy 42443 R414-304 5YR 01/08/2018 2018-3/85

fingerprinting

Human Services, Administration, Administrative Services, Licensing 42233 R501-14 AMD 02/23/2018 2017-21/130

firearm background check information

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 42260 R722-380 AMD 01/10/2018 2017-22/96

firearm denials

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 42260 R722-380 AMD 01/10/2018 2017-22/96

firearm purchases

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 42260 R722-380 AMD 01/10/2018 2017-22/96

firearm releases

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 42260 R722-380 AMD 01/10/2018 2017-22/96

fireplaces

Environmental Quality, Air Quality 42430 R307-356 EXT 01/02/2018 2018-2/59
42667 R307-356 5YR 03/08/2018 2018-7/177

fish

Natural Resources, Wildlife Resources 42449 R657-58 5YR 01/09/2018 2018-3/91

fishing

Natural Resources, Wildlife Resources 42375 R657-12 NSC 02/13/2018 Not Printed
42449 R657-58 5YR 01/09/2018 2018-3/91

flat wood paneling

Environmental Quality, Air Quality 42540 R307-349 EXT 01/31/2018 2018-4/114
42660 R307-349 5YR 03/08/2018 2018-7/173

foil coating

Environmental Quality, Air Quality 42537 R307-344 EXT 01/31/2018 2018-4/113

| | | | | | |
|---|-------|-------------|-----|------------|-------------|
| | 42654 | R307-344 | 5YR | 03/08/2018 | 2018-7/170 |
| <u>foods</u> | | | | | |
| Education, Administration | 42620 | R277-719 | 5YR | 02/26/2018 | 2018-6/48 |
| | 42614 | R277-719 | AMD | 04/09/2018 | 2018-5/39 |
| <u>former foster care youth</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42442 | R414-303 | 5YR | 01/08/2018 | 2018-3/84 |
| <u>foster care</u> | | | | | |
| Human Services, Administration, Administrative Services, Licensing | 42217 | R501-12 | AMD | 02/23/2018 | 2017-21/120 |
| Human Services, Child and Family Services | 42604 | R512-309 | 5YR | 02/15/2018 | 2018-5/147 |
| <u>freedom of religion</u> | | | | | |
| Education, Administration | 42752 | R277-105 | NSC | 04/12/2018 | Not Printed |
| <u>funds</u> | | | | | |
| Education, Administration | 42480 | R277-415 | NEW | 03/14/2018 | 2018-3/11 |
| <u>funeral industries</u> | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42713 | R436-7 | 5YR | 03/21/2018 | 2018-8/151 |
| | 42709 | R436-8 | 5YR | 03/20/2018 | 2018-8/151 |
| | 42712 | R436-9 | 5YR | 03/21/2018 | 2018-8/152 |
| <u>furnaces</u> | | | | | |
| Environmental Quality, Air Quality | 42430 | R307-356 | EXT | 01/02/2018 | 2018-2/59 |
| | 42667 | R307-356 | 5YR | 03/08/2018 | 2018-7/177 |
| <u>game laws</u> | | | | | |
| Natural Resources, Wildlife Resources | 42371 | R657-5 | AMD | 02/07/2018 | 2018-1/19 |
| | 42377 | R657-19 | AMD | 02/07/2018 | 2018-1/35 |
| | 42492 | R657-33 | AMD | 03/26/2018 | 2018-4/55 |
| | 42796 | R657-34 | 5YR | 04/12/2018 | Not Printed |
| | 42372 | R657-67 | AMD | 02/07/2018 | 2018-1/44 |
| | 42378 | R657-70 | REP | 02/07/2018 | 2018-1/46 |
| | 42373 | R657-71 | NEW | 02/07/2018 | 2018-1/52 |
| <u>gas</u> | | | | | |
| Environmental Quality, Air Quality | 42109 | R307-504 | AMD | 03/05/2018 | 2017-19/70 |
| | 42109 | R307-504 | CPR | 03/05/2018 | 2018-3/56 |
| | 42110 | R307-505 | NEW | 01/26/2018 | 2017-19/71 |
| | 42111 | R307-506 | NEW | 03/05/2018 | 2017-19/73 |
| | 42111 | R307-506 | CPR | 03/05/2018 | 2018-3/58 |
| | 42112 | R307-507 | NEW | 03/05/2018 | 2017-19/75 |
| | 42112 | R307-507 | CPR | 03/05/2018 | 2018-3/60 |
| | 42113 | R307-508 | NEW | 03/05/2018 | 2017-19/77 |
| | 42113 | R307-508 | CPR | 03/05/2018 | 2018-3/62 |
| | 42114 | R307-509 | NEW | 03/05/2018 | 2017-19/79 |
| | 42114 | R307-509 | CPR | 03/05/2018 | 2018-3/63 |
| | 42115 | R307-510 | NEW | 03/05/2018 | 2017-19/81 |
| | 42115 | R307-510 | CPR | 03/05/2018 | 2018-3/65 |
| <u>general conformity</u> | | | | | |
| Environmental Quality, Air Quality | 42548 | R307-115 | EXT | 01/31/2018 | 2018-4/111 |
| | 42641 | R307-115 | 5YR | 03/08/2018 | 2018-7/163 |
| <u>generators</u> | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Waste Management | 42672 | R315-262-17 | NSC | 03/30/2018 | Not Printed |
| <u>geothermal resources</u> | | | | | |
| Natural Resources, Water Rights | 42606 | R655-1 | R&R | 04/09/2018 | 2018-5/53 |

RULES INDEX

| | | | | | | |
|---|-------|--------------|-----|------------|-------------|--|
| <u>good cause</u> | | | | | | |
| Pardons (Board Of), Administration | 42581 | R671-515 | 5YR | 02/13/2018 | 2018-5/153 | |
| <u>government documents</u> | | | | | | |
| Attorney General, Administration | 42367 | R105-2 | AMD | 02/07/2018 | 2018-1/2 | |
| <u>government hearings</u> | | | | | | |
| Commerce, Occupational and Professional Licensing | 42428 | R156-46b-401 | NSC | 01/18/2018 | Not Printed | |
| Pardons (Board Of), Administration | 42231 | R671-304 | AMD | 01/08/2018 | 2017-21/171 | |
| <u>grades</u> | | | | | | |
| Education, Administration | 42484 | R277-717 | AMD | 03/14/2018 | 2018-3/26 | |
| <u>graduation requirements</u> | | | | | | |
| Education, Administration | 42482 | R277-700 | AMD | 03/14/2018 | 2018-3/16 | |
| | 42394 | R277-705 | AMD | 02/28/2018 | 2018-1/5 | |
| <u>GRAMA</u> | | | | | | |
| Attorney General, Administration | 42367 | R105-2 | AMD | 02/07/2018 | 2018-1/2 | |
| <u>grants</u> | | | | | | |
| Education, Administration | 42758 | R277-117 | NSC | 04/12/2018 | Not Printed | |
| | 42471 | R277-490 | 5YR | 01/12/2018 | 2018-3/70 | |
| | 42481 | R277-490 | AMD | 03/14/2018 | 2018-3/13 | |
| Governor, Economic Development | 42332 | R357-16 | AMD | 01/17/2018 | 2017-23/25 | |
| | 42633 | R357-16 | NSC | 03/14/2018 | Not Printed | |
| <u>grants and loans</u> | | | | | | |
| Environmental Quality, Air Quality | 42642 | R307-123 | 5YR | 03/08/2018 | 2018-7/163 | |
| <u>graphic arts</u> | | | | | | |
| Environmental Quality, Air Quality | 42544 | R307-351 | EXT | 01/31/2018 | 2018-4/115 | |
| | 42662 | R307-351 | 5YR | 03/08/2018 | 2018-7/174 | |
| <u>greenhouse gases</u> | | | | | | |
| Environmental Quality, Air Quality | 42108 | R307-401 | AMD | 03/05/2018 | 2017-19/58 | |
| | 42108 | R307-401 | CPR | 03/05/2018 | 2018-3/49 | |
| | 42574 | R307-401 | NSC | 03/05/2018 | Not Printed | |
| <u>hazardous materials</u> | | | | | | |
| Public Safety, Fire Marshal | 42674 | R710-12 | EXD | 03/12/2018 | 2018-7/183 | |
| <u>hazardous waste</u> | | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Waste Management | 42615 | R315-15-5 | NSC | 03/14/2018 | Not Printed | |
| | 42672 | R315-262-17 | NSC | 03/30/2018 | Not Printed | |
| <u>health care facilities</u> | | | | | | |
| Health, Family Health and Preparedness, Licensing | 42520 | R432-1 | 5YR | 01/29/2018 | 2018-4/98 | |
| | 42521 | R432-2 | 5YR | 01/29/2018 | 2018-4/98 | |
| | 42397 | R432-2-5 | AMD | 03/22/2018 | 2018-2/9 | |
| | 42396 | R432-2-13 | AMD | 03/22/2018 | 2018-2/11 | |
| | 42522 | R432-3 | 5YR | 01/29/2018 | 2018-4/99 | |
| | 42523 | R432-4 | 5YR | 01/29/2018 | 2018-4/99 | |
| | 42524 | R432-5 | 5YR | 01/29/2018 | 2018-4/100 | |
| | 42525 | R432-6 | 5YR | 01/29/2018 | 2018-4/100 | |
| | 42518 | R432-16 | 5YR | 01/29/2018 | 2018-4/101 | |
| | 42519 | R432-35 | 5YR | 01/29/2018 | 2018-4/101 | |
| | 42201 | R432-150-8 | AMD | 01/11/2018 | 2017-21/108 | |
| | 42200 | R432-270-19 | AMD | 01/11/2018 | 2017-21/109 | |
| <u>health facilities</u> | | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42712 | R436-9 | 5YR | 03/21/2018 | 2018-8/152 | |
| <u>hearings</u> | | | | | | |
| Education, Administration | 42772 | R277-211 | NSC | 04/13/2018 | Not Printed | |

