

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed June 16, 2018, 12:00 a.m. through July 02, 2018, 11:59 p.m.

Number 2018-14  
July 15, 2018

Nancy L. Lancaster, Managing Editor

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

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

I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

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# **SPECIAL NOTICES**

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## **Health Health Care Financing, Coverage and Reimbursement Policy**

### **Notice for August 2018 Medicaid Rate Changes**

Effective August 1, 2018, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>

**End of the Special Notices Section**



# EXECUTIVE DOCUMENTS

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

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

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## Calling the Sixty-Second Legislature Into the Ninth Extraordinary Session, Utah Proclamation No. 2018-9E

### PROCLAMATION

**WHEREAS**, since the close of the 2018 General Session of the 62nd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate into Extraordinary Session; and

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 62nd Legislature of the State of Utah into the Ninth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 20th day of June 2018, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2018 General Session of the Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 18th day of June 2018.

(State Seal)

**Gary R. Herbert**  
Governor

ATTEST:

**Spencer J. Cox**  
Lieutenant Governor

2018/09/E

**Wildland Fire Management, Utah Exec. Order No. 2018-4**

EXECUTIVE ORDER

Wildland Fire Management

**WHEREAS**, the danger from wildland fires is high throughout the State of Utah;

**WHEREAS**, wildfires are currently burning in some areas of the State;

**WHEREAS**, fire restrictions and wildfire warnings are in place across the State;

**WHEREAS**, counties in the Southeastern corner of the State have made drought declarations;

**WHEREAS**, extreme hot temperatures are forecasted throughout the State;

**WHEREAS**, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

**WHEREAS**, immediate action will be required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

**WHEREAS**, these conditions do create the potential for a disaster emergency within the scope of the Disaster Response and Recovery Act of 1981;

**NOW THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists Statewide due to the threat to public safety, property, critical infrastructure, natural resources and the environment, effective for the month of July 2018, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

**IN TESTIMONY, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 1st day of July 2018.

(State Seal)

**Gary R. Herbert**  
Governor

Attest:

**Spencer J. Cox**  
Lieutenant Governor

2018/004/EO

**End of the Executive Documents Section**



## NOTICES OF PROPOSED RULES

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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 June 16, 2018, 12:00 a.m., and July 02, 2018, 11:59 p.m. are included in this, the July 15, 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 August 14, 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 November 12, 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.

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**The Proposed Rules Begin on the Following Page**

**Commerce, Occupational and  
Professional Licensing  
R156-38a  
Residence Lien Restriction and Lien  
Recovery Fund Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 43015

FILED: 06/21/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule filing is to make substantive changes to comply with H.B. 310, passed during the 2018 General Session, that was effective 05/08/2018, and other technical changes as approved by the Residence Lien Recovery Board.

**SUMMARY OF THE RULE OR CHANGE:** In Section R156-38a-102, this change deletes unnecessary language which requires online and public availability of the affidavit form. In Section R156-38a-202a, based on H.B. 310 (2018), the Utah Legislature eliminated the initial assessments for contractors to the Lien Recovery Fund (LRF). As a result, this rule change deletes this provision concerning the initial assessments. In Section R156-38a-202b, based on H.B. 310 (2018), the Utah Legislature eliminated the special assessments for contractors to the LRF. As a result, this rule change deletes this provision concerning the special assessments. In Section R156-38a-301a, these nonsubstantive technical changes clarify the updated contractor classifications. Additionally, Subsections R156-38a-301a(2) and R156-38a-301a(3) are deleted because no special assessment may be assessed based on H.B. 310 (2018). Section R156-38a-302 is deleted based on H.B. 310 (2018) elimination of the special assessment, as the special assessment is no longer a prerequisite to renewal or reinstatement of licensure.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 38-11-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** First, the legislative analyst for H.B. 310 (2018) estimated that implementation of H.B. 310 would result in zero fiscal impact. This is because the LRF is used to pay claims under the LRF program and to pay for administrative costs. As a result, elimination of the assessment merely caps the total funds available for claims to be paid and does not impact the state budget otherwise. Obviously, once the LRF is depleted the LRF will no longer be able to meet its current statutory obligations to pay claims. Second, no state agencies shall be directly or indirectly

affected by these rule changes because the proposed changes will not result in any significant increase or decrease in administrative costs or revenue compared to the currently anticipated costs and revenues. Accordingly, this rule is not expected to impact the state beyond a minimal cost to the Division of Occupational and Professional Licensing (Division) approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** Local governments will neither enforce nor be affected by the processes and requirements implemented by this rule, nor will local governments be indirectly impacted because none of these amendments create a situation requiring services from local governments. Therefore, no cost or savings to local governments are anticipated.

◆ **SMALL BUSINESSES:** These proposed amendments only conform this rule to practices required by H.B. 310 (2018), so these changes will not impact small businesses any more than the enrolled bill, which already has a fiscal note (available online at <https://le.utah.gov/~2018/bills/static/HB0310.html>). Because of the statutory changes and this rule which is required as a result of those changes, the only quantifiable impact small businesses will encounter is a savings of \$195 for every new contractor license applicant that applies for a classification that previously required LRF assessment. This includes most contractor license applications. As this was a one-time initial assessment fee at initial licensure and as special assessments have been eliminated with H.B. 310, the small businesses that will save will be any new applicants for contractor licensing after 05/08/2018 and the amount saved will be \$195 per applicant. Currently, most contractor license applicants, except for certain classifications, are required to pay the one-time initial LRF assessment of \$195 per license. With an average of 20 to 30 new initial business contractor applications per working day, most of which require the LRF assessment, the estimated savings for all applicants will be approximately \$1,365,000 per year.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no perceivable or quantifiable impact of these rule amendments on other persons, other than those noted above, because these proposed changes only conform the rule to practices required by H.B. 310 (2018).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be no compliance costs for any affected persons because these proposed changes only conform the rule to practices required by H.B. 310 (2018).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The purpose of these rule changes is to make substantive changes to comply with H.B. 310 (2018), and to adopt other technical changes as approved by the Residence Lien Recovery Board. The legislative analyst for H.B. 310 (2018) estimated that implementation of H.B. 310 would result in zero fiscal impact. This is because the LRF is used to pay

claims under the LRF program and to pay for administrative costs. As a result, elimination of the assessment merely caps the total funds available for claims to be paid and does not impact the state budget otherwise. Obviously, once the LRF is depleted the LRF will no longer be able to meet its statutory obligations to pay claims. These proposed amendments conform this rule to H.B. 310 (2018), so these changes will not impact small businesses any more than the enrolled bill, which already has a fiscal note (available online at <https://le.utah.gov/~2018/bills/static/HB0310.html>). The only quantifiable impact small business will encounter is a savings of \$195 for every new contractor license applicant that previously required LRF assessment. This includes most contractor license applications. As this was a one-time initial assessment fee at initial licensure and as special assessments have been eliminated with H.B. 310, the small businesses that will experience savings will be any new applicant for contractor licensing after 05/08/2018, and the amount saved will be \$195 per applicant. Currently, most contractor license applicants are required to pay the one-time initial LRF assessment of \$195 per license. With an average of 20 to 30 new initial business contractor applications per work day (most of which have required the LRF assessment), the estimated savings for all applicants will be approximately \$1,365,000 per year.

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:

♦ Chris Rogers by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at [crogers@utah.gov](mailto:crogers@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 08/08/2018 08:30 AM, Heber Wells Bldg, 160 E 300 S, North Conference Room (first floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018

AUTHORIZED BY: Mark Steinagel, Director

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY2020	FY2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$1,365,000	\$1,365,000	\$1,365,000
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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:**

Most non-small business contractor license applicants will also save from the elimination of the one-time initial LRF assessment of \$195 per license. However, the full impact cannot be estimated because the data regarding how many new applicants will be non-small businesses is unavailable. There is no perceivable difference concerning the fiscal impact of these rule amendments on non-small business compared to small business. As a result, the fiscal impact to non-small business is noted to be the same as the impact to small business as noted above, and is not distinguished here.

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

**R156. Commerce, Occupational and Professional Licensing. R156-38a. Residence Lien Restriction and Lien Recovery Fund Rule.**

**R156-38a-102. Definitions.**

In addition to the definitions in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act; Title 58, Chapter 1, Division of Occupational and Professional Licensing Act; and Rule R156-1, General Rule of the Division of Occupational and Professional Licensing, which shall apply to this rule, as used in this rule:

(1) "Affidavit", as required by Subsection 38-11-110(2) (a), means a form affidavit approved by the Division [~~and posted on the Division's website or otherwise made available for public inspection,~~] that establishes the following:

- (a) the applicant is an owner as defined in Subsection 38-11-102(17);
- (b) the residence is an owner-occupied residence as defined in Subsection 38-11-102(18);
- (c) the amount of the general contract as defined in Subsection 38-11-107(1)(b)(i)(B) and clarified in Subsection R156-38a-102(14);
- (d) the original contractor as defined in Subsection 38-11-102(16);
- (e) the location of the residence; and
- (f) any other information necessary to establish eligibility for the issuance of a certificate of compliance under Subsection 38-11-110(2)(a), as determined by the Division.
- (2) "Affidavit of Compliance" means the affidavit submitted by the owner seeking issuance of a certificate of compliance under Subsection 38-11-110(1)(a)(ii).
- (3) "Applicant" means either a claimant, as defined in Subsection (4), or a homeowner, as defined in Subsection (8), who submits an application for a certificate of compliance.
- (4) "Claimant" means a person who submits an application or claim for payment from the fund.
- (5) "Construction project", as used in Subsection 38-11-203(4), means all qualified services related to the written contract required by Subsection 38-11-204(4)(a).
- (6) "Contracting entity" means an original contractor, a factory built housing retailer, or a real estate developer that contracts with a homeowner.
- (7) "During the construction", as used in Subsection 38-11-204(1)(c)(ii), means beginning at the time the claimant first provides qualified services and throughout the time frame the claimant provides qualified services.
- (8) "Homeowner" means the owner of an owner-occupied residence.
- (9) "Licensed or exempt from licensure", as used in Subsection 38-11-204(4) means that, on the date the written contract was entered into, the contractor held a valid, active license issued by the Division pursuant to Title 58, Chapter 55 of the Utah Code in any classification or met any of the exemptions to licensure given in Title 58, Chapters 1 and 55.
- (10) "Necessary party" includes the Division, on behalf of the fund, and the applicant.
- (11) "Owner", as defined in Subsection 38-11-102(17), does not include any person or developer who builds residences that are offered for sale to the public.
- (12) "Permissive party" includes:
  - (a) with respect to claims for payment: the nonpaying party, the homeowner, and any entity who may be required to reimburse the fund if a claimant's claim is paid from the fund;
  - (b) with respect to an application for a certificate of compliance: the original contractor and any entity who has demanded from the homeowner payment for qualified services.
- (13) "Qualified services", as used in Subsection 38-11-102(20) do not include:
  - (a) services provided by the claimant to cure a breach of the contract between the claimant and the nonpaying party; or
  - (b) services provided by the claimant under a warranty or similar arrangement.
- (14) "Totals no more", as used in Subsection 38-11-107(1)(b)(ii)(A), means the inclusion of all changes or additions.

- (15) "Written contract", as used in Subsection 38-11-204(4)(a)(i), means one or more documents for the same construction project which collectively contain all of the following:
  - (a) an offer or agreement conveyed for qualified services that will be performed in the future;
  - (b) an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and
  - (c) identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

~~**R156-38a-202a. Initial Assessment Procedures.**  
The initial assessment shall be a flat or identical assessment levied against all qualified beneficiaries to create the fund.~~

~~**R156-38a-202b. Special Assessment Procedures.**  
(1) Special assessments shall take into consideration the claims history against the fund.  
(2) The amount of special assessments shall be established by the Division and Board in accordance with the procedures set forth in Section 38-11-206-]~~

**R156-38a-301a. Contractor Registration as a Qualified Beneficiary - All License Classifications Required to Register Unless Specifically Exempted - Exempted Classifications.**

- (1) All license classifications of contractors are determined to be regularly engaged in providing qualified services for purposes of automatic registration as a qualified beneficiary, as set forth in Subsections 38-11-301(1) and (2), with the exception of the following license classifications:

Primary Classification Number	Subclassification Number	Classification
E100	[S211] P202	General Engineering Contractor
	[S213] P204	Boiler Installation Contractor
	S262	Industrial Piping Contractor
		Gunnite and Pressure Grouting Contractor
S320	S321	Steel Erection Contractor
		Steel Reinforcing Contractor
	S322	Metal Building Erection Contractor
		S323
S340	S441	Sheet Metal Contractor
S360		Refrigeration Contractor
S440		Sign Installation Contractor
S450	S441	Non Electrical Outdoor Advertising Sign Contractor
		Mechanical Insulation Contractor
		Petroleum System Contractor
S470	S441	Piers and Foundations Contractor
S480		General Engineering Trades Instructor
I101		General Building Trades Instructor
I102	S441	General Electrical Trades Instructor
I103		General Plumbing Trades Instructor
I104	S441	General Mechanical Trades Instructor
I105		General Mechanical Trades Instructor

~~[(2) A licensee with a license classification that requires registration in the fund whose license is on inactive status on the assessment date of any special assessment of the fund, is not required to pay the special assessment during the time the license remains on inactive status.~~

~~[(3) Before a licensee can reactivate the license, the licensee must pay any special assessment or assessments within the two years prior to the reactivation date.]~~

~~[R156-38a-302. Renewal and Reinstatement Procedures.~~

~~(1) Renewal notices required in connection with a special assessment shall be sent to each registrant at least 30 days prior to the expiration date for the existing registration established in the renewal notice. Unless the registrant pays the special assessment by the expiration date shown on the renewal notice, the registrant's registration in the fund automatically expires on the expiration date.~~

~~(2)(a) Renewal notices shall be sent by letter deposited in the post office with postage prepaid, addressed to the last address shown on the Division's records. Such mailing shall constitute legal notice. It shall be the duty and responsibility of the registrant to maintain a current mailing address with the Division; or~~

~~(b) If a registrant has authorized the Division to send a renewal notice by email, the email shall be sent to the last email address shown on the Division's records. Such mailing shall constitute legal notice. It shall be the duty and responsibility of the registrant to maintain a current email address with the Division.~~

~~(3) Renewal notices shall specify the amount of the special assessment, the application requirement, and other renewal requirements, if any; shall require that each registrant document or certify that the registrant meets the renewal requirements; and shall advise the registrant of the consequences of failing to renew a registration.~~

~~(4) Renewal applications must be received by the Division in its ordinary course of business on or before the renewal application due date in order to be processed as a renewal application. Late applications will be processed as reinstatement applications.~~

~~(5) A registrant whose registration has expired may have the registration reinstated by complying with the requirements and procedures specified in Subsection 38-11-302(5).]~~

**KEY: licensing, contractors, liens**

**Date of Enactment or Last Substantive Amendment:**  
~~[September 9, 2010]2018~~

**Notice of Continuation:** December 9, 2014

**Authorizing, and Implemented or Interpreted Law:** 38-11-101; 58-1-106(1)(a); 58-1-202(1)(a)

**Commerce, Occupational and  
Professional Licensing  
R156-42a  
Occupational Therapy Practice Act  
Rule**

**NOTICE OF PROPOSED RULE  
(Amendment)**

**DAR FILE NO.: 43017  
FILED: 06/25/2018**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Occupational Therapy Licensing Board (Board) recommends these proposed amendments to remove unnecessary repetition in this rule of education requirements that are already listed in the Utah Code, to clarify the examination requirements for licensure, and to provide easier practice re-entry through a reinstatement option for certain previously licensed occupational therapists (OTs) and occupational therapy assistants (OTAs).