| | | | | | |
|---|-------|----------|-----|------------|-------------|
| | 42773 | R277-212 | NSC | 04/13/2018 | Not Printed |
| | 42774 | R277-213 | NSC | 04/13/2018 | Not Printed |
| Environmental Quality, Water Quality | 42509 | R317-9 | 5YR | 01/24/2018 | 2018-4/95 |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42440 | R414-301 | 5YR | 01/08/2018 | 2018-3/83 |
| Pardons (Board Of), Administration | 42295 | R671-201 | AMD | 01/08/2018 | 2017-22/75 |
| | 42579 | R671-513 | 5YR | 02/13/2018 | 2018-5/152 |
| | 42584 | R671-517 | 5YR | 02/13/2018 | 2018-5/154 |
| | 42586 | R671-519 | 5YR | 02/13/2018 | 2018-5/155 |
| | 42587 | R671-520 | 5YR | 02/13/2018 | 2018-5/156 |
| | 42588 | R671-522 | 5YR | 02/13/2018 | 2018-5/156 |
| <u>high school credits</u> | | | | | |
| Education, Administration | 42394 | R277-705 | AMD | 02/28/2018 | 2018-1/5 |
| <u>higher education</u> | | | | | |
| Regents (Board Of), Administration | 42789 | R765-605 | 5YR | 04/11/2018 | Not Printed |
| | 42722 | R765-605 | NSC | 04/12/2018 | Not Printed |
| <u>HIPAA</u> | | | | | |
| Health, Administration | 42784 | R380-250 | 5YR | 04/10/2018 | Not Printed |
| Human Services, Administration | 42766 | R495-881 | 5YR | 04/02/2018 | 2018-8/156 |
| <u>HIV/AIDS</u> | | | | | |
| Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health | 42328 | R388-805 | AMD | 02/01/2018 | 2017-23/28 |
| <u>hospitals</u> | | | | | |
| Environmental Quality, Air Quality | 42532 | R307-222 | EXT | 01/31/2018 | 2018-4/112 |
| | 42647 | R307-222 | 5YR | 03/08/2018 | 2018-7/166 |
| <u>hotels</u> | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42515 | R392-502 | R&R | 03/26/2018 | 2018-4/31 |
| <u>human services</u> | | | | | |
| Human Services, Administration | 42417 | R495-885 | AMD | 02/23/2018 | 2018-2/13 |
| Human Services, Administration, Administrative Services, Licensing | 42216 | R501-1 | AMD | 02/23/2018 | 2017-21/111 |
| | 42217 | R501-12 | AMD | 02/23/2018 | 2017-21/120 |
| | 42233 | R501-14 | AMD | 02/23/2018 | 2017-21/130 |
| | 42234 | R501-18 | AMD | 02/07/2018 | 2017-21/136 |
| Human Services, Services for People with Disabilities | 42560 | R539-1 | NSC | 03/01/2018 | Not Printed |
| <u>hunter education</u> | | | | | |
| Natural Resources, Wildlife Resources | 42372 | R657-67 | AMD | 02/07/2018 | 2018-1/44 |
| <u>hunting closures</u> | | | | | |
| Natural Resources, Wildlife Resources | 42796 | R657-34 | 5YR | 04/12/2018 | Not Printed |
| <u>implements of husbandry</u> | | | | | |
| Transportation, Motor Carrier | 42494 | R909-1 | AMD | 03/28/2018 | 2018-4/63 |
| <u>import restrictions</u> | | | | | |
| Natural Resources, Wildlife Resources | 42624 | R657-3 | 5YR | 02/27/2018 | 2018-6/49 |
| | 42792 | R657-53 | 5YR | 04/12/2018 | Not Printed |
| <u>incidents</u> | | | | | |
| Pardons (Board Of), Administration | 42576 | R671-509 | 5YR | 02/13/2018 | 2018-5/151 |
| <u>incinerators</u> | | | | | |
| Environmental Quality, Air Quality | 42553 | R307-220 | EXT | 01/31/2018 | 2018-4/111 |
| | 42645 | R307-220 | 5YR | 03/08/2018 | 2018-7/165 |
| <u>income</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42443 | R414-304 | 5YR | 01/08/2018 | 2018-3/85 |

RULES INDEX

| | | | | | |
|--|----------------|----------------------|------------|--------------------------|--------------------------|
| <u>industrial waste</u> Environmental Quality, Water Quality | 42510 | R317-13 | 5YR | 01/24/2018 | 2018-4/96 |
| <u>Industry Partnership Program (IPP)</u> Science Technology and Research Governing Authority, Administration | 42357 | R856-2 | R&R | 01/23/2018 | 2017-24/28 |
| <u>infectious waste</u> Environmental Quality, Air Quality | 42532 42647 | R307-222 R307-222 | EXT 5YR | 01/31/2018 03/08/2018 | 2018-4/112 2018-7/166 |
| <u>inmates</u> Pardons (Board Of), Administration | 42295 42294 | R671-201 R671-202 | AMD AMD | 01/08/2018 01/08/2018 | 2017-22/75 2017-22/77 |
| <u>inspections</u> Agriculture and Food, Plant Industry | 42530 42531 | R68-5 R68-5 | 5YR NSC | 01/30/2018 02/27/2018 | 2018-4/95 Not Printed |
| Agriculture and Food, Regulatory Services | 42422 | R70-940 | R&R | 02/22/2018 | 2018-2/6 |
| <u>instructional materials</u> Education, Administration | 42322 | R277-469 | AMD | 01/09/2018 | 2017-23/4 |
| <u>insurance</u> Insurance, Administration Labor Commission, Industrial Accidents | 42687 42564 | R590-154 R612-400 | 5YR 5YR | 03/14/2018 02/08/2018 | 2018-7/180 2018-5/150 |
| <u>insurance discretion clauses</u> Insurance, Administration | 42437 | R590-218 | 5YR | 01/04/2018 | 2018-3/90 |
| <u>insurance fee</u> Insurance, Administration | 42438 | R590-157 | 5YR | 01/04/2018 | 2018-3/90 |
| <u>insurance fees</u> Insurance, Administration | 42395 | R590-102 | AMD | 02/08/2018 | 2018-1/11 |
| <u>insurance law</u> Insurance, Administration | 42686 | R590-94 | 5YR | 03/14/2018 | 2018-7/179 |
| <u>interchanges</u> Transportation, Operations, Maintenance | 42392 | R918-6 | AMD | 02/07/2018 | 2018-1/53 |
| <u>intersections</u> Transportation, Operations, Maintenance | 42392 | R918-6 | AMD | 02/07/2018 | 2018-1/53 |
| <u>inventories</u> Environmental Quality, Air Quality | 42107 42107 | R307-150 R307-150 | AMD CPR | 03/05/2018 03/05/2018 | 2017-19/55 2018-3/46 |
| <u>judges</u> Governor, Criminal and Juvenile Justice (State Commission on) | 42337 | R356-2-10 | AMD | 04/02/2018 | 2017-24/13 |
| <u>judicial nominating commissions</u> Governor, Criminal and Juvenile Justice (State Commission on) | 42337 | R356-2-10 | AMD | 04/02/2018 | 2017-24/13 |
| <u>juvenile confinement in adult jails</u> Governor, Criminal and Juvenile Justice (State Commission on) | 42055 | R356-4 | NEW | 01/02/2018 | 2017-18/26 |
| <u>juvenile confinement in lockups</u> Governor, Criminal and Juvenile Justice (State Commission on) | 42055 | R356-4 | NEW | 01/02/2018 | 2017-18/26 |

| | | | | | |
|--|-------|--------------|-----|------------|-------------|
| <u>juvenile courts</u> | | | | | |
| Education, Administration | 42619 | R277-709 | 5YR | 02/26/2018 | 2018-6/48 |
| | 42613 | R277-709 | AMD | 04/09/2018 | 2018-5/34 |
| <u>juvenile detention in adult jails</u> | | | | | |
| Governor, Criminal and Juvenile Justice (State Commission on) | 42055 | R356-4 | NEW | 01/02/2018 | 2017-18/26 |
| <u>juvenile detention in lockups</u> | | | | | |
| Governor, Criminal and Juvenile Justice (State Commission on) | 42055 | R356-4 | NEW | 01/02/2018 | 2017-18/26 |
| <u>kinship</u> | | | | | |
| Human Services, Child and Family Services | 42605 | R512-500 | 5YR | 02/15/2018 | 2018-5/147 |
| <u>Labor Commission</u> | | | | | |
| Labor Commission, Administration | 42622 | R600-1 | 5YR | 02/26/2018 | 2018-6/49 |
| <u>landfills</u> | | | | | |
| Environmental Quality, Air Quality | 42553 | R307-220 | EXT | 01/31/2018 | 2018-4/111 |
| | 42645 | R307-220 | 5YR | 03/08/2018 | 2018-7/165 |
| <u>large appliance</u> | | | | | |
| Environmental Quality, Air Quality | 42541 | R307-347 | EXT | 01/31/2018 | 2018-4/114 |
| | 42657 | R307-347 | 5YR | 03/08/2018 | 2018-7/172 |
| <u>leadership</u> | | | | | |
| Education, Administration | 42439 | R277-530-3 | NSC | 01/25/2018 | Not Printed |
| <u>license</u> | | | | | |
| Natural Resources, Wildlife Resources | 42793 | R657-45 | 5YR | 04/12/2018 | Not Printed |
| <u>license surrender</u> | | | | | |
| Education, Administration | 42777 | R277-216 | NSC | 04/13/2018 | Not Printed |
| <u>licensing</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 42582 | R156-1 | AMD | 04/09/2018 | 2018-5/7 |
| | 42623 | R156-24b-102 | NSC | 03/14/2018 | Not Printed |
| | 42448 | R156-31b | 5YR | 01/08/2018 | 2018-3/69 |
| | 42429 | R156-55b-102 | NSC | 01/18/2018 | Not Printed |
| | 42447 | R156-68 | 5YR | 01/08/2018 | 2018-3/70 |
| | 42338 | R156-72 | AMD | 01/23/2018 | 2017-24/11 |
| | 42243 | R156-78-502 | AMD | 01/02/2018 | 2017-22/28 |
| Education, Administration | 42760 | R277-120 | NSC | 04/12/2018 | Not Printed |
| Human Services, Administration, Administrative Services, Licensing | 42216 | R501-1 | AMD | 02/23/2018 | 2017-21/111 |
| | 42217 | R501-12 | AMD | 02/23/2018 | 2017-21/120 |
| | 42233 | R501-14 | AMD | 02/23/2018 | 2017-21/130 |
| | 42234 | R501-18 | AMD | 02/07/2018 | 2017-21/136 |
| <u>licensure</u> | | | | | |
| Education, Administration | 42774 | R277-213 | NSC | 04/13/2018 | Not Printed |
| <u>lifeline rates</u> | | | | | |
| Public Service Commission, Administration | 42423 | R746-341 | REP | 02/21/2018 | 2018-2/24 |
| <u>loans</u> | | | | | |
| Environmental Quality, Water Quality | 42705 | R317-101 | 5YR | 03/20/2018 | 2018-8/147 |
| <u>local government</u> | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42710 | R436-10 | 5YR | 03/20/2018 | 2018-8/152 |
| | 42714 | R436-12 | 5YR | 03/21/2018 | 2018-8/153 |
| <u>local school boards</u> | | | | | |
| Education, Administration | 42754 | R277-108 | NSC | 04/12/2018 | Not Printed |