**SUMMARY OF THE RULE OR CHANGE:** The Division of Occupational and Professional Licensing (Division) and Board propose deleting Section R156-42a-302b as unnecessary because it simply repeats the statutory language of Subsections 58-42a-302(1)(d) and (2)(d). In Section R156-42a-302d, these proposed amendments update the section to more clearly conform the stated exam requirements to the language of Subsections 58-42a-302(1)(f) and (2)(f), and to clarify that the Division will accept certification exams that were administered by a National Board for Certification in Occupational Therapy (NBCOT) predecessor organization. In Section R156-42a-303, as allowed by Subsection 58-1-308(5)(a)(ii)(B), these proposed amendments to this section will allow former Utah licensees whose licenses expired while active and in good standing, easier re-entry into practice by extending their reinstatement period from two years to five years. If these former licensees meet continuing education and certain other requirements, they may apply for reinstatement instead of being required to submit a new application for licensure, complete with all supporting documents as is required of an individual making an initial application for license, and demonstrating they meet all current qualifications for licensure.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-42a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** Deleting Section R156-42a-302b, and amending Section R156-42a-302d as proposed, will only clarify existing licensure requirements, so none of these proposed changes are expected to impact state government revenues or expenditures. These proposed amendments to Section R156-42a-303 may indirectly benefit some state agencies acting as businesses who employ OTs or OTAs, if these state agencies are able to more easily hire one or more experienced OTs or OTAs who have been able to reinstate their license and enter into practice. The full fiscal and non-fiscal impacts on these state agencies cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits the state agencies may experience from any

resulting employment will vary widely depending on the requirements of the agencies and the individual characteristics of each OT or OTA. No other fiscal impact to the state is expected, 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:** Deleting Section R156-42a-302b, and amending Section R156-42a-302d as proposed, will only clarify existing licensure requirements, so none of these proposed changes will alter the price or quantity of any exchanges between any parties. Accordingly, these amendments are not expected to impact local governments revenues or expenditures. These proposed amendments to Section R156-42a-303 may indirectly benefit local government entities acting as businesses who employ OTs or OTAs, if these entities are able to more easily hire one or more experienced OTs or OTAs who have been able to reinstate their license and enter into practice. The full fiscal and non-fiscal impacts on these local government entities cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits the local government entities may experience from any resulting employment will vary widely depending on the requirements of the entities and the individual characteristics of each OT or OTA.

♦ **SMALL BUSINESSES:** Deleting Section R156-42a-302b, and amending Section R156-42a-302d as proposed, will only clarify existing licensure requirements, so none of these proposed changes will alter the price or quantity of any exchanges between any parties. Accordingly, these amendments are not expected to impact small business revenues or expenditures. There are approximately 315 offices of specialty therapists in Utah that employ Occupational Therapy Assistants and Occupational Therapists in Utah, many of which offer occupational therapy services (NAICS 621340). These proposed amendments to Section R156-42a-303 may directly benefit small businesses owned by experienced OTs re-entering into practice, who may operate as private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others. These proposed amendments may also indirectly benefit these small businesses offering OT services if they are able to more easily hire one or more experienced OTs or OTAs. However, the full fiscal and non-fiscal benefits to these small businesses cannot be estimated because the data necessary to determine how many of the licensees returning to practice might operate small businesses of their own or be hired by small businesses is unavailable; and further, the resulting employment will vary widely depending on the nature of each small business and the individual characteristics of each OT or OTA.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Deleting Section R156-42a-302b, and amending Section R156-42a-302d as proposed, will only clarify existing licensure requirements, so none of these proposed changes will alter the price or quantity of any exchanges between any parties. Accordingly, these amendments are not expected to impact other persons. These proposed amendments will

allow easier re-entry into practice for persons formerly licensed as an OT or OTA in Utah whose license expired while active and in good standing. These amendments to Section R156-42a-303 will benefit these and future experienced OTs and OTAs who choose to re-enter into practice; however, the full fiscal and non-fiscal benefits for these persons cannot be estimated because the resulting employment will vary substantially depending on the individual choices and characteristics of each OT or OTA.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** These proposed amendments are not expected to impose any additional compliance cost on any affected person because these amendments only clarify existing requirements for licensure and are expected to result in positive fiscal impacts.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These proposed amendments to Sections R156-42a-302, R156-42a-302d, and R156-42a-303 remove unnecessary repetition in this rule of education requirements that are already listed in the Utah Code, clarify the examination requirements for licensure, and provide easier practice re-entry through a reinstatement option for certain previously licensed OTs and OTAs. Deleting Section R156-42a-302b, and amending Section R156-42a-302d as proposed, will only clarify existing licensure requirements, so none of these proposed changes will alter the price or quantity of any exchanges between any parties. Accordingly, these amendments are not expected to impact small businesses revenues or expenditures. There are approximately 315 offices of specialty therapists in Utah that employ OTAs and OTs, many of which offer occupational therapy services (NAICS 621340). These proposed amendments to Section R156-42a-303 may directly benefit small businesses owned by experienced OTs re-entering into practice, who may operate as private or group practices in their own offices (e.g. centers or clinics) or in the facilities of others. These proposed amendments may also indirectly benefit these small businesses offering OT services if they are able to more easily hire one or more experienced OTs or OTAs. However, the full fiscal and non-fiscal benefits to these small businesses cannot be estimated because the data necessary to determine how many of the licensees returning to practice might operate small businesses of their own or be hired by small businesses is unavailable; and furthermore, the resulting employment will vary widely depending on the nature of each small business and the individual characteristics of each OT or OTA.

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:  
 ♦ Jeff Busjahn by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at jbusjahn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:  
 ♦ 07/31/2018 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table\*

Fiscal Costs	FY 2019	FY2020	FY 2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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  
 Deleting Section R156-42a-302b and amending Section R156-42a-302d as proposed will only clarify existing licensure requirements, so none of these proposed changes will alter the price or quantity of any exchanges between any

parties. Accordingly, these amendments are not expected to impact non-small business revenues or expenditures.

For Section R156-42a-303, there are an estimated 351 non-small business facilities who offer occupational therapy services in Utah, such as general or specialty hospitals (NAICS 622110, 622310, 623210, 623220) or HMO medical centers (NAICS 621491). These proposed amendments may indirectly benefit these non-small business facilities if the facilities are able to more easily hire one or more experienced OTs or OTAs. However, the full fiscal and non-fiscal benefits to these non-small business facilities cannot be estimated because the resulting employment will vary widely depending on the requirements of each non-small business and the individual characteristics of each OT or OTA.

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

**R156. Commerce, Occupational and Professional Licensing.  
 R156-42a. Occupational Therapy Practice Act Rule.**

**~~[R156-42a-302b. Qualifications for Licensure - Education Requirements:~~**

~~The education requirements for licensure, in accordance with Section 58-42a-302, are established as follows:~~

~~(1) An applicant for licensure as an occupational therapist shall graduate from an occupational therapy program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education.~~

~~(2) An applicant for licensure as an occupational therapy assistant shall graduate from an occupational therapy assistant program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education.]~~

**R156-42a-302[d]. Qualifications for Licensure - Examination Requirements.**

The examination requirements for licensure, in accordance with Section 58-42a-302, are established as follows:

(1) An applicant for licensure as an occupational therapist shall pass the Occupational Therapist Registered (OTR) certification examination [for certification] from the National Board for Certification in Occupational Therapy (NBCOT), or a predecessor organization[as an occupational therapist registered].

(2) An applicant for licensure as an occupational therapy assistant shall pass the Certified Occupational Therapy Assistant (COTA) [hold current]certification examination from the National Board for Certification in Occupational Therapy (NBCOT), or a predecessor organization[as a certified occupational therapy assistant].

**R156-42a-303. Expiration, Renewal, and Reinstatement of License[ Cycle - Procedures].**

~~[(+)]~~In accordance with S[ubs]ection 58-1-308[ (+)]:

~~(1) [,-the]The~~ renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 42a is established ~~[by rule-]in R156-1-308a.~~

(2) Renewal and reinstatement procedures shall be in accordance with Sections R156-1-308[e]a through R156-1-308l except as provided in Subsection (3).

(3) An applicant whose licensure was active and in good standing at the time of expiration may apply for reinstatement

between two years and five years after the date of expiration, in accordance with the following practice re-entry requirements:

(a) Each applicant shall:

(i) submit an application demonstrating compliance with all requirements and conditions of license renewal;

(ii) pay all license renewal and reinstatement fees for the current renewal period;

(iii) submit evidence of completion of continuing education for each preceding renewal period in which the license was expired; and

(b) If the applicant has been out of practice three or more years, the applicant shall also:

(i) meet with the Board for evaluation of the applicant's qualifications for licensure; and

(ii) comply with additional licensure requirements or conditions considered necessary by the Division and Board to protect the public and ensure that the applicant is currently competent to engage in the profession.

**KEY: licensing, occupational therapy**

**Date of Enactment or Last Substantive Amendment: ~~June 8, 2017~~2018**

**Notice of Continuation: January 21, 2014**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-42a-101**

## Commerce, Real Estate R162-2f Real Estate Licensing and Practices Rules

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43012

FILED: 06/18/2018

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this proposed rule amendment is to amend and clarify the definition of owner for purposes of exemption from the requirements of the Real Estate Licensing and Practices Act, to amend and clarify the manner and content of qualifying experience points to be submitted to the Division of Real Estate (Division) by an applicant for licensure as a real estate broker, and to update and correct a reference citation.

**SUMMARY OF THE RULE OR CHANGE:** This proposed rule amendment includes: in Section R162-2f-200, amending and clarifying the definition of owner for purposes of exemption from the requirements of the Real Estate Licensing and Practices Act; in Section R162-2f-202b, amending and clarifying the manner and content of qualifying experience points to be submitted to the Division by an applicant for licensure as a real estate broker; in Section R162-2f-401f,

bringing up to date the date of approval of two lead-based paint forms approved for use by licensees; in Section R162-2f-401j, correcting a reference citation; and in Section R162-2f-501, amending and clarifying the manner and content of qualifying experience points to be submitted to the Division of Real Estate by an applicant for licensure as a real estate broker.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 61-2f-103 and Section 61-2f-202 and Section 61-2f-203

### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division has the staff and budget in place to administer this proposed amendment. One of the purposes of this proposed rule amendment is to amend and clarify the definition of owner for purposes of exemption from the licensing requirements of the Real Estate Licensing and Practices Act. An owner of real property is already exempt from the licensing requirements of the Real Estate Licensing and Practices Act. Another purpose of this proposed rule amendment is to amend and clarify the manner and number of documented experience points that a broker applicant may submit to the Division. It is expected that this proposed amendment will tend to lower the number of hours that Division staff will devote to reviewing the experience of an applicant to determine the applicant's qualification for licensure. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact, affect those resources, or result in any additional cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with, or enforce, the Real Estate Licensing and Practices rules. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to local governments.

◆ **SMALL BUSINESSES:** There is a large but unknown number of small businesses that own real property in the state of Utah. An owner of real property is exempt from the licensing requirements of the Real Estate Licensing and Practices Act. This proposed rule amendment does not create new obligations for an owner of real property nor does it increase the cost associated with any existing obligation. There are approximately 14,250 licensed real estate sales agents in the state. Any one of these sales agents may apply for licensure as a broker at some point in the future. This proposed rule amendment does not create new obligations for a broker applicant nor does it increase the cost associated with any existing obligation. This proposed amendment would simply amend and clarify the manner and content of qualifying experience points to be submitted to the Division by an applicant for licensure as a real estate broker. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is a large but unknown number of persons other than small businesses, businesses, or local government entities



that own real property in the state of Utah. An owner of real property is exempt from the licensing requirements of the Real Estate Licensing and Practices Act. This proposed rule amendment does not create new obligations for an owner of real property nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities that own real property in the state of Utah.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is a large but unknown number of persons who own real property in the state of Utah. An owner of real property is exempt from the requirements of the Real Estate Licensing and Practices Act. This proposed rule amendment does not create new obligations for an owner of real property nor does it increase the cost associated with any existing obligation. There are approximately 14,250 licensed real estate sales agents in the state. Any one of these sales agents may apply for licensure as a broker at some point in the future. This proposed rule amendment does not create new obligations for a broker applicant nor does it increase the cost associated with any existing obligation. This proposed amendment would simply amend and clarify the manner and content of qualifying experience points to be submitted to the Division by an applicant for licensure as a real estate broker. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** None of the foregoing amendments will result in a fiscal impact to small businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 COMMERCE  
 REAL ESTATE  
 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:  
 ♦ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2018

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018

AUTHORIZED BY: Jonathan Stewart, Director

**Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	FY 2019	FY 2020	FY 2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
	\$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**  
 There are a large but unknown number of large businesses that own real property in the state of Utah (NAICS #s 531110, 531120, 531130, 531190) in Utah. Owners are exempt from licensure under the Real estate Licensing and Practices Act and the Real Estate Licensing and Practices Rules. This proposed amendment defines "Owner" and clarifies the exemption. The full impact to these non-small businesses cannot be estimated as the necessary data are unavailable.

This Fiscal Analysis reviewed and approved by Francine A. Giani, Executive Director, Commerce Department.

**R162. Commerce, Real Estate.****R162-2f. Real Estate Licensing and Practices Rules.****R162-2f-200. Owner**

- (1) For purposes of Section 61-2f-202(1):
- (a) "owner" means a person who has:
- (i) a sole ownership interest in real estate, or
- (ii) an ownership interest in real estate as a joint tenant or a tenant in common;
- (b) "owner or lessor" does not include:
- (i) a person who holds an option to purchase real property;
- (ii) a mortgagee;
- (iii) a beneficiary under a deed of trust;
- (iv) a trustee under a deed of trust; or
- (v) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.
- (2) For purposes of Subsection 61-2f-202(1)(a)(i):
- (a) any person performing an act described in Subsection 61-2f-102(20) on behalf of an entity must be:
- (i) if the entity is a corporation, an officer or director of the corporation;
- (ii) if the entity is a limited liability company,
- (A) a member of a member-managed limited liability company, or
- (B) a manager of a manager-managed limited liability company;
- (iii) if the entity is a partnership, a partner of the partnership;
- (iv) if the entity is a limited partnership, a general partner of the limited partnership;
- (v) if the entity is a trust, a trustee of the trust;
- (vi) if the entity is an estate of a deceased individual, a court-appointed personal representative of the estate; or
- (vii) if the entity is the estate of an individual subject to a conservatorship, a court-appointed conservator of the estate.
- (b) A person who is an entity or organization not described in Subsections (1)(c)(i) through (vii) above is not exempt from licensure under Section 61-2f-202(1)(a)(i).

**R162-2f-202b. ~~Principal~~ Broker Licensing Fees and Procedures.**

- (1) To obtain a Utah license to practice as a ~~principal~~ broker, an individual shall:
- (a) evidence honesty, integrity, truthfulness, and reputation pursuant to Subsection R162-2f-201(1);
- (b) evidence competency to transact the business of real estate pursuant to Subsection R162-2f-201(2);
- (c)(i) successfully complete 120 hours of approved prelicensing education, including:
- (A) 45 hours of broker principles;
- (B) 45 hours of broker practices; and
- (C) 30 hours of Utah law and testing; or
- (ii) apply to the division for waiver of all or part of the education requirement by virtue of:
- (A) completing equivalent education as part of a college undergraduate or postgraduate degree program, regardless of the date of the degree; or
- (B) completing other equivalent real estate education within the 12-month period prior to the date of application;

(d)(i) apply with a testing service designated by the division to sit for the licensing examination; and

(ii) pay a nonrefundable examination fee to the testing center;

(e) pursuant to this Subsection (3)(a), take and pass both the state and national components of the licensing examination;

(f)(i) unless Subsection (2)(a) applies, evidence the individual's having, within the five-year period preceding the date of application either:

(A) three years full-time, licensed, active real estate experience; or

(B) two years full-time, licensed, active, real estate experience and one year full-time professional real estate experience from the optional experience table in Appendix 3; and

(ii) evidence having accumulated, within the five-year period preceding the date of application, a total of at least 60 documented experience points complying with R162-2f-401a, as follows:

(A) 45 to 60 points pursuant to the experience points tables found in Appendices 1 and 2, of which a maximum of 25 points may have been accumulated from the "All other property management" subsections of Appendix 2; and

(B) 0 to 15 points pursuant to the experience point table found in Appendix 3; ~~and~~

(iii) a minimum of one-half of the experience points from Tables 1 and 2 must derive from transactions of properties located in the state of Utah;

(iv) evidence of qualifying experience which the individual shall submit to the division by:

(A) selecting from the individual's total qualifying experience documented experience points for which the experience complies with the requirements in section R162-2f-401a; and

(B) submitting for review and approval by the division documentation of at least 60 documented experience points and no more than 80 documented experience points of the individual's qualifying experience; and

(v) ~~(iv)~~ if an individual submits evidence of experience points for transactions involving a team or group, experience points are limited to those transactions for which the individual is named in any written agency agreements and purchase and ~~or~~ lease contracts and the applicable experience points will be divided proportionally among the licensees identified in the agency agreements and ~~and/or~~ lease contracts;

(g) pursuant to this Subsection (3)(b), submit to the division an application for licensure including:

(i) documentation indicating successful completion of the approved broker prelicensing education;

(ii) a report of the examination showing a passing score for each component of the examination; and

(iii) the applicant's business, home, and e-mail addresses;

(h) provide from any state where licensed as a real estate agent or broker:

(i) a written record of the applicant's license history; and

(ii) complete documentation of any disciplinary action taken against the applicant's license;

(i) if applying for an active license, affiliate with a registered company;

(j) pay the nonrefundable fees required for licensure, including the nonrefundable fee required under Section 61-2f-505 for the Real Estate Education, Research, and Recovery Fund; and

(k) if applying for licensure as a principal broker, establish real estate and property management trust accounts, as applicable pursuant to Section R162-2f-403, that:

(i) contain the term "real estate trust account" or "property management trust account", as applicable, in the account name; and

(ii) are separate from any operating account(s) of the registered entity for which the individual will serve as a broker; and

(iii)(+) identify the location(s) where brokerage records will be kept.

(2)(a) If an individual applies under this Subsection R162-2f-202b within two years of allowing a [principal] broker license to expire, the experience required under Subsection (1)(f) shall be accumulated within the seven-year period preceding the date of application.

(b) Pursuant to Section R162-2f-407, an individual whose application is denied by the division for failure to meet experience requirements under this Subsection (1)(f) may bring the application before the commission.

(3) Deadlines.

(a) If an individual passes one test component but fails the other, the individual shall retake and pass the failed component:

(i) within six months of the date on which the individual achieves a passing score on the passed component; and

(ii) within 12 months of the date on which the individual completes the preclicensing education.

(b) An application for licensure shall be submitted:

(i) within 90 days of the date on which the individual achieves passing scores on both examination components; and

(ii) within 12 months of the date on which the individual completes the preclicensing education.

(c) If any deadline in this Section R162-2f-202b falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

(4) Restriction. A [principal] broker license may not be granted to an applicant whose sales agent license is on suspension or probation at the time of application.

(5) Dual broker licenses.

(a)(i) A person who holds or obtains a dual broker license under this Subsection may function as the principal broker of a property management company that is a separate entity from the person's real estate brokerage.

(ii) A dual broker may not conduct real estate sales activities from the separate property management company.

(iii) A principal broker may conduct property management activities from the person's real estate brokerage:

(A) without holding a dual broker license; and

(B) in accordance with Subsections R162-2f-401j and R162-2f-403a-403c;

(b) A dual broker who wishes to consolidate real estate and property management operations into a single brokerage may:

(i) at the broker's request, convert the dual broker license to a principal broker license; and

(ii)(A) convert the property management company to a branch office of the real estate brokerage, including the assignment of a branch broker and using the same name as the real estate brokerage; or

(B) close the separate property management company.

(c) As of May 8, 2013:

(i) the Division shall:

(A) cease issuing property management principal broker (PMPB) licenses;

(B) cease issuing property management company (MN) registrations except as to a second company registered under a dual broker license;

(C) convert any property management principal broker (PMPB) license to a real estate principal broker (PB) license; and

(D) as to any property management company (MN) registration that is not a second company under a dual broker license, convert the registration to a real estate brokerage (CN) registration; and

(ii) it shall be permissible to conduct real estate sales activities under any company registration that is converted pursuant to this Subsection (5)(c)(i)(C).

#### **R162-2f-401f. Approved Forms.**

(1) The following standard forms are approved by the commission and the Office of the Attorney General for use by all licensees:

(a) July 19, 2017, Real Estate Purchase Contract;

(b) January 1, 1987, Uniform Real Estate Contract;

(c) October 1, 1983, All Inclusive Trust Deed;

(d) October 1, 1983, All Inclusive Promissory Note Secured by All Inclusive Trust Deed;

(e) August 5, 2003, Addendum to Real Estate Purchase Contract;

(f) August 27, 2008, Seller Financing Addendum to Real Estate Purchase Contract;

(g) January 1, 1999, Buyer Financial Information Sheet;

(h) August 27, 2008, FHA/VA Loan Addendum to Real Estate Purchase Contract;

(i) January 1, 1999, Assumption Addendum to Real Estate Purchase Contract;

(j) August 1, 2018, [January 1, 1999,] Lead-based Paint Addendum to Real Estate Purchase Contract; [and]

(k) August 1, 2018, [January 1, 1999,] Disclosure & [and] Acknowledgment Regarding Lead-based Paint and/or Lead-based Paint Hazards; and [-];

(l) July 19, 2017, Deposit of Earnest Money With Title Company Addendum to Real Estate Purchase Contract.

#### **R162-2f-401j. Standards for Property Management.**

(1) Property management performed by a real estate brokerage, or by licensees or unlicensed assistants affiliated with the brokerage, shall be done under the name of the brokerage as registered with the division unless the principal broker holds a dual broker license and obtains a separate registration pursuant to Section R162-2f-205 for a separate business name.

(2) In addition to fulfilling all duties related to supervision per Section 61-2f-401(14)(+2), the principal broker of a registered entity, and the branch broker of a registered branch, shall implement training to ensure that each sales agent, associate broker, and unlicensed employee who is affiliated with the licensee has the knowledge and skills necessary to perform assigned property management tasks within the boundaries of these rules, including this Subsection R162-2f-401j(3).

(3) An unlicensed individual employed by a real estate or property management company may perform the following services under the supervision of the principal broker without holding an active real estate license:

- (a) providing a prospective tenant with access to a rental unit;
  - (b) providing secretarial, bookkeeping, maintenance, or rent collection services;
  - (c) quoting rent and lease terms as established or approved by the principal broker;
  - (d) completing pre-printed lease or rental agreements, except as to terms that may be determined through negotiation of the principals;
  - (e) serving or receiving legal notices;
  - (f) addressing tenant or neighbor complaints; and
  - (g) inspecting units.
- (4) Within 30 days of the termination of a contract with a property owner for property management services, the principal broker shall deliver all trust money to the property owner, the property owner's designated agent, or other party as designated under the contract with the property owner.

**R162-2f-501. Appendices.**

(1) When submitting evidence of qualifying experience which experience complies with the requirements in section R162-2f-401a as part of an application for licensure as a broker, an applicant shall select from the applicant's total qualifying experience at least 60 documented experience points and no more than 80 documented experience points for review and approval by the division.

(2)[(4)] When calculating experience points in Table 1, experience points for a transaction subject to an agency agreement other than an exclusive brokerage agreement as defined in Utah Code Subsection 61-2f-308(1)(d) are limited to one-quarter of the points described in Table 1.

(3)[(2)] When calculating experience points from Tables 1 and 2, experience points are limited to points for those activities which require a real estate license and comply with R162-2f-401a. A minimum of one-half of the points in Tables 1 and 2 must derive from transactions of properties located in the state of Utah.

TABLE 1  
APPENDIX 1 - REAL ESTATE SALES TRANSACTIONS  
EXPERIENCE TABLE

RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:

(a) One unit dwelling	2.5 points
(b) Two- to four-unit dwellings	5 points
(c) Apartments, 5 units or over	10 points
(d) Improved lot	2 points
(e) Vacant land/subdivision	10 points

COMMERCIAL

(f) Hotel or motel	10 points
(g) Industrial or warehouse	10 points
(h) Office building	10 points
(i) Retail building	10 points

TABLE 2  
APPENDIX 2 - LEASING TRANSACTIONS AND PROPERTY MANAGEMENT  
EXPERIENCE TABLE

RESIDENTIAL	
(a) Each property management agreement	1 point per unit up to 5 points
(b) Each unit leased	1.25 points per unit
*(c) All other property management	0.25 pt/month
COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building	
(a) Each property management agreement	1 point per unit up to 5 points
(b) Each unit leased	1.25 points per unit
*(c) All other property management	1 pt/month

\*When calculating experience points from Table 2, the total combined monthly experience credit claimed for "All other property management" combined, both residential and commercial, may not exceed 25 points in any application to practice as a real estate broker.