RULES INDEX

| | | | | | |
|---|-------|------------|-----|------------|-------------|
| <u>long-term care</u> | | | | | |
| Corrections, Administration | 42637 | R251-114 | 5YR | 03/07/2018 | 2018-7/161 |
| <u>MAGI-based</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42442 | R414-303 | 5YR | 01/08/2018 | 2018-3/84 |
| <u>magnet wire</u> | | | | | |
| Environmental Quality, Air Quality | 42543 | R307-348 | EXT | 01/31/2018 | 2018-4/114 |
| | 42659 | R307-348 | 5YR | 03/08/2018 | 2018-7/172 |
| <u>maintenance</u> | | | | | |
| Transportation, Operations, Maintenance | 42392 | R918-6 | AMD | 02/07/2018 | 2018-1/53 |
| <u>market trading program</u> | | | | | |
| Environmental Quality, Air Quality | 42535 | R307-250 | EXT | 01/31/2018 | 2018-4/113 |
| | 42650 | R307-250 | 5YR | 03/08/2018 | 2018-7/168 |
| <u>materials</u> | | | | | |
| Education, Administration | 42760 | R277-120 | NSC | 04/12/2018 | Not Printed |
| <u>Medicaid</u> | | | | | |
| Health, Health Care Financing | 42517 | R410-14 | EMR | 01/29/2018 | 2018-4/81 |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42180 | R414-3A | AMD | 03/05/2018 | 2017-20/26 |
| | 42180 | R414-3A | CPR | 03/05/2018 | 2018-2/42 |
| | 42306 | R414-4x | REP | 01/19/2018 | 2017-23/49 |
| | 42427 | R414-27 | 5YR | 01/02/2018 | 2018-2/54 |
| | 42782 | R414-52 | 5YR | 04/10/2018 | Not Printed |
| | 42783 | R414-53 | 5YR | 04/10/2018 | Not Printed |
| | 42440 | R414-301 | 5YR | 01/08/2018 | 2018-3/83 |
| | 42441 | R414-302 | 5YR | 01/08/2018 | 2018-3/84 |
| | 42487 | R414-302-6 | EMR | 01/19/2018 | 2018-4/85 |
| | 42444 | R414-305 | 5YR | 01/08/2018 | 2018-3/85 |
| | 42446 | R414-308 | 5YR | 01/08/2018 | 2018-3/86 |
| | 42488 | R414-308-3 | EMR | 01/19/2018 | 2018-4/87 |
| | 42489 | R414-311 | EMR | 01/19/2018 | 2018-4/90 |
| | 42490 | R414-509 | REP | 04/11/2018 | 2018-4/41 |
| | 42353 | R414-517 | AMD | 01/29/2018 | 2017-24/16 |
| <u>medical incinerator</u> | | | | | |
| Environmental Quality, Air Quality | 42532 | R307-222 | EXT | 01/31/2018 | 2018-4/112 |
| | 42647 | R307-222 | 5YR | 03/08/2018 | 2018-7/166 |
| <u>medical practitioners</u> | | | | | |
| Labor Commission, Industrial Accidents | 42563 | R612-300 | 5YR | 02/08/2018 | 2018-5/149 |
| | 42567 | R612-300-4 | AMD | 04/09/2018 | 2018-5/46 |
| <u>medical transportation</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42445 | R414-306 | 5YR | 01/08/2018 | 2018-3/86 |
| <u>medication treatment</u> | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 42474 | R525-3 | 5YR | 01/16/2018 | 2018-3/87 |
| | 42558 | R525-3 | NSC | 03/01/2018 | Not Printed |
| <u>mercury</u> | | | | | |
| Environmental Quality, Air Quality | 42534 | R307-224 | EXT | 01/31/2018 | 2018-4/112 |
| | 42649 | R307-224 | 5YR | 03/08/2018 | 2018-7/167 |
| <u>metal containers</u> | | | | | |
| Environmental Quality, Air Quality | 42545 | R307-352 | EXT | 01/31/2018 | 2018-4/115 |
| | 42663 | R307-352 | 5YR | 03/08/2018 | 2018-7/175 |
| <u>metal furniture</u> | | | | | |
| Environmental Quality, Air Quality | 42539 | R307-346 | EXT | 01/31/2018 | 2018-4/114 |

| | | | | | |
|---|-------|----------|-----|------------|-------------|
| | 42656 | R307-346 | 5YR | 03/08/2018 | 2018-7/171 |
| <u>migratory birds</u> | | | | | |
| Natural Resources, Wildlife Resources | 42376 | R657-9 | AMD | 02/07/2018 | 2018-1/33 |
| <u>minerals reclamation</u> | | | | | |
| Natural Resources, Oil, Gas and Mining; Non-Coal | 42500 | R647-1 | 5YR | 01/24/2018 | 2018-4/105 |
| | 42501 | R647-2 | 5YR | 01/24/2018 | 2018-4/105 |
| | 42502 | R647-3 | 5YR | 01/24/2018 | 2018-4/106 |
| | 42503 | R647-4 | 5YR | 01/24/2018 | 2018-4/106 |
| | 42504 | R647-5 | 5YR | 01/24/2018 | 2018-4/107 |
| | 42505 | R647-6 | 5YR | 01/24/2018 | 2018-4/108 |
| | 42506 | R647-7 | 5YR | 01/24/2018 | 2018-4/108 |
| | 42507 | R647-8 | 5YR | 01/24/2018 | 2018-4/109 |
| <u>miscellaneous metal parts</u> | | | | | |
| Environmental Quality, Air Quality | 42542 | R307-350 | EXT | 01/31/2018 | 2018-4/114 |
| | 42661 | R307-350 | 5YR | 03/08/2018 | 2018-7/174 |
| <u>misleading names</u> | | | | | |
| Insurance, Administration | 42687 | R590-154 | 5YR | 03/14/2018 | 2018-7/180 |
| <u>mitigation</u> | | | | | |
| Natural Resources, Administration | 42309 | R634-3 | NEW | 03/26/2018 | 2017-23/67 |
| | 42309 | R634-3 | CPR | 03/26/2018 | 2018-4/71 |
| <u>monitoring</u> | | | | | |
| Environmental Quality, Air Quality | 42550 | R307-170 | EXT | 01/31/2018 | 2018-4/111 |
| | 42643 | R307-170 | 5YR | 03/08/2018 | 2018-7/164 |
| <u>motels</u> | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42515 | R392-502 | R&R | 03/26/2018 | 2018-4/31 |
| <u>mothers</u> | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42707 | R436-3 | 5YR | 03/20/2018 | 2018-8/150 |
| <u>motor fuel</u> | | | | | |
| Agriculture and Food, Regulatory Services | 42422 | R70-940 | R&R | 02/22/2018 | 2018-2/6 |
| <u>motor vehicles</u> | | | | | |
| Environmental Quality, Air Quality | 42642 | R307-123 | 5YR | 03/08/2018 | 2018-7/163 |
| <u>municipal landfills</u> | | | | | |
| Environmental Quality, Air Quality | 42552 | R307-221 | EXT | 01/31/2018 | 2018-4/112 |
| | 42646 | R307-221 | 5YR | 03/08/2018 | 2018-7/166 |
| <u>municipal waste incinerator</u> | | | | | |
| Environmental Quality, Air Quality | 42533 | R307-223 | EXT | 01/31/2018 | 2018-4/112 |
| | 42648 | R307-223 | 5YR | 03/08/2018 | 2018-7/167 |
| <u>new hire registry</u> | | | | | |
| Workforce Services, Unemployment Insurance | 42740 | R994-315 | 5YR | 03/29/2018 | 2018-8/159 |
| <u>newborn screening</u> | | | | | |
| Health, Disease Control and Prevention, Laboratory Services | 42282 | R438-15 | NEW | 01/29/2018 | 2017-22/60 |
| Health, Family Health and Preparedness, Children with Special Health Care Needs | 42279 | R398-1 | REP | 01/29/2018 | 2017-22/46 |
| <u>non-licensed public education employees</u> | | | | | |
| Education, Administration | 42763 | R277-532 | 5YR | 04/02/2018 | 2018-8/146 |
| <u>noncompliance</u> | | | | | |
| Education, Administration | 42757 | R277-114 | NSC | 04/12/2018 | Not Printed |

RULES INDEX

nurse practitioners

| | | | | | |
|--|-------|------------|-----|------------|------------|
| Labor Commission, Industrial Accidents | 42563 | R612-300 | 5YR | 02/08/2018 | 2018-5/149 |
| | 42567 | R612-300-4 | AMD | 04/09/2018 | 2018-5/46 |

nurses

| | | | | | |
|---|-------|----------|-----|------------|-----------|
| Commerce, Occupational and Professional Licensing | 42448 | R156-31b | 5YR | 01/08/2018 | 2018-3/69 |
|---|-------|----------|-----|------------|-----------|

nutrition

| | | | | | |
|---------------------------|-------|----------|-----|------------|-----------|
| Education, Administration | 42620 | R277-719 | 5YR | 02/26/2018 | 2018-6/48 |
| | 42614 | R277-719 | AMD | 04/09/2018 | 2018-5/39 |

occupational licensing

| | | | | | |
|---|-------|--------------|-----|------------|-------------|
| Commerce, Occupational and Professional Licensing | 42428 | R156-46b-401 | NSC | 01/18/2018 | Not Printed |
| | 42429 | R156-55b-102 | NSC | 01/18/2018 | Not Printed |

off-highway vehicles

| | | | | | |
|---|-------|----------|-----|------------|------------|
| Natural Resources, Parks and Recreation | 42431 | R651-406 | AMD | 02/21/2018 | 2018-2/16 |
| | 42682 | R651-407 | 5YR | 03/13/2018 | 2018-7/181 |

oil

| | | | | | |
|------------------------------------|-------|----------|-----|------------|------------|
| Environmental Quality, Air Quality | 42109 | R307-504 | AMD | 03/05/2018 | 2017-19/70 |
| | 42109 | R307-504 | CPR | 03/05/2018 | 2018-3/56 |
| | 42110 | R307-505 | NEW | 01/26/2018 | 2017-19/71 |
| | 42111 | R307-506 | NEW | 03/05/2018 | 2017-19/73 |
| | 42111 | R307-506 | CPR | 03/05/2018 | 2018-3/58 |
| | 42112 | R307-507 | NEW | 03/05/2018 | 2017-19/75 |
| | 42112 | R307-507 | CPR | 03/05/2018 | 2018-3/60 |
| | 42113 | R307-508 | NEW | 03/05/2018 | 2017-19/77 |
| | 42113 | R307-508 | CPR | 03/05/2018 | 2018-3/62 |
| | 42114 | R307-509 | NEW | 03/05/2018 | 2017-19/79 |
| | 42114 | R307-509 | CPR | 03/05/2018 | 2018-3/63 |
| | 42115 | R307-510 | NEW | 03/05/2018 | 2017-19/81 |
| | 42115 | R307-510 | CPR | 03/05/2018 | 2018-3/65 |

oil and gas law

| | | | | | |
|---|-------|--------|-----|------------|------------|
| Natural Resources, Oil, Gas and Mining; Oil and Gas | 42508 | R649-6 | 5YR | 01/24/2018 | 2018-4/109 |
|---|-------|--------|-----|------------|------------|