TABLE 3  
APPENDIX 3 - OPTIONAL EXPERIENCE TABLE

Real Estate Attorney	1 pt/month
CPA-Certified Public Accountant	1 pt/month
Mortgage Loan Officer	1 pt/month
Licensed Escrow Officer	1 pt/month
Licensed Title Agent	1 pt/month
Designated Appraiser	1 pt/month
Licensed General Contractor	1 pt/month
Bank Officer in Real Estate Loans	1 pt/month
Certified Real Estate Prelicensing Instructor	.5 pt/month

**KEY: real estate business, operational requirements, trust account records, notification requirements**

**Date of Enactment or Last Substantive Amendment: [January 1,] 2018**

**Notice of Continuation: August 12, 2015**

**Authorizing, and Implemented or Interpreted Law: 61-2f-103(1); 61-2f-105; 61-2f-203(1)(e); 61-2f-206(3); 61-2f-206(4)(a); 61-2f-306; 61-2f-307**

**Commerce, Real Estate**  
**R162-2g**  
**Real Estate Appraiser Licensing and**  
**Certification Administrative Rules**

**NOTICE OF PROPOSED RULE**  
**(Amendment)**  
**DAR FILE NO.: 43011**  
**FILED: 06/18/2018**

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The primary purpose of this proposed rule amendment is to adopt, in essence, recent changes approved by the Appraiser Qualifications Board (AQB) which became effective 05/01/2018. The AQB lowered the minimum standard for appraiser qualifications in the areas of appraiser experience and education required to qualify for a particular appraiser credential. The Utah Real Estate Appraiser Licensing and Certification Board (Appraiser Board) and the Utah Division of Real Estate (DRE) have carefully reviewed the new AQB standards and propose that current Utah standards be amended to reflect, in essence, the changes adopted by the AQB. In addition, the Appraiser Board and DRE propose an amendment to restrictions already in place for mass appraisers. The reason for these restrictions is that mass appraisers often focus on specific issues in appraisals and do not have the broader background to which fee appraisers are usually exposed.

**SUMMARY OF THE RULE OR CHANGE:** In Section R162-2g-304a, for state-licensed appraiser, this amendment reduces appraiser experience hours from 2,000 to 1,000; reduces the minimum time for accrual of experience from 12 months to 6 months for experience from appendices 1 and 2 and from 24 months to 12 months for experience from appendix 3; and reduces the amount of college education required. In Section R162-2g-304b, state-certified residential appraiser, this amendment reduces appraiser experience hours from 2,500 to 1,500; for applicants submitting experience from appendices 1 and 2, reduces the minimum time for accrual of experience from 24 months to 6 months; for applicants submitting experience from appendix 3, reduces the minimum time for accrual of experience from 36 months to 12 months; and reduces the amount of college education required. In Section R162-2g-304c, state-certified general appraiser, this amendment reduces the minimum time for accrual of experience from 30 months to 12 months for experience from appendices 1 and 2 and from 42 months to 18 months for experience from appendix 3; requires 1,500 experience hours be derived from non-residential appraisal experience; reduces the application fee for a state-certified residential appraiser who submits an application for certified-general status within 6 months of renewing the certification. In Section R162-2g-304d, this amendment eliminates a restriction of experience hours for an appraisal where only an exterior inspection is performed; changes the restriction from 250 hours to 50% for experience hours for the appraisal of vacant land; and establishes minimum experience hours for mass appraisal experience. In Section R162-2g-311, this amendment corrects typographical errors. In Section R162-2g-502a, this amendment reduces the minimum number of residential inspections and corrects a reference error.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 61-2g-201 and Section 61-2g-311 and Section 61-2g-312 and Section 61-2g-313 and Section 61-2g-314 and Section 61-2g-502

### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** DRE has the staff and budget in place to administer this proposed amendment. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact, affect those resources, or result in any additional cost or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** Local governments are not required to comply with, or enforce, the Real Estate Appraiser Licensing and Certification administrative rules. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to local governments.

♦ **SMALL BUSINESSES:** This proposed rule amendment does not create new obligations for small businesses, nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule amendment provides options other than required education from an accredited college or university, possibly affecting enrollment at these schools. It is likely that one or more of these schools will experience a fiscal cost associated with this rule amendment due to decreased enrollment. However, DRE cannot determine whether any individual applicant would choose education from one of these schools or from one of the available alternatives. Therefore, the full impact to these schools cannot be estimated as the necessary data is unavailable.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This proposed rule amendment provides additional options to appraiser candidates. The decreased experience and college education requirements provide options to appraiser candidates that allow them to qualify for a credential more quickly and possibly at a lower cost, which would result in a fiscal benefit to these appraiser candidates through time saved and lower education costs. However, DRE cannot determine whether an individual applicant would choose the minimum experience requirement or a less expensive education alternative. Therefore, the full fiscal benefit to appraiser candidates and the fiscal costs to affected accredited colleges and universities cannot be estimated. The necessary data is unavailable as the fiscal impact depends on the choices of the appraiser candidates. This proposed rule amendment would place restrictions on various types of experience hours for appraisers working in area of mass appraisals. Although this amendment does not require more total hours of experience, it is possible that an appraiser working in the field of mass appraisals may need a longer period of time to acquire the necessary breadth of experience to qualify for a credential. However, DRE cannot determine the choices an individual applicant would make among the options for experience available to the appraiser. Therefore, the fiscal impact to any one appraiser or to appraisers as a group cannot be estimated as the necessary data is unavailable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The primary purpose of this proposed amendment is to adopt changes approved by the AQB, which became effective 05/01/2018. The AQB lowered the minimum standard for appraiser qualifications in the areas of appraiser experience and education required to qualify for a particular appraiser credential. The Utah Real Estate Appraiser Licensing and Certification Board and the DRE have reviewed the new AQB standards and propose that current Utah standards be amended to reflect changes by the national AQB. This proposed amendment does not create new obligations for small businesses nor do they increase the cost associated with any existing obligations.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 COMMERCE  
 REAL ESTATE  
 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:  
 ♦ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2018

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018

AUTHORIZED BY: Jonathan Stewart, Director

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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**\*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**  
 There are accredited colleges and universities which are large businesses (NAICS 611310) in Utah. These businesses may be impacted by this proposed rule amendment due to the possibility of reduced enrollment. However, the Division of Real Estate cannot determine whether any individual appraiser candidate would choose education from an accredited college or university or from one of the available alternatives. Therefore, the fiscal impact to these non-small businesses cannot be estimated as the necessary data is unavailable and the fiscal impact depends on the educational choices of the appraiser candidates.

This Fiscal Analysis reviewed and approved by Francine A. Giani, Executive Director, Commerce Department.

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			

**R162. Commerce, Real Estate.  
 R162-2g. Real Estate Appraiser Licensing and Certification Administrative Rules.  
 R162-2g-304a. Application to Sit for the State-Licensed Appraiser Exam.**

- (1) An applicant to sit for the state-licensed appraiser exam shall provide the following to the division:
- (a) completed experience forms, as required by the division:
    - (i) documenting all experience hours completed by the applicant from the date of trainee registration to the date of application for licensure; and
    - (ii) evidencing at least 1,000[2,000] hours of appraisal experience:
      - (A) pursuant to Subsection R162-2g-304d;
      - (B) completed during the time when the applicant was registered with the division as a trainee; and
      - (C) accrued in no fewer than:
        - 1[(+)] 6[+2] months for applicants submitting experience primarily from Appendices 1 and 2, or

(II)(~~(ii)~~) 12[24] months for applicants submitting experience primarily from appendix 3;

~~[(b) evidence of having successfully completed 30 semester hours of college-level education from an accredited:~~

- ~~\_\_\_\_\_ (i) college;~~
- ~~\_\_\_\_\_ (ii) junior college;~~
- ~~\_\_\_\_\_ (iii) community college; or~~
- ~~\_\_\_\_\_ (iv) university;]~~

(b)(~~(e)~~) evidence of having successfully completed a state-licensed appraiser pre-licensing required core curriculum as described in Appendix 4, Table 1 and that has been certified by the division pursuant to Subsection R162-2g-307c; and

(c)(~~(f)~~) a nonrefundable application fee.

~~[(2) Applicants holding an Associate degree, or higher, from an accredited college, junior college, community college, or university satisfy the 30-hour college-level requirement.]~~

(2)(~~(3)~~) The pre-licensing curriculum required by Subsection (1)(b) shall be conducted by:

- (a) a college or university;
- (b) a community or junior college;
- (c) a real estate appraisal or real estate related organization;
- (d) a state or federal agency or commission;
- (e) a proprietary school;
- (f) a provider approved by a state certification and licensing agency; or

(g) the Appraisal Foundation or its boards.

(3)(~~(4)~~)(a) Upon determining that the applicant satisfies the education and experience requirements, the division shall issue to the applicant a form permitting the applicant to register for the examination.

(b) Upon being approved to register for the examination pursuant to this Subsection (3)(~~(4)~~)(a), an applicant shall:

- (i) return the examination application form to the testing service designated by the division; and
  - (ii) pay a nonrefundable examination fee to the testing service designated by the division.
- (c) The permission to register to sit for the examination shall be valid for 24 months after issuance.

**R162-2g-304b. Application to Sit for the State-Certified Residential Appraiser Exam.**

(1) An applicant to sit for the state-certified residential appraiser exam shall provide the following to the division:

(a) completed experience forms, as required by the division, evidencing at least 1,500[2,500] hours of total appraisal experience, at least 500 of which:

- (i) meet the requirements of Subsection R162-2g-304d;
- (ii) are completed during the time when the applicant is licensed as a state-licensed appraiser:
  - (A) with the division; or
  - (B) in another state, if licensure was required in that state at the time the appraisal was performed; and
  - (iii) are accrued in no fewer than:

(A) for applicants submitting experience primarily from appendices 1 and 2, 6[24] months from the date the applicant received the state-licensed appraiser credential;~~[became an appraiser trainee for applicants submitting experience primarily from appendices 1 and 2;]~~ or

(B) for applicants submitting experience primarily from appendix 3, 12[36] months from the date the applicant received the state-licensed appraiser credential;~~[became an appraiser trainee for applicants submitting experience primarily from appendix 3;]~~

(b) evidence of having completed at least one of the following six education options:

\_\_\_\_\_ (i) option 1: received a Bachelor's degree or higher in any field of study from an accredited college or university[?];

\_\_\_\_\_ (ii) option 2: received an Associate's degree from an accredited college or university in a field of study related to:

\_\_\_\_\_ (A) Business Administration;

\_\_\_\_\_ (B) Accounting;

\_\_\_\_\_ (C) Finance;

\_\_\_\_\_ (D) Economics; or

\_\_\_\_\_ (E) Real Estate;

\_\_\_\_\_ (iii) option 3: successful completion of 30 semester hours of college-level courses that cover each of the following specific topic areas and hours:

\_\_\_\_\_ (A) English composition (3 semester hours);

\_\_\_\_\_ (B) micro economics (3 semester hours);

\_\_\_\_\_ (C) macro economics (3 semester hours);

\_\_\_\_\_ (D) finance (3 semester hours);

\_\_\_\_\_ (E) algebra, geometry, or higher mathematics (3 semester hours);

\_\_\_\_\_ (F) statistics (3 semester hours);

\_\_\_\_\_ (G) computer science (3 semester hours);

\_\_\_\_\_ (H) business law or real estate law (3 semester hours); and

\_\_\_\_\_ (I) two elective courses in: accounting, geography, agricultural economics, business management, or real estate (3 semester hours each);

\_\_\_\_\_ (iv) option 4: successful completion of at least 30 hours of College Level Examination Program ® (CLEP®) examinations from the following subject matter areas:

\_\_\_\_\_ (A) College Algebra;

\_\_\_\_\_ (B) College Composition;

\_\_\_\_\_ (C) College Composition Modular;

\_\_\_\_\_ (D) College Mathematics;

\_\_\_\_\_ (E) Principals of Macroeconomics;

\_\_\_\_\_ (F) Principals of Microeconomics;

\_\_\_\_\_ (G) Introductory Business Law; and

\_\_\_\_\_ (H) Principals of Management

\_\_\_\_\_ (v) option 5: any combination of option 3 and option 4 that includes all of the topics identified in option 3; or

\_\_\_\_\_ (vi) option 6: no college-level education is required for appraisers who have held a state-licensed appraiser credential for a minimum of five years and have no record of any adverse, final, and non-appealable disciplinary action affecting the state-licensed appraiser's legal eligibility to engage in appraisal practice within the five years immediately preceding the date of application for a state-certified residential credential;

(c) evidence of having successfully completed a state-certified residential appraiser pre-licensing required core curriculum as described in Appendix 4, Table 1 and that has been certified by the division pursuant to Subsection R162-2g-307c; and

(d) except as provided in this Subsection (4)(a), a nonrefundable application fee.

(2) The pre-licensing curriculum required by Subsection(1) (c) shall be provided by:

- (a) a college or university;
- (b) a community or junior college;
- (c) a real estate appraisal or real estate related organization;
- (d) a state or federal agency or commission;
- (e) a proprietary school;
- (f) a provider approved by a state certification and licensing agency; or

(g) the Appraisal Foundation or its boards.

(3)(a) Upon determining that the applicant satisfies the education and experience requirements, the division shall issue to the applicant a form permitting the applicant to register for the examination.

(b) Upon being approved to register for the examination pursuant to this Subsection (3)(a), an applicant shall:

- (i) return the examination application form to the testing service designated by the division; and
- (ii) pay a nonrefundable examination fee to the testing service designated by the division.

(c) The permission to register to sit for the examination shall be valid for 24 months after issuance.

(4)(a) A state-licensed appraiser who, within six months of renewing the license, submits an application and consequently qualifies for certification shall not be required to pay the entire application fee but shall instead pay the difference between the renewal fee and the application fee.

(b) A certification that is obtained under this Subsection (4)(a) shall expire on the same date that the license was due to expire prior to the granting of certification.