open government

| | | | | | |
|---------------------------|-------|----------|-----|------------|-------------|
| Education, Administration | 42750 | R277-101 | NSC | 04/12/2018 | Not Printed |
|---------------------------|-------|----------|-----|------------|-------------|

operator certification

| | | | | | |
|--------------------------------------|-------|------------|-----|------------|------------|
| Environmental Quality, Water Quality | 42274 | R317-10-10 | AMD | 01/24/2018 | 2017-22/29 |
|--------------------------------------|-------|------------|-----|------------|------------|

optometry

| | | | | | |
|--|-------|---------|-----|------------|-------------|
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42782 | R414-52 | 5YR | 04/10/2018 | Not Printed |
|--|-------|---------|-----|------------|-------------|

osteopathic physicians

| | | | | | |
|---|-------|---------|-----|------------|-----------|
| Commerce, Occupational and Professional Licensing | 42447 | R156-68 | 5YR | 01/08/2018 | 2018-3/70 |
|---|-------|---------|-----|------------|-----------|

osteopaths

| | | | | | |
|---|-------|---------|-----|------------|-----------|
| Commerce, Occupational and Professional Licensing | 42447 | R156-68 | 5YR | 01/08/2018 | 2018-3/70 |
|---|-------|---------|-----|------------|-----------|

out-of-home care

| | | | | | |
|---|-------|----------|-----|------------|------------|
| Human Services, Child and Family Services | 42603 | R512-305 | 5YR | 02/15/2018 | 2018-5/146 |
|---|-------|----------|-----|------------|------------|

outdoor recreation

| | | | | | |
|--------------------------------|-------|---------|-----|------------|-------------|
| Governor, Economic Development | 42332 | R357-16 | AMD | 01/17/2018 | 2017-23/25 |
| | 42633 | R357-16 | NSC | 03/14/2018 | Not Printed |

Outdoor Recreation Infrastructure Grant

| | | | | | |
|--------------------------------|-------|---------|-----|------------|-------------|
| Governor, Economic Development | 42332 | R357-16 | AMD | 01/17/2018 | 2017-23/25 |
| | 42633 | R357-16 | NSC | 03/14/2018 | Not Printed |

outdoor wood boilers

| | | | | | |
|------------------------------------|-------|----------|-----|------------|------------|
| Environmental Quality, Air Quality | 42644 | R307-208 | 5YR | 03/08/2018 | 2018-7/164 |
|------------------------------------|-------|----------|-----|------------|------------|

| | | | | | | |
|---|-------|--------------|-----|------------|-------------|--|
| <u>paper coating</u> | | | | | | |
| Environmental Quality, Air Quality | 42537 | R307-344 | EXT | 01/31/2018 | 2018-4/113 | |
| | 42654 | R307-344 | 5YR | 03/08/2018 | 2018-7/170 | |
| <u>parking facilities</u> | | | | | | |
| Regents (Board Of), University of Utah, Commuter Services | 42512 | R810-1 | NEW | 04/05/2018 | 2018-4/60 | |
| | 42513 | R810-8 | NEW | 04/05/2018 | 2018-4/62 | |
| <u>parole</u> | | | | | | |
| Pardons (Board Of), Administration | 42295 | R671-201 | AMD | 01/08/2018 | 2017-22/75 | |
| | 42294 | R671-202 | AMD | 01/08/2018 | 2017-22/77 | |
| | 42227 | R671-205 | AMD | 01/08/2018 | 2017-21/169 | |
| | 42576 | R671-509 | 5YR | 02/13/2018 | 2018-5/151 | |
| | 42577 | R671-510 | 5YR | 02/13/2018 | 2018-5/151 | |
| | 42578 | R671-512 | 5YR | 02/13/2018 | 2018-5/152 | |
| | 42579 | R671-513 | 5YR | 02/13/2018 | 2018-5/152 | |
| | 42580 | R671-514 | 5YR | 02/13/2018 | 2018-5/153 | |
| | 42581 | R671-515 | 5YR | 02/13/2018 | 2018-5/153 | |
| | 42583 | R671-516 | 5YR | 02/13/2018 | 2018-5/154 | |
| | 42584 | R671-517 | 5YR | 02/13/2018 | 2018-5/154 | |
| | 42585 | R671-518 | 5YR | 02/13/2018 | 2018-5/155 | |
| | 42586 | R671-519 | 5YR | 02/13/2018 | 2018-5/155 | |
| | 42587 | R671-520 | 5YR | 02/13/2018 | 2018-5/156 | |
| | 42588 | R671-522 | 5YR | 02/13/2018 | 2018-5/156 | |
| <u>patient rights</u> | | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 42473 | R525-2 | 5YR | 01/16/2018 | 2018-3/87 | |
| <u>patient safety</u> | | | | | | |
| Health, Family Health and Preparedness, Primary Care and Rural Health | 42334 | R434-150 | NEW | 04/14/2018 | 2017-24/18 | |
| | 42671 | R434-150 | NSC | 04/14/2018 | Not Printed | |
| <u>penalties</u> | | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42718 | R436-16 | 5YR | 03/21/2018 | 2018-8/155 | |
| <u>per diem allowances</u> | | | | | | |
| Administrative Services, Finance | 42570 | R25-5 | 5YR | 02/08/2018 | 2018-5/141 | |
| | 42572 | R25-7 | 5YR | 02/08/2018 | 2018-5/142 | |
| <u>permit</u> | | | | | | |
| Natural Resources, Wildlife Resources | 42793 | R657-45 | 5YR | 04/12/2018 | Not Printed | |
| <u>permits</u> | | | | | | |
| Environmental Quality, Air Quality | 42108 | R307-401 | AMD | 03/05/2018 | 2017-19/58 | |
| | 42108 | R307-401 | CPR | 03/05/2018 | 2018-3/49 | |
| | 42574 | R307-401 | NSC | 03/05/2018 | Not Printed | |
| Health, Center for Health Data, Vital Records and Statistics | 42709 | R436-8 | 5YR | 03/20/2018 | 2018-8/151 | |
| Natural Resources, Wildlife Resources | 42794 | R657-42 | 5YR | 04/12/2018 | Not Printed | |
| | 42374 | R657-62 | AMD | 02/07/2018 | 2018-1/41 | |
| | 42493 | R657-62 | AMD | 03/26/2018 | 2018-4/57 | |
| <u>physical therapist</u> | | | | | | |
| Commerce, Occupational and Professional Licensing | 42623 | R156-24b-102 | NSC | 03/14/2018 | Not Printed | |
| <u>physical therapist assistant</u> | | | | | | |
| Commerce, Occupational and Professional Licensing | 42623 | R156-24b-102 | NSC | 03/14/2018 | Not Printed | |
| <u>physical therapy</u> | | | | | | |
| Commerce, Occupational and Professional Licensing | 42623 | R156-24b-102 | NSC | 03/14/2018 | Not Printed | |
| <u>pilot lights</u> | | | | | | |
| Environmental Quality, Air Quality | 42430 | R307-356 | EXT | 01/02/2018 | 2018-2/59 | |

RULES INDEX

| | | | | | |
|--|-------|------------|-----|------------|-------------|
| | 42667 | R307-356 | 5YR | 03/08/2018 | 2018-7/177 |
| <u>pipelines</u> | | | | | |
| Public Service Commission, Administration | 42331 | R746-409-1 | AMD | 01/09/2018 | 2017-23/75 |
| <u>planning</u> | | | | | |
| Administrative Services, Facilities Construction and Management | 42348 | R23-9 | AMD | 01/23/2018 | 2017-24/9 |
| <u>plastic parts</u> | | | | | |
| Environmental Quality, Air Quality | 42664 | R307-353 | 5YR | 03/08/2018 | 2018-7/176 |
| <u>pleas</u> | | | | | |
| Pardons (Board Of), Administration | 42580 | R671-514 | 5YR | 02/13/2018 | 2018-5/153 |
| <u>PM2.5</u> | | | | | |
| Environmental Quality, Air Quality | 42651 | R307-303 | 5YR | 03/08/2018 | 2018-7/168 |
| <u>policies</u> | | | | | |
| Education, Administration | 42763 | R277-532 | 5YR | 04/02/2018 | 2018-8/146 |
| <u>POTW</u> | | | | | |
| Environmental Quality, Water Quality | 42511 | R317-14 | 5YR | 01/24/2018 | 2018-4/96 |
| <u>presumptive eligibility</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42442 | R414-303 | 5YR | 01/08/2018 | 2018-3/84 |
| <u>primers</u> | | | | | |
| Environmental Quality, Air Quality | 42653 | R307-342 | 5YR | 03/08/2018 | 2018-7/170 |
| <u>principals</u> | | | | | |
| Education, Administration | 42327 | R277-920 | AMD | 01/09/2018 | 2017-23/19 |
| <u>printing operations</u> | | | | | |
| Environmental Quality, Air Quality | 42544 | R307-351 | EXT | 01/31/2018 | 2018-4/115 |
| | 42662 | R307-351 | 5YR | 03/08/2018 | 2018-7/174 |
| <u>prison release</u> | | | | | |
| Pardons (Board Of), Administration | 42227 | R671-205 | AMD | 01/08/2018 | 2017-21/169 |
| <u>privacy</u> | | | | | |
| Health, Administration | 42784 | R380-250 | 5YR | 04/10/2018 | Not Printed |
| Human Services, Administration | 42766 | R495-881 | 5YR | 04/02/2018 | 2018-8/156 |
| <u>probable cause</u> | | | | | |
| Pardons (Board Of), Administration | 42577 | R671-510 | 5YR | 02/13/2018 | 2018-5/151 |
| <u>procedures</u> | | | | | |
| Judicial Performance Evaluation Commission, Administration | 42262 | R597-5 | NEW | 01/02/2018 | 2017-22/68 |
| Public Service Commission, Administration | 42767 | R746-210 | 5YR | 04/05/2018 | Not Printed |
| | 42769 | R746-240 | 5YR | 04/05/2018 | Not Printed |
| | 42770 | R746-340 | 5YR | 04/05/2018 | Not Printed |
| <u>proceedings</u> | | | | | |
| Pardons (Board Of), Administration | 42583 | R671-516 | 5YR | 02/13/2018 | 2018-5/154 |
| <u>procurement</u> | | | | | |
| Education, Administration | 42608 | R277-122 | AMD | 04/09/2018 | 2018-5/19 |
| | 42780 | R277-122 | NSC | 04/13/2018 | Not Printed |
| <u>professional competency</u> | | | | | |
| Education, Administration | 42753 | R277-106 | NSC | 04/12/2018 | Not Printed |
| | 42762 | R277-508 | 5YR | 04/02/2018 | 2018-8/145 |
| | 42325 | R277-519 | AMD | 01/09/2018 | 2017-23/16 |

| | | | | | |
|---|---|--|---|--|--|
| <u>professional education</u> Education, Administration | 42618 | R277-518 | 5YR | 02/26/2018 | 2018-6/47 |
| <u>professional practices</u> Education, Administration | 42753 42771 | R277-106 R277-210 | NSC NSC | 04/12/2018 04/13/2018 | Not Printed Not Printed |
| <u>professionals</u> Education, Administration | 42324 | R277-515 | AMD | 01/09/2018 | 2017-23/11 |
| <u>program benefits</u> Health, Health Care Financing, Coverage and Reimbursement Policy | 42445 | R414-306 | 5YR | 01/08/2018 | 2018-3/86 |
| <u>programs</u> Education, Administration | 42757 | R277-114 | NSC | 04/12/2018 | Not Printed |
| <u>prohibited items and devices</u> Human Services, Substance Abuse and Mental Health, State Hospital | 42477 42557 | R525-6 R525-6 | 5YR NSC | 01/16/2018 03/01/2018 | 2018-3/89 Not Printed |
| <u>prohibition</u> Environmental Quality, Air Quality | 42644 | R307-208 | 5YR | 03/08/2018 | 2018-7/164 |
| <u>public assistance programs</u> Health, Health Care Financing, Coverage and Reimbursement Policy | 42446 42488 | R414-308 R414-308-3 | 5YR EMR | 01/08/2018 01/19/2018 | 2018-3/86 2018-4/87 |
| <u>public education</u> Education, Administration | 42752 | R277-105 | NSC | 04/12/2018 | Not Printed |
| <u>public health</u> Health, Disease Control and Prevention, Environmental Services | 42516 42514 42515 | R392-300 R392-401 R392-502 | R&R R&R R&R | 03/26/2018 03/26/2018 03/26/2018 | 2018-4/4 2018-4/27 2018-4/31 |
| <u>public lodging</u> Health, Disease Control and Prevention, Environmental Services | 42515 | R392-502 | R&R | 03/26/2018 | 2018-4/31 |
| <u>public records</u> Attorney General, Administration Career Service Review Office, Administration Natural Resources, Oil, Gas and Mining; Administration | 42367 42779 42495 | R105-2 R137-2 R642-200 | AMD 5YR 5YR | 02/07/2018 04/09/2018 01/24/2018 | 2018-1/2 Not Printed 2018-4/102 |
| <u>public schools</u> Education, Administration | 42471 42481 | R277-490 R277-490 | 5YR AMD | 01/12/2018 03/14/2018 | 2018-3/70 2018-3/13 |
| <u>public utilities</u> Public Service Commission, Administration | 42768 42590 42593 42589 42426 42592 42591 | R746-110 R746-330 R746-332 R746-347 R746-360 R746-402 R746-405 | 5YR 5YR 5YR 5YR REP 5YR 5YR | 04/05/2018 02/14/2018 02/14/2018 02/14/2018 02/21/2018 02/14/2018 02/14/2018 | Not Printed 2018-5/157 2018-5/157 2018-5/158 2018-2/31 2018-5/158 2018-5/159 |
| <u>pump installers</u> Natural Resources, Water Rights | 42607 | R655-4 | R&R | 04/09/2018 | 2018-5/67 |
| <u>quarantine</u> Agriculture and Food, Plant Industry | 42721 | R68-14 | 5YR | 03/26/2018 | 2018-8/145 |

RULES INDEX

| | | | | | |
|---|-------|------------|-----|------------|-------------|
| <u>rabies</u> | | | | | |
| Health, Disease Control and Prevention, Epidemiology | 42285 | R386-702 | AMD | 01/02/2018 | 2017-22/31 |
| <u>radiation</u> | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Radiation | 42204 | R313-25 | AMD | 04/09/2018 | 2017-21/83 |
| | 42204 | R313-25 | CPR | 04/16/2018 | 2018-5/128 |
| <u>radioactive waste disposal</u> | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Radiation | 42204 | R313-25 | AMD | 04/09/2018 | 2017-21/83 |
| | 42204 | R313-25 | CPR | 04/16/2018 | 2018-5/128 |
| <u>rates</u> | | | | | |
| Administrative Services, Finance | 42570 | R25-5 | 5YR | 02/08/2018 | 2018-5/141 |
| | 42573 | R25-8 | 5YR | 02/08/2018 | 2018-5/142 |
| Labor Commission, Industrial Accidents | 42564 | R612-400 | 5YR | 02/08/2018 | 2018-5/150 |
| Workforce Services, Unemployment Insurance | 42738 | R994-306 | 5YR | 03/29/2018 | 2018-8/158 |
| | 42739 | R994-307 | 5YR | 03/29/2018 | 2018-8/159 |
| <u>reclamation</u> | | | | | |
| Natural Resources, Oil, Gas and Mining; Coal | 42496 | R645-101 | 5YR | 01/24/2018 | 2018-4/103 |
| | 42497 | R645-102 | 5YR | 01/24/2018 | 2018-4/103 |
| | 42498 | R645-104 | 5YR | 01/24/2018 | 2018-4/104 |
| | 42499 | R645-401 | 5YR | 01/24/2018 | 2018-4/104 |
| <u>records access</u> | | | | | |
| Attorney General, Administration | 42367 | R105-2 | AMD | 02/07/2018 | 2018-1/2 |
| Career Service Review Office, Administration | 42779 | R137-2 | 5YR | 04/09/2018 | Not Printed |
| <u>recovery residence</u> | | | | | |
| Human Services, Administration, Administrative Services, Licensing | 42234 | R501-18 | AMD | 02/07/2018 | 2017-21/136 |
| <u>recreation areas</u> | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42516 | R392-300 | R&R | 03/26/2018 | 2018-4/4 |
| | 42514 | R392-401 | R&R | 03/26/2018 | 2018-4/27 |
| <u>registration</u> | | | | | |
| Workforce Services, Unemployment Insurance | 42741 | R994-403 | 5YR | 03/29/2018 | 2018-8/160 |
| <u>reimbursements</u> | | | | | |
| Administrative Services, Finance | 42571 | R25-6 | 5YR | 02/08/2018 | 2018-5/141 |
| <u>reinstatement</u> | | | | | |
| Education, Administration | 42774 | R277-213 | NSC | 04/13/2018 | Not Printed |
| <u>released-time classes</u> | | | | | |
| Education, Administration | 42621 | R277-610 | 5YR | 02/26/2018 | 2018-6/47 |
| | 42611 | R277-610 | AMD | 04/09/2018 | 2018-5/26 |
| <u>relocation benefits</u> | | | | | |
| Administrative Services, Finance | 42571 | R25-6 | 5YR | 02/08/2018 | 2018-5/141 |
| <u>renewals</u> | | | | | |
| Environmental Quality, Water Quality | 42274 | R317-10-10 | AMD | 01/24/2018 | 2017-22/29 |
| <u>reporting</u> | | | | | |
| Education, Administration | 42755 | R277-109 | NSC | 04/12/2018 | Not Printed |
| Health, Disease Control and Prevention, Epidemiology | 42285 | R386-702 | AMD | 01/02/2018 | 2017-22/31 |
| <u>reports</u> | | | | | |
| Education, Administration | 42773 | R277-212 | NSC | 04/13/2018 | Not Printed |

| | | | | | |
|---|-------|------------|-----|------------|-------------|
| Environmental Quality, Air Quality | 42107 | R307-150 | AMD | 03/05/2018 | 2017-19/55 |
| | 42107 | R307-150 | CPR | 03/05/2018 | 2018-3/46 |
| <u>reptiles</u> | | | | | |
| Natural Resources, Wildlife Resources | 42792 | R657-53 | 5YR | 04/12/2018 | Not Printed |
| <u>research</u> | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 42719 | R436-17 | 5YR | 03/21/2018 | 2018-8/155 |
| <u>resources</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42444 | R414-305 | 5YR | 01/08/2018 | 2018-3/85 |
| <u>rest areas</u> | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42514 | R392-401 | R&R | 03/26/2018 | 2018-4/27 |
| <u>restrooms</u> | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42514 | R392-401 | R&R | 03/26/2018 | 2018-4/27 |
| <u>revocations</u> | | | | | |
| Pardons (Board Of), Administration | 42583 | R671-516 | 5YR | 02/13/2018 | 2018-5/154 |
| <u>RFPs</u> | | | | | |
| Education, Administration | 42758 | R277-117 | NSC | 04/12/2018 | Not Printed |
| <u>rules</u> | | | | | |
| Public Service Commission, Administration | 42767 | R746-210 | 5YR | 04/05/2018 | Not Printed |
| <u>rules and procedures</u> | | | | | |
| Education, Administration | 42751 | R277-102 | NSC | 04/12/2018 | Not Printed |
| Health, Disease Control and Prevention, Epidemiology | 42285 | R386-702 | AMD | 01/02/2018 | 2017-22/31 |
| Public Service Commission, Administration | 42768 | R746-110 | 5YR | 04/05/2018 | Not Printed |
| | 42593 | R746-332 | 5YR | 02/14/2018 | 2018-5/157 |
| | 42423 | R746-341 | REP | 02/21/2018 | 2018-2/24 |
| | 42592 | R746-402 | 5YR | 02/14/2018 | 2018-5/158 |
| | 42591 | R746-405 | 5YR | 02/14/2018 | 2018-5/159 |
| | 42331 | R746-409-1 | AMD | 01/09/2018 | 2017-23/75 |
| <u>Ryan White Part B Program</u> | | | | | |
| Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health | 42328 | R388-805 | AMD | 02/01/2018 | 2017-23/28 |
| <u>safety</u> | | | | | |
| Labor Commission, Boiler, Elevator and Coal Mine Safety | 42565 | R616-2-3 | AMD | 04/09/2018 | 2018-5/49 |
| | 42566 | R616-3-3 | AMD | 04/09/2018 | 2018-5/51 |
| Public Service Commission, Administration | 42331 | R746-409-1 | AMD | 01/09/2018 | 2017-23/75 |
| Regents (Board Of), University of Utah, Administration | 42617 | R805-1 | 5YR | 02/22/2018 | 2018-6/50 |
| <u>safety regulations</u> | | | | | |
| Transportation, Motor Carrier | 42336 | R909-19 | AMD | 01/24/2018 | 2017-24/60 |
| <u>Sage Grouse</u> | | | | | |
| Natural Resources, Administration | 42309 | R634-3 | CPR | 03/26/2018 | 2018-4/71 |
| <u>sage-grouse</u> | | | | | |
| Natural Resources, Administration | 42309 | R634-3 | NEW | 03/26/2018 | 2017-23/67 |
| <u>salary adjustments</u> | | | | | |
| Education, Administration | 42756 | R277-110 | NSC | 04/12/2018 | Not Printed |