#### **R162-2g-304c. Application to Sit for the State-Certified General Appraiser Exam.**

(1) An applicant to sit for the state-certified general appraiser exam shall provide the following to the division:

(a) completed experience forms, as required by the division, evidencing at least 3,000 hours of total appraisal experience, at least 1,000 of which:

- (i) meet the requirements of Subsection R162-2g-304d;
- (ii) are completed during the time when the applicant is licensed as a state-licensed appraiser or state-certified residential appraiser:

(A) with the division; or

(B) in another state, if licensure was required in that state at the time the appraisal was performed; ~~and~~

(iii) are accrued in no fewer than:

(A) ~~12~~30 months from the date the applicant received a state-licensed appraiser credential~~became an appraiser trainee~~ for applicants submitting experience primarily from appendices 1 and 2, or

(B) ~~18~~42 months from the date the applicant received a state-licensed appraiser credential~~became an appraiser trainee~~ for applicants submitting experience primarily from appendix 3; and

(iv) evidence that at least 1,500 experience hours are derived from non-residential appraisal experience.

(b) evidence of having received a bachelor's degree or higher degree from an accredited college or university;

(c) evidence of having successfully completed a state-certified general appraiser pre-licensing required core curriculum as described in Appendix 4, Table 1 and that has been certified by the division pursuant to Subsection R162-2g-307c; and

(d) except as provided in this Subsection (4)(a), a nonrefundable application fee.

(2) The pre-licensing curriculum required by Subsections (1)(c) shall be provided by:

- (a) a college or university;
- (b) a community or junior college;
- (c) a real estate appraisal or real estate related organization;
- (d) a state or federal agency or commission;
- (e) a proprietary school;
- (f) a provider approved by a state certification and licensing agency; or

(g) the Appraisal Foundation or its boards.

(3)(a) Upon determining that the applicant satisfies the education and experience requirements, the division shall issue to the applicant a form permitting the applicant to register for the examination.

(b) Upon being approved to register for the examination pursuant to this Subsection (3)(a), an applicant shall:

- (i) return the examination application form to the testing service designated by the division; and
- (ii) pay a nonrefundable examination fee to the testing service designated by the division.

(c) The permission to register to sit for the examination shall be valid for 24 months after issuance.

(4)(a) A state-licensed appraiser or a state-certified residential appraiser who, within six months of renewing the license or certification, submits an application and consequently qualifies for certified general status~~[certification]~~ shall not be required to pay the entire application fee but shall instead pay the difference between the renewal fee and the application fee.

(b) A certification that is obtained under this Subsection (4)(a) shall expire on the same date that the license was due to expire prior to the granting of certified general status~~[certification]~~.

#### **R162-2g-304d. Experience Hours.**

(1)(a) Except as provided in this Subsection (1)(b), appraisal experience shall be measured in hours according to the appraisal experience hours schedules found in Appendices 1 through 3.

(b)(i) An applicant who has experience in categories other than those shown on the appraisal experience hours schedules, or who believes the schedules do not adequately reflect the applicant's experience or the complexity or time spent on an appraisal, may petition the board on an individual basis for evaluation and approval of the experience as being substantially equivalent to that required for licensure or certification.

(ii) Upon a finding that an applicant's experience is substantially equivalent to that required for licensure or certification, the board may award the applicant an appropriate number of hours for the alternate experience.

(2) General restrictions.

(a) An applicant may not accrue more than 2,000 experience hours in any 12-month period.

(b) The board may not award credit for:

(i) appraisal experience earned more than five years prior to the date of application;

(ii) appraisals that were performed in violation of:

- (A) Utah law;
- (B) the law of another jurisdiction; or



(C) the administrative rules adopted by the division and the board;

(iii) appraisals that fail to comply with USPAP;

(iv) appraisals of the value of a business as distinguished from the appraisal of commercial real estate;

(v) personal property appraisals; or

(vi) an appraisal that fails to clearly and conspicuously disclose the contribution made by the applicant in completing the assignment.

(c) At least 50% of the appraisals submitted for experience credit shall be appraisals of properties located in Utah.

(d) With regard to experience hours claimed from the schedules found in Appendices 1 and 2, [

~~(i) appraisals where only an exterior inspection of the subject property is performed shall be granted 90% of the credit awarded an appraisal that includes an interior inspection of the subject property; and~~

~~(ii) no more than 25% of the total experience required for licensure or certification may be earned from appraisals where the interior of the subject property is not inspected.~~

(e) A maximum of 50% of required~~[250]~~ experience hours may be earned from appraisal of vacant land.

~~(f) [Appraisals on commercial or multi-unit form reports shall be awarded 75% of the credit normally awarded for the appraisal.~~

~~(g)~~ Experience gained for work without a traditional client may qualify for experience hours but cannot exceed 50% of the total experience requirement. Work without a traditional client includes the following:

(i) a client hiring an appraiser for a business purpose; or

(ii) a practicum course so long as the course is approved by the AQB Course Approval Program and, if the course is taught in Utah either live or by distance education, also approved by the division.

~~(g)~~~~(h)~~ An applicant may receive credit only for experience hours actually worked by the applicant and as limited by the maximum experience hours described in these rules.

(3) Specific restrictions applicable to trainees applying for licensure.

(a)(i) A registered trainee may not claim experience hours for any appraisal work performed after January 1, 2015 unless the trainee and the trainee's supervisor(s) have completed the division-approved Supervisory Appraiser and Appraiser Trainee Course prior to performing the work to be claimed.

(ii) A trainee and the trainee's supervisor who signs the experience log shall document on the log the specific duties that the trainee performs for each appraisal.

(b) For each duty performed, the trainee shall be awarded a percentage of the total experience hours that may be awarded for the property type being appraised:

(i) pursuant to the appraisal experience hour schedules found in Appendices 1 through 3; and

(ii) with the following limitations for Appendix 2:

(A) participation in highest and best use analysis: 10% of total hours;

(B) participation in neighborhood description and analysis: 10% of total hours;

(C) property inspection: 20% of total hours, pursuant to this Subsection (3)(c);

(D) participation in land value estimate: 20% of total hours;

(E) participation in sales comparison property selection and analysis: 30% of total hours;

(F) participation in cost analysis: 20% of total hours;

(G) participation in income analysis: 30% of total hours;

(H) participation in the final reconciliation of value: 10% of total hours; and

(I) participation in report preparation: 20% of total hours.

(J) The applicant may claim up to 100% of the total hours allowed for the tasks listed in this Subsection(A) through (I).

(c) In order for a trainee to claim credit for an inspection pursuant to this Subsection (3)(b)(ii)(C):

(i) as to the first 35 residential appraisals or first 20 non-residential appraisals completed, as applicable to the license or certification being sought, the inspection must include:

(A) exterior measurement of the relatively permanent structures located on the subject property that are designed or intended for support, enclosure, shelter, or protection of persons, animals, or property having a permanent roof supported by columns or walls; and

(B) inspection of the exterior of a property that is used as a comparable in an appraisal; and

(ii) as to appraisals after the first 35 residential appraisals or first 20 non-residential appraisals completed, as applicable to the license or certification being sought, the inspection must satisfy all scope of work requirements.

(d) No more than one-third of the experience hours submitted toward licensure may come from any one of the categories identified in this Subsection (3)(b)(ii).

(4) Specific restrictions applicable to applicants for certification.

(a) An individual who obtained a license from the division through reciprocity shall provide to the division all records necessary for the division to verify that the individual satisfies the experience requirements outlined in these rules.

(b) The board may not award credit:

(i) for any appraisal where the applicant cannot prove more than 50% participation in the:

(A) data collection;

(B) verification of data;

(C) reconciliation;

(D) analysis;

(E) identification of property and property interests;

(F) compliance with USPAP standards; and

(G) preparation and development of the appraisal report; or

(ii) to more than one licensed appraiser per completed appraisal, except as provided in this Subsection (5).

(c)(i) An individual applying for certification as a state-certified residential appraiser shall document at least 75% of the hours submitted from:

(A) the residential experience hours schedule found in Appendix 1; or

(B) the residential portion of the mass appraisal hours schedule found in Appendix 3.

(ii) No more than 25% of the total hours submitted may be from:

(A) the general experience hours schedule found in Appendix 2; or

(B) properties other than 1- to 4-unit residential properties identified in the mass appraisal hours schedule found in Appendix 3.

(d) An individual applying for certification as a state-certified general appraiser shall document at least 1,500 experience hours as having been earned from:

(i) the general experience hours schedule found in Appendix 2; or

(ii) properties other than 1- to 4-unit residential properties identified in the mass appraisal hours schedule found in Appendix 3.

(5) Specific restrictions applicable to mass appraisers.

(a) Single-property appraisals performed under USPAP Standards 1 and 2 by mass appraisers shall be awarded full credit pursuant to Appendices 1 and 2.

(b) Review and supervision of appraisals by mass appraisers shall be awarded credit pursuant to this Subsection (6)(b)-(c).

(c)(i) Mass appraisers and mass appraiser trainees who perform 60% or more of the appraisal work shall be awarded full credit pursuant to Appendix 3.

(ii) Mass appraisers and mass appraiser trainees who perform between 25% and 59% of the appraisal work shall be awarded 50% credit pursuant to Appendix 3.

(iii) Mass appraisers and mass appraisal trainees who perform less than 25% of the appraisal work shall be awarded no credit for the appraisal assignment.

(d) In addition to submitting proof of required experience and samples, randomly selected from the experience log, of work conforming to USPAP Standards 5 and 6:

(i) a state-licensed appraiser applicant whose experience is earned primarily through mass appraisal shall submit proof of having performed at least five appraisals conforming to USPAP Standards 1 and 2 equaling at least 65 experience hours;

(ii) a state-certified residential appraiser applicant whose experience is earned primarily through mass appraisal shall submit proof of having performed at least eight residential appraisals equaling at least 110 experience hours:

(A) conforming to USPAP Standards 1 and 2; and

(B) including at least two of each of the following property

types:

(I) vacant residential or agricultural land~~[property]~~;

(II) two- to four-unit dwelling;

(III) ~~[non-complex]~~ single-family unit; and

(IV) ~~[complex single-family unit]~~ complex one to four unit residential dwellings; and

(iii) a state-certified general appraiser applicant whose experience is earned primarily through mass appraisal shall submit proof of having performed at least eight appraisals from Appendix 2 conforming to USPAP Standards 1 and 2 equaling at least 300 experience hours.

(e) No more than 200 hours for qualification for a state-licensed credential, 500 hours for a state-certified residential credential, or 1,800 hours for a certified general credential ~~[60% of the total hours submitted for licensure or certification]~~ may be earned from any combination of appraisal assignments related to:

(i) property improvement inspection;

(ii) land segregation (division);

(iii) CAMA data entry; and

(iv) sale ratio study.

(f)(i) Mass appraisal of property with a personal property component of less than 50% of value shall be awarded full credit pursuant to Appendix 3 for the type of property appraised.

(ii) Mass appraisal of property with a personal property component of 50% to 75% of value shall be awarded 50% credit pursuant to Appendix 3 for the type of property appraised.

(iii) Mass appraisal of property with a personal property component greater than 75%, but less than 100%, shall be awarded 25% credit pursuant to Appendix 3 for the type of property appraised.

(iv) Mass appraisal of property with no real property component shall be awarded no credit.

(g) The appraisals submitted for review pursuant to this Subsection (5)(d) shall be selected from the applicant's most recent work.

(6) Special circumstances - condemnation appraisals, review appraisals, supervision of appraisers, other real estate experience, and government agency experience.

(a) Condemnation appraisals. A condemnation appraisal shall be awarded an additional 50% of the hours normally awarded for the appraisal if the condemnation appraisal includes a before-and-after appraisal because of a partial taking of the property.

(b) Review appraisals.

(i) Review appraisals shall be awarded experience credit when the appraiser performs technical reviews of appraisals prepared by employees, associates, or others, provided the appraiser complies with USPAP Standards ~~[Rule]~~ 3 and 4 when the appraiser is required to comply with the rule.

(ii) Except as provided in this Subsection (6)(e)(i), the following credit shall be awarded for review of appraisals:

(A) desk review: 30% of the hours that would be awarded if a separate written review appraisal report were prepared, up to a maximum of 500 hours; and

(B) field review: 50% of the hours that would be awarded if a separate written review appraisal report were prepared, up to a maximum of 500 hours.

(c) Supervision of appraisers. Except as provided in this Subsection (6)(e)(i), supervision of appraisers shall be awarded 20% of the hours that would be awarded to the appraisal, up to a maximum of 500 hours.

(d) Other real estate experience acceptable for certification.

(i) Provided that an applicant demonstrates to the satisfaction of the board that the applicant has the ability to arrive at a fair market value of property and to properly document value conclusions, the following activities may be used to satisfy up to 50% of the experience required for certification:

(A) preliminary valuation estimates;

(B) range of value estimates or similar studies;

(C) other real estate-related experience gained by:

(I) bankers;

(II) builders;

(III) city planners and managers; or

(IV) other individuals.

(ii) A comparative market analysis by an individual licensed under Section 61-2f et seq. may be granted up to 100% experience credit toward certification if:

(A) the analysis conforms with USPAP Standards Rules 1 and 2; and

(B) the individual demonstrates to the board that the individual uses similar techniques as appraisers to value properties and effectively utilize the appraisal process.

(iii) Except as provided in this Subsection (6)(e)(i), no more than 50% of the total experience required for certification may be

earned through any combination of experience described in this Subsection (6)(b)-(d).

(e) Government agency experience.

(i) An individual who obtains experience hours in conjunction with investigation by a government agency is not subject to the hour limitations of this Subsection (6).