RULES INDEX

| | | | | | | |
|--|-------|------------|-----|------------|-------------|--|
| <u>salons</u> | | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42491 | R392-700 | 5YR | 01/19/2018 | 2018-4/97 | |
| <u>sanitation</u> | | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42491 | R392-700 | 5YR | 01/19/2018 | 2018-4/97 | |
| <u>satellite</u> | | | | | | |
| Education, Administration | 42610 | R277-482 | AMD | 04/09/2018 | 2018-5/22 | |
| <u>school boards</u> | | | | | | |
| Education, Administration | 42750 | R277-101 | NSC | 04/12/2018 | Not Printed | |
| <u>school community councils</u> | | | | | | |
| Education, Administration | 42323 | R277-491-4 | AMD | 01/09/2018 | 2017-23/9 | |
| <u>school improvements</u> | | | | | | |
| Education, Administration | 42327 | R277-920 | AMD | 01/09/2018 | 2017-23/19 | |
| <u>school leaders</u> | | | | | | |
| Education, Administration | 42327 | R277-920 | AMD | 01/09/2018 | 2017-23/19 | |
| <u>school nurses</u> | | | | | | |
| Education, Administration | 42480 | R277-415 | NEW | 03/14/2018 | 2018-3/11 | |
| <u>school personnel</u> | | | | | | |
| Education, Administration | 42762 | R277-508 | 5YR | 04/02/2018 | 2018-8/145 | |
| <u>school vision</u> | | | | | | |
| Health, Disease Control and Prevention, Health Promotion | 42569 | R384-201 | EXT | 02/08/2018 | 2018-5/161 | |
| <u>schools</u> | | | | | | |
| Education, Administration | 42620 | R277-719 | 5YR | 02/26/2018 | 2018-6/48 | |
| | 42614 | R277-719 | AMD | 04/09/2018 | 2018-5/39 | |
| Environmental Quality, Air Quality | 42551 | R307-801 | EXT | 01/31/2018 | 2018-4/115 | |
| | 42669 | R307-801 | 5YR | 03/08/2018 | 2018-7/179 | |
| <u>Science Technology Initiation Grant (STIG)</u> | | | | | | |
| Science Technology and Research Governing Authority, Administration | 42358 | R856-4 | R&R | 01/23/2018 | 2017-24/41 | |
| <u>scooters</u> | | | | | | |
| Regents (Board Of), University of Utah, Administration | 42617 | R805-1 | 5YR | 02/22/2018 | 2018-6/50 | |
| <u>screening</u> | | | | | | |
| Health, Disease Control and Prevention, Laboratory Services | 42282 | R438-15 | NEW | 01/29/2018 | 2017-22/60 | |
| <u>screenings</u> | | | | | | |
| Human Services, Administration | 42417 | R495-885 | AMD | 02/23/2018 | 2018-2/13 | |
| <u>sealants</u> | | | | | | |
| Environmental Quality, Air Quality | 42653 | R307-342 | 5YR | 03/08/2018 | 2018-7/170 | |
| <u>secure areas</u> | | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 42477 | R525-6 | 5YR | 01/16/2018 | 2018-3/89 | |
| | 42557 | R525-6 | NSC | 03/01/2018 | Not Printed | |
| <u>sedation related events</u> | | | | | | |
| Health, Family Health and Preparedness, Primary Care and Rural Health | 42334 | R434-150 | NEW | 04/14/2018 | 2017-24/18 | |

| | | | | | |
|---|-------|----------|-----|------------|-------------|
| | 42671 | R434-150 | NSC | 04/14/2018 | Not Printed |
| <u>seniors</u> | | | | | |
| Human Services, Aging and Adult Services | 42485 | R510-105 | 5YR | 01/17/2018 | 2018-4/102 |
| <u>sewage treatment</u> | | | | | |
| Environmental Quality, Water Quality | 42705 | R317-101 | 5YR | 03/20/2018 | 2018-8/147 |
| <u>sewerage</u> | | | | | |
| Public Service Commission, Administration | 42590 | R746-330 | 5YR | 02/14/2018 | 2018-5/157 |
| <u>sexual assault kit analysis</u> | | | | | |
| Public Safety, Administration | 42269 | R698-11 | NEW | 01/10/2018 | 2017-22/82 |
| <u>sexual assault kits</u> | | | | | |
| Public Safety, Administration | 42269 | R698-11 | NEW | 01/10/2018 | 2017-22/82 |
| <u>skateboards</u> | | | | | |
| Regents (Board Of), University of Utah, Administration | 42617 | R805-1 | 5YR | 02/22/2018 | 2018-6/50 |
| <u>sober living</u> | | | | | |
| Human Services, Administration, Administrative Services, Licensing | 42234 | R501-18 | AMD | 02/07/2018 | 2017-21/136 |
| <u>social security numbers</u> | | | | | |
| Human Services, Services for People with Disabilities | 42560 | R539-1 | NSC | 03/01/2018 | Not Printed |
| <u>social services</u> | | | | | |
| Human Services, Child and Family Services | 42597 | R512-200 | 5YR | 02/15/2018 | 2018-5/143 |
| | 42598 | R512-201 | 5YR | 02/15/2018 | 2018-5/144 |
| | 42599 | R512-202 | 5YR | 02/15/2018 | 2018-5/144 |
| | 42600 | R512-300 | 5YR | 02/15/2018 | 2018-5/145 |
| | 42601 | R512-301 | 5YR | 02/15/2018 | 2018-5/145 |
| | 42603 | R512-305 | 5YR | 02/15/2018 | 2018-5/146 |
| <u>solid waste disposal</u> | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Waste Management | 42452 | R315-301 | 5YR | 01/12/2018 | 2018-3/71 |
| | 42455 | R315-304 | 5YR | 01/12/2018 | 2018-3/73 |
| | 42456 | R315-305 | 5YR | 01/12/2018 | 2018-3/74 |
| <u>solid waste management</u> | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Waste Management | 42452 | R315-301 | 5YR | 01/12/2018 | 2018-3/71 |
| | 42453 | R315-302 | 5YR | 01/12/2018 | 2018-3/72 |
| | 42454 | R315-303 | 5YR | 01/12/2018 | 2018-3/72 |
| | 42455 | R315-304 | 5YR | 01/12/2018 | 2018-3/73 |
| | 42456 | R315-305 | 5YR | 01/12/2018 | 2018-3/74 |
| | 42457 | R315-306 | 5YR | 01/12/2018 | 2018-3/74 |
| | 42458 | R315-307 | 5YR | 01/12/2018 | 2018-3/75 |
| | 42459 | R315-308 | 5YR | 01/12/2018 | 2018-3/75 |
| | 42460 | R315-309 | 5YR | 01/12/2018 | 2018-3/76 |
| | 42461 | R315-310 | 5YR | 01/12/2018 | 2018-3/77 |
| | 42462 | R315-311 | 5YR | 01/12/2018 | 2018-3/77 |
| | 42463 | R315-312 | 5YR | 01/12/2018 | 2018-3/78 |
| | 42464 | R315-313 | 5YR | 01/12/2018 | 2018-3/79 |
| | 42465 | R315-314 | 5YR | 01/12/2018 | 2018-3/79 |
| | 42466 | R315-315 | 5YR | 01/12/2018 | 2018-3/80 |
| | 42467 | R315-316 | 5YR | 01/12/2018 | 2018-3/80 |
| | 42468 | R315-317 | 5YR | 01/12/2018 | 2018-3/81 |
| | 42469 | R315-318 | 5YR | 01/12/2018 | 2018-3/82 |
| | 42470 | R315-320 | 5YR | 01/12/2018 | 2018-3/82 |
| <u>solid waste permit</u> | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Waste Management | 42453 | R315-302 | 5YR | 01/12/2018 | 2018-3/72 |

RULES INDEX

| | | | | | |
|--|-------|------------|-----|------------|-------------|
| <u>speech/hearing assistance</u> Public Service Commission, Administration | 42425 | R746-343 | REP | 02/21/2018 | 2018-2/28 |
| <u>speech/hearing challenges</u> Public Service Commission, Administration | 42424 | R746-8 | NEW | 02/21/2018 | 2018-2/18 |
| <u>sportsmen</u> Natural Resources, Wildlife Resources | 42379 | R657-41 | AMD | 02/07/2018 | 2018-1/38 |
| <u>standards</u> Education, Administration | 42324 | R277-515 | AMD | 01/09/2018 | 2017-23/11 |
| | 42439 | R277-530-3 | NSC | 01/25/2018 | Not Printed |
| | 42482 | R277-700 | AMD | 03/14/2018 | 2018-3/16 |
| Health, Center for Health Data, Vital Records and Statistics | 42704 | R436-1 | 5YR | 03/19/2018 | 2018-8/149 |
| | 42710 | R436-10 | 5YR | 03/20/2018 | 2018-8/152 |
| | 42714 | R436-12 | 5YR | 03/21/2018 | 2018-8/153 |
| | 42715 | R436-13 | 5YR | 03/21/2018 | 2018-8/153 |
| <u>State Board of Education</u> Education, Administration | 42759 | R277-119 | NSC | 04/12/2018 | Not Printed |
| <u>state employees</u> Administrative Services, Finance | 42570 | R25-5 | 5YR | 02/08/2018 | 2018-5/141 |
| | 42572 | R25-7 | 5YR | 02/08/2018 | 2018-5/142 |
| | 42573 | R25-8 | 5YR | 02/08/2018 | 2018-5/142 |
| <u>state hospital</u> Human Services, Substance Abuse and Mental Health, State Hospital | 42477 | R525-6 | 5YR | 01/16/2018 | 2018-3/89 |
| | 42557 | R525-6 | NSC | 03/01/2018 | Not Printed |
| <u>state residency</u> Health, Health Care Financing, Coverage and Reimbursement Policy | 42441 | R414-302 | 5YR | 01/08/2018 | 2018-3/84 |
| | 42487 | R414-302-6 | EMR | 01/19/2018 | 2018-4/85 |
| <u>stoves</u> Environmental Quality, Air Quality | 42430 | R307-356 | EXT | 01/02/2018 | 2018-2/59 |
| | 42667 | R307-356 | 5YR | 03/08/2018 | 2018-7/177 |
| <u>structures</u> Transportation, Operations, Maintenance | 42392 | R918-6 | AMD | 02/07/2018 | 2018-1/53 |
| <u>student achievements</u> Education, Administration | 42479 | R277-404 | AMD | 03/14/2018 | 2018-3/5 |
| <u>student eligibility</u> Workforce Services, Unemployment Insurance | 42741 | R994-403 | 5YR | 03/29/2018 | 2018-8/160 |
| <u>students</u> Education, Administration | 42326 | R277-621 | NEW | 01/09/2018 | 2017-23/17 |
| | 42619 | R277-709 | 5YR | 02/26/2018 | 2018-6/48 |
| | 42613 | R277-709 | AMD | 04/09/2018 | 2018-5/34 |
| | 42484 | R277-717 | AMD | 03/14/2018 | 2018-3/26 |
| <u>students at risk</u> Education, Administration | 42483 | R277-708 | AMD | 03/14/2018 | 2018-3/23 |
| <u>suggestions</u> Human Services, Substance Abuse and Mental Health, State Hospital | 42478 | R525-7 | 5YR | 01/16/2018 | 2018-3/89 |
| <u>sulfur dioxide</u> Environmental Quality, Air Quality | 42535 | R307-250 | EXT | 01/31/2018 | 2018-4/113 |
| | 42650 | R307-250 | 5YR | 03/08/2018 | 2018-7/168 |

| | | | | | | |
|---|-------|----------|-----|------------|-------------|--|
| <u>supervision</u> | | | | | | |
| Commerce, Occupational and Professional Licensing | 42582 | R156-1 | AMD | 04/09/2018 | 2018-5/7 | |
| <u>surcharges and disbursements</u> | | | | | | |
| Public Service Commission, Administration | 42424 | R746-8 | NEW | 02/21/2018 | 2018-2/18 | |
| <u>surface coating</u> | | | | | | |
| Environmental Quality, Air Quality | 42539 | R307-346 | EXT | 01/31/2018 | 2018-4/114 | |
| | 42656 | R307-346 | 5YR | 03/08/2018 | 2018-7/171 | |
| | 42541 | R307-347 | EXT | 01/31/2018 | 2018-4/114 | |
| | 42657 | R307-347 | 5YR | 03/08/2018 | 2018-7/172 | |
| | 42543 | R307-348 | EXT | 01/31/2018 | 2018-4/114 | |
| | 42659 | R307-348 | 5YR | 03/08/2018 | 2018-7/172 | |
| <u>tanning beds</u> | | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42491 | R392-700 | 5YR | 01/19/2018 | 2018-4/97 | |
| <u>Targeted Adult Medicaid</u> | | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42489 | R414-311 | EMR | 01/19/2018 | 2018-4/90 | |
| <u>tariffs</u> | | | | | | |
| Public Service Commission, Administration | 42591 | R746-405 | 5YR | 02/14/2018 | 2018-5/159 | |
| <u>taxes</u> | | | | | | |
| Insurance, Administration | 42438 | R590-157 | 5YR | 01/04/2018 | 2018-3/90 | |
| <u>teacher certification</u> | | | | | | |
| Education, Administration | 42325 | R277-519 | AMD | 01/09/2018 | 2017-23/16 | |
| <u>teacher licensing</u> | | | | | | |
| Education, Administration | 42772 | R277-211 | NSC | 04/13/2018 | Not Printed | |
| <u>teachers</u> | | | | | | |
| Education, Administration | 42762 | R277-508 | 5YR | 04/02/2018 | 2018-8/145 | |
| <u>Technology Acceleration Program (TAP) grants</u> | | | | | | |
| Science Technology and Research Governing Authority, Administration | 42360 | R856-1 | R&R | 01/23/2018 | 2017-24/22 | |
| <u>technology readiness level (TRL)</u> | | | | | | |
| Science Technology and Research Governing Authority, Administration | 42360 | R856-1 | R&R | 01/23/2018 | 2017-24/22 | |
| | 42357 | R856-2 | R&R | 01/23/2018 | 2017-24/28 | |
| | 42359 | R856-3 | R&R | 01/23/2018 | 2017-24/36 | |
| | 42358 | R856-4 | R&R | 01/23/2018 | 2017-24/41 | |
| | 42356 | R856-5 | R&R | 01/23/2018 | 2017-24/48 | |
| | 42355 | R856-6 | R&R | 01/23/2018 | 2017-24/54 | |
| <u>telecommunications</u> | | | | | | |
| Public Service Commission, Administration | 42769 | R746-240 | 5YR | 04/05/2018 | Not Printed | |
| | 42770 | R746-340 | 5YR | 04/05/2018 | Not Printed | |
| | 42423 | R746-341 | REP | 02/21/2018 | 2018-2/24 | |
| | 42425 | R746-343 | REP | 02/21/2018 | 2018-2/28 | |
| | 42589 | R746-347 | 5YR | 02/14/2018 | 2018-5/158 | |
| | 42426 | R746-360 | REP | 02/21/2018 | 2018-2/31 | |
| Technology Services, Administration | 42528 | R895-12 | EXD | 01/30/2018 | 2018-4/117 | |
| | 42529 | R895-12 | EMR | 01/30/2018 | 2018-4/92 | |
| <u>telephone utility regulations</u> | | | | | | |
| Public Service Commission, Administration | 42770 | R746-340 | 5YR | 04/05/2018 | Not Printed | |
| <u>telephones</u> | | | | | | |
| Public Service Commission, Administration | 42769 | R746-240 | 5YR | 04/05/2018 | Not Printed | |
| | 42423 | R746-341 | REP | 02/21/2018 | 2018-2/24 | |

RULES INDEX

| | | | | | | |
|---|-------|------------|-----|------------|------------|--|
| <u>terminally ill</u> | | | | | | |
| Corrections, Administration | 42637 | R251-114 | 5YR | 03/07/2018 | 2018-7/161 | |
| <u>third party liability</u> | | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 42441 | R414-302 | 5YR | 01/08/2018 | 2018-3/84 | |
| | 42487 | R414-302-6 | EMR | 01/19/2018 | 2018-4/85 | |
| <u>time</u> | | | | | | |
| Labor Commission, Industrial Accidents | 42562 | R612-200 | 5YR | 02/08/2018 | 2018-5/149 | |
| <u>timelines</u> | | | | | | |
| Education, Administration | 42610 | R277-482 | AMD | 04/09/2018 | 2018-5/22 | |
| <u>timeliness</u> | | | | | | |
| Pardons (Board Of), Administration | 42581 | R671-515 | 5YR | 02/13/2018 | 2018-5/153 | |
| <u>tow trucks</u> | | | | | | |
| Transportation, Motor Carrier | 42336 | R909-19 | AMD | 01/24/2018 | 2017-24/60 | |
| <u>towing</u> | | | | | | |
| Transportation, Motor Carrier | 42336 | R909-19 | AMD | 01/24/2018 | 2017-24/60 | |
| <u>training</u> | | | | | | |
| Education, Administration | 42610 | R277-482 | AMD | 04/09/2018 | 2018-5/22 | |
| <u>Transition to Adult Living</u> | | | | | | |
| Human Services, Child and Family Services | 42603 | R512-305 | 5YR | 02/15/2018 | 2018-5/146 | |
| <u>transportation</u> | | | | | | |
| Administrative Services, Finance | 42572 | R25-7 | 5YR | 02/08/2018 | 2018-5/142 | |
| Human Services, Aging and Adult Services | 42485 | R510-105 | 5YR | 01/17/2018 | 2018-4/102 | |
| <u>transportation safety</u> | | | | | | |
| Transportation, Motor Carrier | 42494 | R909-1 | AMD | 03/28/2018 | 2018-4/63 | |
| <u>treatment and care</u> | | | | | | |
| Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health | 42328 | R388-805 | AMD | 02/01/2018 | 2017-23/28 | |
| <u>trucks</u> | | | | | | |
| Transportation, Motor Carrier | 42494 | R909-1 | AMD | 03/28/2018 | 2018-4/63 | |
| <u>ultraviolet light safety</u> | | | | | | |
| Health, Disease Control and Prevention, Environmental Services | 42491 | R392-700 | 5YR | 01/19/2018 | 2018-4/97 | |
| <u>unavoidable breakdown</u> | | | | | | |
| Environmental Quality, Air Quality | 42640 | R307-107 | 5YR | 03/08/2018 | 2018-7/162 | |
| <u>unemployment compensation</u> | | | | | | |
| Workforce Services, Unemployment Insurance | 42735 | R994-201 | 5YR | 03/29/2018 | 2018-8/157 | |
| | 42736 | R994-202 | 5YR | 03/29/2018 | 2018-8/157 | |
| | 42737 | R994-208 | 5YR | 03/29/2018 | 2018-8/158 | |
| | 42738 | R994-306 | 5YR | 03/29/2018 | 2018-8/158 | |
| | 42739 | R994-307 | 5YR | 03/29/2018 | 2018-8/159 | |
| | 42741 | R994-403 | 5YR | 03/29/2018 | 2018-8/160 | |
| | 42742 | R994-405 | 5YR | 03/29/2018 | 2018-8/161 | |
| | 42743 | R994-508 | 5YR | 03/29/2018 | 2018-8/161 | |
| <u>unfair marketing practices</u> | | | | | | |
| Insurance, Administration | 42687 | R590-154 | 5YR | 03/14/2018 | 2018-7/180 | |
| <u>universal service fund</u> | | | | | | |
| Public Service Commission, Administration | 42426 | R746-360 | REP | 02/21/2018 | 2018-2/31 | |

| | | | | | |
|---|-------|-----------|-----|------------|-------------|
| <u>University Technology Acceleration Grants (UTAG)</u> Science Technology and Research Governing Authority, Administration | 42359 | R856-3 | R&R | 01/23/2018 | 2017-24/36 |
| <u>UPPAC</u> Education, Administration | 42777 | R277-216 | NSC | 04/13/2018 | Not Printed |
| <u>used oil</u> Environmental Quality, Waste Management and Radiation Control, Waste Management | 42615 | R315-15-5 | NSC | 03/14/2018 | Not Printed |
| <u>Utah Data Research Center</u> Workforce Services, Administration | 42421 | R982-800 | NEW | 03/01/2018 | 2018-2/38 |
| <u>Utah Indigent Defense Commission</u> Governor, Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission | 42351 | R364-1 | NEW | 01/29/2018 | 2017-24/14 |
| <u>Utah Science Technology and Research (USTAR)</u> Science Technology and Research Governing Authority, Administration | 42360 | R856-1 | R&R | 01/23/2018 | 2017-24/22 |
| | 42357 | R856-2 | R&R | 01/23/2018 | 2017-24/28 |
| | 42359 | R856-3 | R&R | 01/23/2018 | 2017-24/36 |
| | 42358 | R856-4 | R&R | 01/23/2018 | 2017-24/41 |
| | 42356 | R856-5 | R&R | 01/23/2018 | 2017-24/48 |
| | 42355 | R856-6 | R&R | 01/23/2018 | 2017-24/54 |
| <u>Utah State Board of Education</u> Education, Administration | 42761 | R277-121 | NSC | 04/12/2018 | Not Printed |
| <u>Utah universal service fund</u> Public Service Commission, Administration | 42424 | R746-8 | NEW | 02/21/2018 | 2018-2/18 |
| <u>utility regulations</u> Public Service Commission, Administration | 42591 | R746-405 | 5YR | 02/14/2018 | 2018-5/159 |
| <u>variances</u> Environmental Quality, Air Quality | 42546 | R307-102 | EXT | 01/31/2018 | 2018-4/111 |
| | 42639 | R307-102 | 5YR | 03/08/2018 | 2018-7/161 |
| <u>vending machines</u> Education, Administration | 42620 | R277-719 | 5YR | 02/26/2018 | 2018-6/48 |
| | 42614 | R277-719 | AMD | 04/09/2018 | 2018-5/39 |
| <u>victims of crimes</u> Pardons (Board Of), Administration | 42297 | R671-203 | AMD | 01/08/2018 | 2017-22/78 |
| <u>vinyl coating</u> Environmental Quality, Air Quality | 42538 | R307-345 | EXT | 01/31/2018 | 2018-4/113 |
| | 42655 | R307-345 | 5YR | 03/08/2018 | 2018-7/171 |
| <u>vision evaluations</u> Health, Disease Control and Prevention, Health Promotion | 42569 | R384-201 | EXT | 02/08/2018 | 2018-5/161 |
| <u>visitors</u> Human Services, Substance Abuse and Mental Health, State Hospital | 42475 | R525-4 | 5YR | 01/16/2018 | 2018-3/88 |
| <u>vital statistics</u> Health, Center for Health Data, Vital Records and Statistics | 42704 | R436-1 | 5YR | 03/19/2018 | 2018-8/149 |
| | 42706 | R436-2 | 5YR | 03/20/2018 | 2018-8/149 |
| | 42707 | R436-3 | 5YR | 03/20/2018 | 2018-8/150 |
| | 42708 | R436-4 | 5YR | 03/20/2018 | 2018-8/150 |
| | 42713 | R436-7 | 5YR | 03/21/2018 | 2018-8/151 |
| | 42709 | R436-8 | 5YR | 03/20/2018 | 2018-8/151 |