(ii) In addition to submitting proof of required experience, an applicant whose experience is earned primarily in conjunction with investigations by government agencies and through review of appraisals, with no opinion of value developed, shall submit proof of having complied with USPAP Standards 1 and 2 in performing appraisals as follows:

(A) if applying for state-licensed appraiser with experience reviewing residential appraisals, five appraisals of one-unit dwellings;

(B) if applying for state-certified residential appraiser with experience reviewing residential appraisals, eight appraisals of one-unit dwellings; and

(C) if applying for state-certified general appraiser with experience reviewing appraisals of property types listed in Appendix 2, at least eight appraisals of property types identified in Appendix 2.

(7) The board, at its discretion, may request the division to verify the claimed experience by any of the following methods:

(a) verification with the clients;

(b) submission of selected reports to the board; and

(c) field inspection of reports identified by the applicant at the applicant's office during normal business hours.

#### **R162-2g-311. Scope of Authority.**

(1) Trainees.

(a) An individual who has properly qualified as a trainee pursuant to Subsection R162-2g-302 may perform appraisal-related duties within the competence and scope of authority of the state-certified supervisory appraiser as follows:

(i) participating in property inspections;

(ii) measuring or assisting in the measurement of properties;

(iii) performing appraisal-related calculations;

(iv) participating in the selection of comparable[s] properties for an appraisal assignment;

(v) making adjustments to comparable[s] properties; and

(vi) drafting or assisting in the drafting of an appraisal report.

(b) The trainee may have more than one supervisory appraiser.

(c) The supervising appraiser shall be responsible to determine the point at which a trainee is competent to participate in each of the activities identified in this Subsection (1)(a), within the following limitations:

(i) As to a minimum of the trainee's first 35 inspections of residential properties:

(A) the trainee shall be accompanied and supervised by a state-certified appraiser;

(B) both the interior and the exterior of the properties shall be inspected; and

(C) the appraisal report shall comply with the requirements of Subsection R162-2g-502a(1)(g).

(ii) After the trainee's first 35 inspections, the supervising appraiser shall determine whether the trainee has demonstrated sufficient competency to continue making inspections of residential properties without being accompanied by the supervising appraiser.

(iii) As to the trainee's first 20 inspections of non-residential properties:

(A) the trainee shall be accompanied and supervised by a state-certified general appraiser;

(B) both the interior and the exterior of the properties shall be inspected; and

(C) the appraisal report shall comply with the requirements of Subsection R162-2g-502a(1)(g).

(d) A trainee may not:

(i) solicit or accept an assignment on behalf of anyone other than:

(A) the trainee's supervisor; or

(B) the supervisor's appraisal firm;

(ii) sign an appraisal report or discuss an appraisal assignment with anyone other than:

(A) the appraiser responsible for the assignment;

(B) state enforcement agencies;

(C) third parties as may be authorized by due process of law; and

(D) a duly authorized professional peer review committee.

(e) The following are not subject to the scope of authority limitations of this Subsection (1):

(i) full-time elected county assessors; and

(ii) any person performing an appraisal for the purposes of establishing the fair market value of real estate for the assessment roll.

(2) State-licensed appraisers. In a federally-related transaction, state-licensed appraisers may appraise:

(a) non-complex one- to four-residential units having a transaction value of less than \$1,000,000;

(b) complex one- to four- residential units having a transaction value of less than \$250,000; and

(c) vacant or unimproved land that is utilized for one- to four-family purposes, or for which the highest and best use is one- to four-family purposes, so long as net income capitalization analysis is not required by the terms of the assignment.

(3) State-licensed appraisers and state-certified residential appraisers may not perform appraisals of the following:

(a) subdivisions for which:

(i) a development analysis/appraisal is necessary; or

(ii) a discounted cash flow analysis is required by the terms of the assignment; and

(b) vacant land if the highest and best use of the land is for five or more one- to four-family units.

#### **R162-2g-502a. Standards of Conduct and Practice.**

(1) Affirmative duties in general. A person registered, licensed, or certified by the division shall:

(a) if employing an unlicensed assistant who is not registered as a trainee pursuant to Subsection R162-2g-302:

(i) actively supervise the unlicensed assistant; and

(ii) ensure that the assistant performs only clerical duties, including:

(A) typing research notes or reports completed by a trainee or an appraiser;

(B) taking photographs of properties; and

(C) obtaining copies of public records;

(b)(i) except as provided in this Subsection (2)(a), comply with the current edition of USPAP; and

(ii) observe the advisory opinions of USPAP;

(c) in order to authorize another individual to sign an appraisal report on behalf of the individual who completes the report:

- (i) grant authority to the signer in writing;
- (ii) limit the signing authority to a specific property address;
- (iii) explicitly disclose within the appraisal report that the signer is authorized by the appraiser to sign the report on the appraiser's behalf;

(iv) attach a copy of the written permission required pursuant to this Subsection (1)(c)(i) to the report; and

(v) ensure that the signer signs the appraiser's name, followed by the word "by," and then followed by the signer's own name;

(d) if using a digital signature in place of a handwritten signature, ensure that:

(i) the software program that generates the digital signature has a security feature; and

(ii) no one other than the appraiser has control of the signature;

(e) retain a photocopy or other exact copy of each report as it is provided to the client, including the appraiser's signature;

(f) analyze and report the sales and listing history of the subject property for the three years preceding the appraisal if such information is available to the appraiser from a multiple listing service, listing agent(s), property owner, or other verifiable source(s);

(g)(i) include in each appraisal report a statement indicating whether or not the subject property was inspected as part of the appraisal process; and

(ii) if any inspections were done, include the following information concerning each inspection:

(A) the names of all appraisers and trainees who participated in the inspection;

(B) whether the inspection was an exterior inspection only or both an exterior and an interior inspection; and

(C) the date that the inspection was performed; and

(h) unless Subsection (2)(b) applies, respond within ten business days to division notification:

- (i) of a complaint against the individual; or
- (ii) that information is needed from the individual.

(2) Exceptions.

(a) An individual is exempt from complying with all provisions of USPAP when acting in an official capacity as:

(i) a division staff member or employee;

(ii) a member of the experience review committee as appointed and approved by the board;

(iii) a member of the technical review panel as appointed and approved by the board;

(iv) a hearing officer;

(v) a member of a county board of equalization;

(vi) an administrative law judge;

(vii) a member of the Utah State Tax Commission; or

(viii) a member of the board.

(b) If a deadline for response under this Subsection (1)(h) falls on a day when the division is closed, the deadline shall be extended to the next business day.

(3) A trainee shall:

(a) using forms provided by the division, maintain a separate log of experience hours for each supervising appraiser with whom the trainee works; and

(b) include in each log the following information for each appraisal:

(i) file number;

(ii) report date;

(iii) subject address;

(iv) client name;

(v) type of property;

(vi) report form number or type;

(vii) number of work hours;

(viii) description of work performed by the trainee; and

(ix) scope of the review and supervision of the supervising appraiser.

(4)(a) A supervisory appraiser shall delegate to a trainee only such duties as the trainee is authorized to perform under Subsection R162-2g-311(1).

(b) A supervisory appraiser shall directly train and supervise the trainee in the performance of assigned duties by:

(i) critically observing and directing all aspects of the appraisal process;

(ii) accepting full responsibility for the appraisal and the contents of the appraisal report by signing and certifying the appraisal complies with USPAP; and

(iii) reviewing and signing the trainee appraisal reports.

(c) A supervisory appraiser shall personally inspect:

(i) each property that is appraised with a trainee until the supervisory appraiser determines the trainee is competent to inspect the property in accordance with the competency rule of USPAP for the property type, and the trainee has performed at least:

(A) ~~35~~[40] residential inspections as provided in Subsection R162-2g-311(1)(c)(i)[~~R162-2g-311(1)(b)(i)~~]; and

(B) 20 non-residential inspections as provided in Subsection R162-2g-311(1)(b)(ii); and

(ii) any property for which the appraisal report scope of work or certification requires appraiser inspection.

(d) A supervisory appraiser shall be state-certified and in good standing with the division for a period of at least three years prior to being eligible to become a supervisory appraiser.

(e) An appraiser may not act as a supervisory appraiser if the appraiser has been subject to a disciplinary action in any jurisdiction:

(i) within the three year period preceding the date on which the appraiser proposes to act as a supervisor; and

(ii) where the supervisory appraiser's legal eligibility to engage in the appraisal practice was impacted or impaired.

(f) A supervisory appraiser subject to a disciplinary action will be considered to be in good standing three years after the successful completion or termination of the sanction imposed against the appraiser.

(g) A supervisory appraiser shall comply with the competency rule of USPAP for the property type and geographic location for which the trainee appraiser is being supervised.

(h) Although a trainee is permitted to have more than one supervisory appraiser, a supervisory appraiser may not supervise more than three trainees at one time, unless a division program provides for progress monitoring, supervisory certified appraiser qualifications, and supervision and oversight requirements for supervisory appraisers.

(i) An appraisal experience log shall be maintained jointly by the supervisory appraiser and the trainee. It is the responsibility of

both the supervisory appraiser and the trainee to ensure the experience log is accurate, current, and complies with division requirements.

(5) A school shall:

(a) maintain a record of each student's attendance for a minimum of five years after the student enrolls;

(b) display the certification number of all continuing education courses in advertising and marketing;

(c) as to each student who provides the school with an accurate name or license number, bank course completion information:

(i) within 10 days after the end of a course offering; and

(ii) to the database specified by the division;

(d) upon request of the division, substantiate any claim made in advertising or marketing;

(e) within 15 calendar days of any material change in the information outlined in R162-2g-307b(1), provide to the division written notice of the change;

(f) with regard to the criminal history disclosure required under R162-2g-307b(2)(c)(iii):

(i) obtain each student's signature before allowing the student to participate in course instruction;

(ii) retain each signed criminal history disclosure for a minimum of two years; and

(iii) make any signed criminal history disclosure available to the division upon request;

(g) maintain a high quality of instruction;

(h) adhere to all state laws and administrative rules regarding school and instructor certification;

(i) provide the instructor(s) for each course with the required course content outline;

(j) require instructors to adhere to the approved course content;

(k) comply with a division request for information within 10 business days of the date of the request; and

(l) verify that the material is current in any course taught on:

(i) Utah statutes;

(ii) Utah administrative rules;

(iii) Federal laws; and

(iv) Federal regulations.

(6) An instructor shall adhere to the approved outline for any course taught.

**KEY: real estate appraisals, school certification, instructor certification, education options**

**Date of Enactment or Last Substantive Amendment: [December 27, 2017] 2018**

**Notice of Continuation: August 18, 2016**

**Authorizing, and Implemented or Interpreted Law: 61-2g-201(2)(h); 61-2g-202(1); 61-2g-205(5)(c); 61-2g-307(3); 61-2g-401(5)**

**Health, Disease Control and  
Prevention, Environmental Services  
R392-501  
Labor Camp Sanitation**

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE NO.: 43014

FILED: 06/20/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** These amendments (new language) to Rule R392-501 simplify the rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The reenacted text of Rule R392-501 provides technical and conforming changes throughout the rule and removes unnecessary and repetitive language. The first change is to the title of the rule from "Labor Camp Sanitation" to "Temporary Labor Community Sanitation". Section R392-501-1 is a new section added to specify the statute under which this rule is authorized, and to explain the purpose of the rule. Section R392-501-2 is a new section added to describe individuals and businesses to whom this rule applies, and to specify exclusions to such. In Section R392-501-3, added definitions for: Building Code, Housing unit, Local health department, Local health officer, Manufactured home, Nuisance, Operator, Pest, Plumbing Code, Plumbing fixture, Premises, Sanitary, Toilet fixture, Vault privy, Vector, and Vermin; modified the definitions for Labor camp, and Service building; and removed the definition for Director. In Section R392-501-4, the Department of Health (Department) has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Substantive changes include the addition of a provision, similar to a "grandfather clause", that specifies that a construction change is not required in any portion of a temporary labor community that was in compliance before this rule goes into effect. Section R392-501-5 is a new section that specifies minimum construction and temperature requirements for buildings used for human habitation. Section R392-501-6 is a new section that specifies minimum sanitation standards for beds and bedding. Sections R392-501-7 and R392-501-8 were Sections R392-501-3 and R392-501-4 in the repealed rule and have been revised by rewording and restructuring these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Section R392-501-9 is a new section that specifies minimum provisions for the washing and drying of employee clothing. Section R392-501-10 is a new section that specifies the number of plumbing fixtures required in a labor community, as well as the cleaning and maintenance requirements of such. In Section R392-501-11, many of the provisions of this section are located in the repealed Section R392-501-5. This section specifies the operator's duty to supply provisions for hand washing and solid waste disposal. Section R392-501-12 is a new section that requires an operator to provide convenient access to handwashing facilities. This section has been included to

protect the environment and the health of laborers working in offsite locations, and to prevent a potential foodborne illness outbreak. Section R392-501-13 is the repealed Section R392-501-6 and has been modified by including the rewording and restructuring of the section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Section R392-501-14 is the repealed Section R392-501-7 and has been modified to make reference to Rule R392-100 for any food services provided by the operator for manufactured home community occupants. Section R392-501-15 also contains part of the repealed Section R392-501-7 and has been modified to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Section R392-501-16 is a new section and has been added to refer to Rule R392-302 for any swimming pool or spa provided by the operator for temporary labor community occupants. Section R392-501-17 is a new section that specifies the application of an authority granted a local health officer in Title 26A. Section R392-501-18 is a new section that specifies the application of an authority granted to a local health officer in Title 26A.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-5 and Section 26-15-2 and Section 26-7-1 and Subsection 26-1-30(23) and Subsection 26-1-30(9)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** Repealing and reenacting Rule R392-501 will not result in a cost or benefit to the state budget because the proposed rule changes do not require a change to state operations or programs, and the proposed reenacted text does not include requirements for the payment fines or fees.