RULES INDEX

| | | | | | |
|---|-------|-------------|-----|------------|-------------|
| | 42712 | R436-9 | 5YR | 03/21/2018 | 2018-8/152 |
| | 42710 | R436-10 | 5YR | 03/20/2018 | 2018-8/152 |
| | 42714 | R436-12 | 5YR | 03/21/2018 | 2018-8/153 |
| | 42715 | R436-13 | 5YR | 03/21/2018 | 2018-8/153 |
| | 42716 | R436-14 | 5YR | 03/21/2018 | 2018-8/154 |
| | 42717 | R436-15 | 5YR | 03/21/2018 | 2018-8/154 |
| | 42718 | R436-16 | 5YR | 03/21/2018 | 2018-8/155 |
| | 42719 | R436-17 | 5YR | 03/21/2018 | 2018-8/155 |
| <u>VOC</u> | | | | | |
| Environmental Quality, Air Quality | 42651 | R307-303 | 5YR | 03/08/2018 | 2018-7/168 |
| | 42544 | R307-351 | EXT | 01/31/2018 | 2018-4/115 |
| | 42662 | R307-351 | 5YR | 03/08/2018 | 2018-7/174 |
| | 42547 | R307-354 | EXT | 01/31/2018 | 2018-4/115 |
| | 42665 | R307-354 | 5YR | 03/08/2018 | 2018-7/176 |
| <u>VOC emission</u> | | | | | |
| Environmental Quality, Air Quality | 42537 | R307-344 | EXT | 01/31/2018 | 2018-4/113 |
| | 42654 | R307-344 | 5YR | 03/08/2018 | 2018-7/170 |
| <u>vocational rehabilitation counselor</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 42243 | R156-78-502 | AMD | 01/02/2018 | 2017-22/28 |
| <u>wages</u> | | | | | |
| Workforce Services, Unemployment Insurance | 42737 | R994-208 | 5YR | 03/29/2018 | 2018-8/158 |
| <u>waivers</u> | | | | | |
| Education, Administration | 42761 | R277-121 | NSC | 04/12/2018 | Not Printed |
| Labor Commission, Industrial Accidents | 42564 | R612-400 | 5YR | 02/08/2018 | 2018-5/150 |
| <u>warrants</u> | | | | | |
| Pardons (Board Of), Administration | 42577 | R671-510 | 5YR | 02/13/2018 | 2018-5/151 |
| | 42578 | R671-512 | 5YR | 02/13/2018 | 2018-5/152 |
| | 42579 | R671-513 | 5YR | 02/13/2018 | 2018-5/152 |
| <u>waste disposal</u> | | | | | |
| Environmental Quality, Waste Management and Radiation Control, Waste Management | 42453 | R315-302 | 5YR | 01/12/2018 | 2018-3/72 |
| | 42454 | R315-303 | 5YR | 01/12/2018 | 2018-3/72 |
| | 42457 | R315-306 | 5YR | 01/12/2018 | 2018-3/74 |
| | 42458 | R315-307 | 5YR | 01/12/2018 | 2018-3/75 |
| | 42459 | R315-308 | 5YR | 01/12/2018 | 2018-3/75 |
| | 42460 | R315-309 | 5YR | 01/12/2018 | 2018-3/76 |
| | 42461 | R315-310 | 5YR | 01/12/2018 | 2018-3/77 |
| | 42462 | R315-311 | 5YR | 01/12/2018 | 2018-3/77 |
| | 42463 | R315-312 | 5YR | 01/12/2018 | 2018-3/78 |
| | 42464 | R315-313 | 5YR | 01/12/2018 | 2018-3/79 |
| | 42465 | R315-314 | 5YR | 01/12/2018 | 2018-3/79 |
| | 42466 | R315-315 | 5YR | 01/12/2018 | 2018-3/80 |
| | 42467 | R315-316 | 5YR | 01/12/2018 | 2018-3/80 |
| | 42468 | R315-317 | 5YR | 01/12/2018 | 2018-3/81 |
| | 42469 | R315-318 | 5YR | 01/12/2018 | 2018-3/82 |
| | 42470 | R315-320 | 5YR | 01/12/2018 | 2018-3/82 |
| Environmental Quality, Water Quality | 42510 | R317-13 | 5YR | 01/24/2018 | 2018-4/96 |
| <u>waste to energy plant</u> | | | | | |
| Environmental Quality, Air Quality | 42533 | R307-223 | EXT | 01/31/2018 | 2018-4/112 |
| | 42648 | R307-223 | 5YR | 03/08/2018 | 2018-7/167 |
| <u>wastewater</u> | | | | | |
| Environmental Quality, Water Quality | 42511 | R317-14 | 5YR | 01/24/2018 | 2018-4/96 |
| | 42705 | R317-101 | 5YR | 03/20/2018 | 2018-8/147 |
| <u>wastewater treatment</u> | | | | | |
| Environmental Quality, Water Quality | 42274 | R317-10-10 | AMD | 01/24/2018 | 2017-22/29 |

| | | | | | |
|---|-------|------------|-----|------------|-------------|
| <u>water</u> | | | | | |
| Public Service Commission, Administration | 42590 | R746-330 | 5YR | 02/14/2018 | 2018-5/157 |
| | 42593 | R746-332 | 5YR | 02/14/2018 | 2018-5/157 |
| <u>water pollution</u> | | | | | |
| Environmental Quality, Water Quality | 42274 | R317-10-10 | AMD | 01/24/2018 | 2017-22/29 |
| | 42510 | R317-13 | 5YR | 01/24/2018 | 2018-4/96 |
| <u>water quality</u> | | | | | |
| Environmental Quality, Water Quality | 42705 | R317-101 | 5YR | 03/20/2018 | 2018-8/147 |
| Public Service Commission, Administration | 42590 | R746-330 | 5YR | 02/14/2018 | 2018-5/157 |
| <u>water wells</u> | | | | | |
| Natural Resources, Water Rights | 42607 | R655-4 | R&R | 04/09/2018 | 2018-5/67 |
| <u>waterfowl</u> | | | | | |
| Natural Resources, Wildlife Resources | 42376 | R657-9 | AMD | 02/07/2018 | 2018-1/33 |
| <u>weapons</u> | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 42477 | R525-6 | 5YR | 01/16/2018 | 2018-3/89 |
| | 42557 | R525-6 | NSC | 03/01/2018 | Not Printed |
| <u>well drillers license</u> | | | | | |
| Natural Resources, Water Rights | 42607 | R655-4 | R&R | 04/09/2018 | 2018-5/67 |
| <u>wildlife</u> | | | | | |
| Natural Resources, Wildlife Resources | 42624 | R657-3 | 5YR | 02/27/2018 | 2018-6/49 |
| | 42371 | R657-5 | AMD | 02/07/2018 | 2018-1/19 |
| | 42376 | R657-9 | AMD | 02/07/2018 | 2018-1/33 |
| | 42375 | R657-12 | NSC | 02/13/2018 | Not Printed |
| | 42377 | R657-19 | AMD | 02/07/2018 | 2018-1/35 |
| | 42492 | R657-33 | AMD | 03/26/2018 | 2018-4/55 |
| | 42796 | R657-34 | 5YR | 04/12/2018 | Not Printed |
| | 42795 | R657-37 | 5YR | 04/12/2018 | Not Printed |
| | 42379 | R657-41 | AMD | 02/07/2018 | 2018-1/38 |
| | 42794 | R657-42 | 5YR | 04/12/2018 | Not Printed |
| | 42792 | R657-53 | 5YR | 04/12/2018 | Not Printed |
| | 42449 | R657-58 | 5YR | 01/09/2018 | 2018-3/91 |
| | 42374 | R657-62 | AMD | 02/07/2018 | 2018-1/41 |
| | 42493 | R657-62 | AMD | 03/26/2018 | 2018-4/57 |
| | 42372 | R657-67 | AMD | 02/07/2018 | 2018-1/44 |
| | 42378 | R657-70 | REP | 02/07/2018 | 2018-1/46 |
| | 42373 | R657-71 | NEW | 02/07/2018 | 2018-1/52 |
| <u>wildlife law</u> | | | | | |
| Natural Resources, Wildlife Resources | 42375 | R657-12 | NSC | 02/13/2018 | Not Printed |
| | 42449 | R657-58 | 5YR | 01/09/2018 | 2018-3/91 |
| <u>wildlife permits</u> | | | | | |
| Natural Resources, Wildlife Resources | 42379 | R657-41 | AMD | 02/07/2018 | 2018-1/38 |
| <u>workers' compensation</u> | | | | | |
| Labor Commission, Industrial Accidents | 42561 | R612-100 | 5YR | 02/08/2018 | 2018-5/148 |
| | 42563 | R612-300 | 5YR | 02/08/2018 | 2018-5/149 |
| | 42567 | R612-300-4 | AMD | 04/09/2018 | 2018-5/46 |
| | 42564 | R612-400 | 5YR | 02/08/2018 | 2018-5/150 |
| <u>zoning</u> | | | | | |
| Administrative Services, Facilities Construction and Management | 42348 | R23-9 | AMD | 01/23/2018 | 2017-24/9 |
| <u>zoological animals</u> | | | | | |
| Natural Resources, Wildlife Resources | 42624 | R657-3 | 5YR | 02/27/2018 | 2018-6/49 |