◆ **LOCAL GOVERNMENTS:** Repealing and reenacting Rule R392-501 will not result in a direct cost or benefit to the local governments because no construction, equipment, or operational changes are required by this rule. The reenacted text does not include requirements for permit or inspection fees. Inspection frequency is not specified in this rule.

◆ **SMALL BUSINESSES:** Repealing and reenacting Rule R392-501 will likely not result in a cost or benefit to small businesses. There are two small Utah-based temporary labor community businesses operating in the state under the NAICS code of 311119 and 211120. The reenacted rule does not require a construction change to any portion of a temporary labor community that was in compliance with the law in effect at the time the community was constructed. In addition, the reenacted rule does not include fees such as inspection fees, or permit fees. Repealing and reenacting Rule R392-501 may result in an inestimable fiscal cost if, after the adoption of this rule, a business constructs a temporary labor community. The full impact to a business cannot be estimated, as the necessary data is unavailable because temporary labor community location, layout, number of housing units, number of employees, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing and reenacting Rule R392-501 will likely not result in a cost or benefit to any single person.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Affected persons may include owners and operators of small and non-small temporary labor community businesses that are newly constructed after this rule is repealed and reenacted.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Per the Division of Disease Control and Prevention, Environmental Services, repealing and reenacting Rule R392-501 will likely not result in a cost or benefit to small business. There are two small Utah-based temporary labor community businesses operating in the state under the NAICS code of 311119 and 211120. The reenacted rule does not require a construction change to any portion of a temporary labor community that was in compliance with the law in effect at the time the community was constructed. In addition, the reenacted rule does not include fees such as inspection fees, or permit fees. Also, affected persons may include owners and operators of small and non-small temporary labor community businesses that are newly constructed after this rule is repealed and reenacted.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at [chrisnelson@utah.gov](mailto:chrisnelson@utah.gov) or mail at PO Box 142104, Salt Lake City, UT 84114-2104

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2018**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018**

**AUTHORIZED BY: Joseph Miner, MD, Executive Director**

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
	\$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 Non-Small Businesses are described below.

**Appendix 2: Regulatory Impact to Non-Small Businesses**  
 There are no non-small businesses in the industry in question (NAICS 311119 and 211120) in Utah. Repealing and reenacting Rule R392-501 will not result in a cost or benefit to non-small business.

The head of Department of Health, Dr. Joseph Miner, has reviewed and approved this fiscal analysis.

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

**[R392-501. Labor Camp Sanitation:**

**R392-501-1. Definitions:**

~~Director~~ shall mean the Executive Director of the Utah Department of Health.

~~Labor Camp~~ shall mean one or more buildings, structures, tents or related facilities together with surrounding grounds set aside for use as living quarters for groups of migrant laborers or temporary housing facilities intended to accommodate construction, mining or demolition workers, etc.

~~Service Building~~ shall mean a building housing toilets, lavatories, bathing facilities, a service sink, and may also include laundry and such other facilities as may be required.

~~Wastewater~~ shall mean discharges from all plumbing facilities such as rest rooms, kitchen, and laundry fixtures, either separately or in combination.

**R392-501-2. General:**

~~2.1~~ It shall be the duty of each person operating a labor camp in the State of Utah to carry out the provisions of these regulations. Such person should also have the duty of controlling the conduct of camp occupants to this end, and should make at least one daily inspection of the entire camp while in operation, for these purposes. All camp toilet and washroom facilities shall be inspected as necessary.

~~2.2 Severability~~ If any provision of this code, or its application to any person or circumstance is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this code, shall not be affected thereby.

~~2.3~~ All applicable building, zoning, electrical, health, fire, and animal control codes and all local ordinances must be complied with.

~~2.4~~ Labor camp sites shall be constructed to provide adequate surface drainage and shall be isolated at least 100 feet from barnyards, corrals and any existing or potential health hazard or nuisance.

**R392-501-3. Water Supply:**

~~3.1~~ Potable water supply systems for labor camp occupants shall meet the requirements of the State of Utah rules and regulations relating to public drinking water supplies.

~~3.2~~ In addition to the requirements of the rules and regulations relating to public drinking water supplies, the design of water system facilities shall be based on the suppliers engineer's estimates of water demands, but shall in no case be less than the following:

~~Source Capacity~~ -50 gallons per day per person.

~~Storage Volume~~ -25 gallons per person.

~~Distribution System Capacity~~ shall maintain a water system pressure in excess of 20 psi at all points in the distribution system during peak hourly flow conditions. Non-community systems in remote areas can be exempted from this requirement, on a case-by-case basis, if flow from the system is always unregulated and free-flowing. The peak hourly flow should be calculated for the number of fixture units presented in the Utah Plumbing Code.

~~Other exceptions~~ to the above requirements may be permitted on a case-by-case basis as permitted by the State of Utah public drinking water rules.

~~3.2.1~~ The source and storage requirements as indicated above do not include water demands for outside use or fire protection. However, if the culinary system is intended to provide water for such uses, the water requirements indicated above must be appropriately increased. Specific information on watering requirements (e.g. area of land to be irrigated) must be provided for Department of Health review.

~~3.3~~ Construction of a public drinking water supply system intended to serve occupants of any labor camp shall not commence until plans prepared by a licensed professional registered engineer (in accordance with Title 58, Chapter 22, Professional Engineers, and Land Surveyors Licensing Act) have been submitted to and approved in writing by the Utah Department of Environmental Quality. Following construction, the system may

not be placed in service until a final inspection is made by a representative of the Utah Department of Environmental Quality or local health department having jurisdiction:

3.3.1 All systems must be monitored in accordance with the State of Utah public drinking water rules, and in cooperation with the local health department having jurisdiction:

3.4 Any culinary system or portion thereof that is drained seasonally must be cleaned, flushed, and disinfected prior to use. Furthermore, a water sample of satisfactory bacteriologic quality, i.e. a sample showing not more than one coliform bacteria per 100 ml sample must be obtained before being placed into service.

3.4.1 Systems operated on a seasonal basis may be required to sample for bacteriologic analysis at an accelerated frequency as determined by the Director or director of the local health department having jurisdiction:

3.5 In any labor camp where it is infeasible to pipe water into the area, an alternate supply may be permitted upon approval of the Director or director of the local health department having jurisdiction:

#### **R392-501-4. Wastewater Disposal:**

4.1 All wastewater shall be discharged to a public sewer system where accessible and within 300 feet of the labor camp property line:

4.2 Where connection to a public sewer is not available, wastewater shall be discharged into a wastewater disposal system meeting requirements of the State of Utah rules for waste disposal. Unless water usage rates are available, design shall be based on not less than 50 gallons per day per person.

4.3 All plans for the construction or alteration of a wastewater disposal system shall initially be submitted to the local health department having jurisdiction. Where plan approval is required by law to be provided by the State Department of Environmental Quality, such plans will be forwarded by the local authority along with any appropriate comments. Construction or alteration of the disposal system shall not commence until the plans have been approved in writing by the appropriate health agency.

#### **R392-501-5. Plumbing:**

5.1 Adequate plumbing fixtures shall be available to all labor camp occupants as required below:

5.2 Wherever toilet facilities for males and females are located in the same building, and adjacent to each other, they shall be separated by a sound-resistant wall. Direct line of sight to each rest room entrance shall be effectively obstructed:

5.3 Soap and toilet tissue in suitable dispensers, and individual towels or other approved hand drying facilities shall be provided in rest rooms. The use of common towels in connection with such facilities is prohibited except in single-family quarters:

5.4 Suitable waste receptacles with lids shall be provided for each rest room:

5.5 Plumbing fixtures which normally require water for their operation shall be supplied with an adequate potable water supply under pressure. Water will be provided for showers and lavatories at a minimum temperature of 90 degrees F:

5.6 In camps where dormitory type facilities are provided or where individual family units are not plumbed, sanitary type drinking fountains shall be conveniently located:

5.7 All service buildings shall:

5.7.1 Be located not less than 15 feet and not more than 500 feet from any sleeping quarters served:

5.7.2 Where practical, be of permanent construction, and be provided with adequate light, heat and ventilation:

5.7.3 Have interiors of smooth, moisture-resistant material, to permit frequent washing and cleaning:

5.7.4 Have all outer openings effectively screened:

5.7.5 Where electric power is available, service buildings shall be provided with outside lighting to indicate the location and entrance doorways of each:

5.8 Where water cannot be made available, exceptions to the above requirements may be granted upon approval of the Director or local health authorities having jurisdiction. Separate facilities for men and women are not required in single-family quarters:

5.9 All plumbing in labor camps shall comply with provisions of the Utah Plumbing Code, and applicable local plumbing codes:

5.10 Essential laundering facilities shall be available to camp occupants and if included as part of the labor camp facilities, shall provide for each 40 occupants, or fraction thereof, at least one laundry tray, washtub, or washing machine served with an adequate supply of water.

#### **R392-501-6. Maintenance:**

6.1 All buildings, rooms and equipment and the grounds surrounding them shall be maintained in a clean and operable condition and be protected from rubbish accumulation:

6.2 All necessary means shall be employed to eliminate and control any infestations of insects and rodents within all parts of any labor camp. This shall include approved screening or other control of outside openings in structures intended for occupancy or food service facilities:

6.3 Each structure made available for occupancy shall be of sound construction, shall assure adequate protection against weather, and shall include essential facilities to permit maintenance in a clean and operable condition. Comfort and safety of occupants shall be provided for by adequate heating, lighting, ventilation or insulation when necessary to reduce excessive heat. Total window area in permanent structures should be equal to at least 10 percent and in no case less than 5 percent of the floor area. Windows shall be openable or mechanical ventilation must be provided:

6.4 Each structure made available for occupancy shall comply with the requirements of the Uniform Building Code. This section shall not apply to tent camps:

6.5 In dormitory type facilities, beds shall be separated by a horizontal distance of at least five (5) feet, reducible to three (3) feet if beds are alternated head to foot, except in the case of double deck bunks, which shall have a minimum horizontal separation of six (6) feet under all circumstances. If suitable permanent partitions are installed between beds, spacing requirements may be modified upon approval of the Director or director of the local health department having jurisdiction:

6.6 Each bed, bunk, cot or other sleeping facility for use by occupants shall be maintained in a sanitary condition. Mattresses, mattress covers, quilts, blankets, pillows, pillow slips, sheets, comforters, and other bedding shall be kept clean and in good repair. Bedding shall be made available to each occupant not furnishing his own. Pillows shall have pillow slips and sheets shall



~~be large enough to completely cover mattresses. Bedding shall be changed daily or in between occupant use.~~

~~6.7 Floors, walls and ceilings in permanent and semi-permanent structures shall be of smooth, nonabsorbent, easily cleanable materials, kept clean and in good repair.~~

~~6.8 All combustion type room heating devices shall be supplied with proper vent pipes. Gas-fired facilities shall meet standards of the American Gas Association.~~

**~~R392-501-7. Food Service.~~**

~~7.1 All food, food service employees, ice, vending machines, food storage, preparation and serving facilities made available by the camp management except those restricted to individual or single family quarters shall comply with R392-100.~~

~~7.2 Where occupant is permitted or required to cook his own food, a space for kitchen facilities shall be provided, and shall be equipped with a cooking stove in good working order and with adequate and sufficient fuel, a kitchen sink, a refrigerator and convenient storage space for food and necessary utensils. All food items provided by camp management shall be wholesome and suitable for human consumption.~~

**~~R392-501-8. Solid Wastes.~~**

~~8.1 Solid wastes originating in any labor camp shall be stored in a sanitary manner, in watertight containers with lids, or the equivalent, approved by the local health department. The containers shall be conveniently located and the contents shall be disposed of in a manner approved by the state or local health department having jurisdiction.]~~

**~~R392-501. Temporary Labor Community Sanitation.~~**

**~~R392-501-1. Authority and Purpose.~~**

~~(1) This rule is authorized under Sections 26-1-5, 26-1-30(9), 26-1-30(23), 26-7-1, and 26-15-2.~~

~~(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a temporary labor community, as defined by this rule, and provides for the prevention and control of health hazards associated with a temporary labor community that are likely to affect individuals dwelling temporarily therein including risk factors contributing to injury, sickness, death, and disability.~~

**~~R392-501-2. Applicability.~~**

~~This rule applies to any person who owns or operates a temporary labor community in Utah, unless specifically exempted. This rule applies to the repair, maintenance, use, operation, and occupancy of temporary labor communities designed, intended for use, or otherwise used for temporary human habitation in Utah. This rule does not apply to recreational camping, recreational vehicle parks, or manufactured home communities.~~

**~~R392-501-3. Definitions.~~**

~~For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:~~

~~(1) "Building Code" means International Building Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.~~

~~(2) "Housing unit" means living quarters, including housing accommodations, rooming houses, dormitories and manufactured homes, maintained directly or indirectly in connection with any work~~

of or place where work is being performed by seasonal or temporary workers whether or not rent is paid or reserved for use or occupancy. The term includes the facilities necessary to or associated with the buildings; and any area or site set aside and provided for camping of seasonal or temporary workers. The term does not include buildings reserved exclusively for the personal use of the landowner or employer, including the primary residence, which may also serve as housing for family members and friends of the family.

(3) "Local health department" has the same meaning as provided in Section 26A-1-102(5).

(4) "Local health officer" means the health officer of the local health department having jurisdiction, or designated representative.

(5) "Manufactured home" means a factory assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its own running gear and designed to be used as a dwelling unit without a permanent foundation. A modular home transported on wheels to its foundation is not a manufactured home.

(6) "Nuisance" means a condition or hazard, or the source thereof, which may be deleterious or detrimental to the health, safety, or welfare of the public.

(7) "Operator" means a person with ownership or overall responsibility for managing or operating a labor community.

(8) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use that threatens the health or well-being of the public.

(9) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(10) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises.

(11) "Premises" means any lot, parcel, or plot of land, including any buildings or structure.

(12) "Sanitary" means the condition of being free from infective, physically hurtful, diseased, poisonous, unwholesome, or otherwise unhealthful substances and being completely free from vermin, vectors, and pests and from the traces of either, and free of harborage for vermin, vectors, or pests.

(13) "Service building" means a structure located within a labor community that contains toilet, hand sink, bathing, laundry, or recreational facilities.

(14) "Temporary labor community" or "Labor community" means one or more buildings, structures, tents or related facilities together with surrounding grounds designed, constructed, or used or intended for use as living quarters or housing facilities to temporarily accommodate groups such as seasonal migrant laborers or construction, exploration, mining, or demolition workers, etc.

(15) "Toilet fixture", as defined in this rule, means:

(a) a water flush toilet that discharges to a public sanitary sewer system or an approved onsite wastewater disposal system;

(b) a privy seat in a vault privy; or

(c) a chemical toilet in a portable restroom.

(16) "Vault privy" - means a toilet facility wherein the waste is deposited without flushing into a permanently-installed, watertight

vault or receptacle. Vault wastes is periodically removed and disposed of in accordance with Rule R317-560.

(17) "Vector" means any organism such as an insect or rodent that transmits a pathogen that can adversely affect public health.

(18) "Vermin" means rats, mice, cockroaches, bedbugs, flies, or any other pest or vector as determined by the local health officer to be harmful to the life, health, or welfare of the public.

(19) "Wastewater" means discharges from all plumbing facilities including rest rooms, kitchen, and laundry fixtures either separately or in combination.

#### **R392-501-4. General.**

(1) This rule does not require a construction change in any portion of a labor community if the community was in compliance with the law in effect at the time the community was constructed, except as in R392-501-4(1)(a).

(a) The local health officer may require construction changes if it is determined the labor community or portion thereof is dangerous, unsafe, unsanitary, a nuisance or menace to life, health, or property.

(2) Severability - If any provision of this code, or its application to any person or circumstance is declared invalid, the application of such provision to other person or circumstances, and the remainder of this code, shall not be affected thereby.

(3) The operator shall carry out the provisions of this rule.

(4) The operator shall comply with all applicable building, zoning, electrical, health, fire codes and all local ordinances.

(5)(a) An operator shall select or construct a location for the labor community that will provide adequate surface drainage.

(b) All sites used for labor communities shall be adequately drained. They shall not be subject to areas of periodic flooding, nor located within 200 feet of swamps, pools, sink holes, or other surface collections of water unless such stagnant water surfaces are subjected to continued mosquito control measures.

(c) The labor community shall be located so the drainage from and through the community will not endanger any domestic or public water supply.

(d) All sites shall be graded, ditched, and rendered free from depressions in which water may become a nuisance.

(e) The operator shall make a reasonable effort to locate the labor community away from any known existing public health nuisance.

(6) For a labor community employing and housing ten or more individuals, the operator shall be on duty within the community premises or on call at all times that the labor community is occupied or shall designate a manager or attendant to do so.

(7) No labor community shall be operated for longer than one year without approval of the local health officer.

(8) In labor communities where dormitory type housing facilities are provided or where any occupied housing unit is not equipped with operable plumbing fixtures, the operator shall construct and maintain a service building according to the requirements of Section R392-501-11.

#### **R392-501-5. Housing Requirements.**

(1) Housing for workers and their families shall be limited to one of the following:

(a) a building used exclusively for the purpose of human habitation;

(b) a fully-partitioned room in a building used for purposes other than human habitation, provided that persons may not be housed in buildings used for the shelter of livestock;

(c) a manufactured home approved by the local health officer; or

(d) a dormitory or sleeping room shared by workers, which shall be separate for each sex.

(2) Every housing foundation, exterior and interior wall, floor, ceiling, roof, gutter, leader and downspout, stairway, door and appurtenances thereto shall be

(a) constructed in accordance with Building Code; and

(b) maintained in sound condition and in good repair.

(3) The floors of habitable rooms, hallways, corridors, toilet rooms, laundries, pantries and storage areas shall meet the following requirements:

(a) Wooden floors shall be elevated a minimum of 12 inches above ground level at all points;

(b) Every toilet room, shower room, laundry room, and kitchen wall and ceiling surface shall be constructed and maintained reasonably impervious to water;

(c) Floor to wall junctures shall be coved and sealed in toilet rooms, shower rooms, laundry rooms, and kitchens;

(d) Floor surfaces within two feet of the toilet or urinal shall be smooth, non-absorbent, and easily cleanable;

(e) Floor drains shall be provided in all showers, baths, shower rooms, and laundry rooms; and

(f) Minimum ceiling height, usable space, and habitable room size shall be constructed in compliance with Building Code.

(4)(a) Every habitable room shall be provided with windows that are weathertight, operable and in good repair and shall be openable except where the operator has supplied an operable mechanical ventilation device.

(b) Properly fitted screens of at least 16 mesh shall be provided for every openable window.

(5)(a) Exterior doors shall be weathertight and in sound operating condition.

(b) If the doorway is used for ventilation, a tight fitting screen door with a self-closing device shall be provided.

(6) Interior spaces intended for human occupancy shall be provided with active or passive space heating systems capable of maintaining an indoor temperature of not less than 68 degrees F at a point three feet above the floor.

(a) Space heating systems are not required for interior spaces that are only inhabited during the summer months.

(7)(a) The operator shall provide water heating equipment capable of heating water to a minimum temperature of 110 degrees F, and shall maintain such in proper operating condition.

(b) The operator shall supply hot water to kitchens, hand sinks, showers, tubs and laundry fixtures.

(8) Unvented or unventable heaters employing a flame are prohibited.

#### **R392-501-6. Sleeping Room Contents.**

(1) The operator shall provide each occupant of the labor community with:

(a) a bed and mattress with an impermeable mattress cover; or

(b) a cot.

(2) Each provided bed or cot shall be maintained in a sanitary condition and in good repair.

(3) The operator shall ensure that mattresses, mattress covers, quilts, blankets, pillows, pillowcases, sheets, bedcovers, and other bedding are kept clean and in good repair.

(4) Beds or cots shall be elevated at least 12 inches from the floor.

(5) In open bay type sleeping areas containing four or more beds, the operator shall separate beds by a horizontal distance of at least five feet, reducible to three feet if beds are alternated head to foot, except in the case of double stacked bunks, which shall have a minimum horizontal separation of six feet under all circumstances. If partitions are utilized to preclude face-to-face exposure between beds, spacing requirements may be modified to a minimum separation distance of three feet between adjacent beds upon approval of the local health officer.

(6) Triple deck bunks are prohibited.

(7) The operator shall provide each labor community occupant with suitable storage facilities in the sleeping room area. The following are acceptable:

(a) lockers or closets;

(b) three feet of rod and shelving; or

(c) a dresser or equivalent storage space.

#### **R392-501-7. Water Supply.**

(1)(a) The operator shall ensure that the labor community and each service building provided with plumbing fixtures is supplied with adequate and convenient potable water for drinking, cooking, washing of foods, washing of cooking or eating utensils, washing of food preparation or processing areas, hand washing, and bathing.

(b) A water supply shall be capable of delivering a minimum of 35 gallons per person per day.

(c) Water outlets shall be distributed throughout the community in such a manner that no housing unit is more than 100 feet from a water faucet (i.e. spigot) if water is not piped directly to the housing unit.

(2) Potable water supply systems for use by labor community occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309; and

(c) local health department regulations.

(3) If a labor community experiences or will experience a disruption of potable water or sewer service for more than four hours, for any reason:

(a) The operator shall notify the local health officer within one hour of becoming aware of the service disruption, and;

(b) The operator shall have a backup water supply plan, which shall:

(i) provide for two liters of water per day per person for drinking, and;

(ii) include a strategy for either relocating laborers or providing the following services, as approved by the local health officer:

(A) an alternative source of potable water; and

(B) an alternative process for the disposal of human waste.

(4) Outlets for non-potable water, such as water for industrial or firefighting purposes, shall be posted or otherwise marked in a manner that will indicate clearly that the water is unsafe and is not to be used for any purpose detailed in Subsection R392-501-5(1)(a)

(5) In labor communities as described in Subsection R392-501-4(8), one drinking fountain shall be provided for each 100 occupants or fraction thereof, except as in R392-501-7(6).

(a) Drinking fountains shall be equipped with a pressure regulating valve and shall be maintained in a sanitary manner.

(6) If the provision of a drinking fountain is impractical as determined by a local health officer, the operator shall provide:

(a) commercially bottled water; or

(b) an adequate supply of single service drinking cups to be used in conjunction with a drinking water dispenser as follows:

(i) Common drinking cups are prohibited.

(ii) Suitable waste containers shall be provided for discarded single service drinking cups.

(iii) Drinking water dispensers shall be:

(A) filled only with potable drinking water;

(B) designed, constructed, and serviced so that sanitary conditions are maintained;

(C) capable of being closed;

(D) equipped with a tap; and

(E) clearly marked as to the nature of its contents and not used for any other purpose.

(iv) Open containers such as barrels, pails, or tanks for drinking water from which the water must be dipped or poured, are prohibited, whether or not they are fitted with a removable cover.

(7) The operator may be required to sample water systems operated on a seasonal basis for bacteriologic analysis, as determined by the local health officer.

#### **R392-501-8. Wastewater Disposal Requirements.**

(1) The operator shall make sewer service available to a labor community.

(2) Sewer systems for use by community occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Water Quality under Title R317;

(c) local health department regulations; and

(d) the local sewer district having jurisdiction.

(3) All wastewater shall be discharged to a public sanitary sewer system whenever practicable.

(4) Where connection to a public sanitary sewer is not practicable, wastewater shall be discharged to:

(a) an approved onsite wastewater disposal system;

(b) a permitted holding tank; or

(c) a vault privy which shall be located, constructed, and maintained according to the requirements of Rule R317-560 and local health department regulation in such a manner that:

(i) users do not contact waste matter deposited;

(ii) access to the privy interior or vault is minimized for flies, insects, rats, and other animals;

(iii) surface or ground water cannot enter the vault, either as runoff or as flood water;

(iv) the waste material in the vault privy cannot contaminate a water supply, stream, or body of water; and

(v) odors are minimized both inside and outside the privy structure.

(5) The operator shall submit all required plans for the construction or alteration of a wastewater disposal system in accordance with Title R317 prior to commencing construction or alteration.

**R392-501-9. Laundry Facility Requirements.**

(1) The operator shall provide:

(a) one mechanical washing machine or one double laundry tray or two tubs for each 30 workers, or fraction thereof; or

(b) transportation at least weekly to nearby laundromat; or

(c) a contract with a commercial linen service.

(2) The operator shall provide one service sink in the same area as laundry facilities.

(3) The operator shall provide facilities for drying clothes.

(4) The operator shall ensure that buildings containing laundry facilities are maintained in a clean and sanitary condition.

**R392-501-10. Toilet and Bath Requirements.**

(1) The operator shall make the following operable plumbing fixtures available to each labor community occupant:

(a) a toilet fixture;

(b) a shower or bath fixture; and

(c) a hand sink installed at a ratio of one per six workers in a convenient location, as approved by the local health officer.

(2) The number of toilet fixtures or privy seats provided for each sex shall be based on the maximum number of workers of that sex which the labor community is designed to house at any one time, and shall be calculated from Section R392-501-11 Table I.

(3) The number of shower or bathing facilities provided for each sex shall be based on the maximum number of workers of that sex which the labor community is designed to house at any one time, and shall be calculated from Section R392-501-11 Table II.

(4) When the plumbing fixtures listed in Subsection R392-501-10(1) are located within a housing unit:

(a) a toilet and bathing room shall have:

(i) a window not less than six square feet in area opening directly to the outside area; or

(ii) operable mechanical ventilation.

(5) Toilet facilities and toilet rooms shall be easily cleanable.

(6) The operator shall ensure that toilet rooms and bathrooms are maintained in a clean and sanitary condition.

**R392-501-11. Service Building Requirements.**

(1) Each labor community having housing units as described in R392-501-4(8) shall be provided with a service building or buildings for the use of labor community occupants.

(2) A service building shall meet the following requirements:

(a) It shall have interior walls constructed of smooth, moisture-resistant material to facilitate frequent washing and cleaning.

(b) All outer openings shall be effectively screened.

(c) It shall be provided with a minimum of 10 foot candles of exterior lighting to indicate the location of the building and entrance doorways.

(d) Toilet or privy rooms and laundry facilities shall be provided with a minimum of 10 foot candles of interior lighting.

(e) Approaches to any service building shall be free from obstruction.

(f) Any common-use potable water faucet inside or connected to a service building shall not have a threaded spigot.

(3) The number of toilets or privy seats provided in a service building for each sex shall be based on the maximum number of workers of that sex which the labor community is designed to house at any one time, and shall be calculated from Table I.

TABLE I  
Required Minimum Toilet Fixtures in a Labor Community

Number of Workers of Same Sex	Required Toilet Fixture(s)
1 -- 5	1 toilet or privy seat
6 - 30	2 toilets or privy seats
31 - 45	3 toilets or privy seats
46 -- 60	4 toilets or privy seats

(4) Labor communities employing fewer than six workers, irrespective of sex, only require one toilet or privy if located in a single occupancy toilet room that can be locked from the inside.

(5)(a) Urinals may be provided on the basis of one unit for each 18 men or fraction thereof, provided the urinal is installed in addition to a toilet at the same location.

(b) The required number of toilet fixtures for men may be reduced by up to 1/3 by installing urinals in this ratio.

(c) The floor from the wall and for a distance not less than 15 inches measured from the outward edge of the urinals shall be constructed of materials impervious to moisture.

(6) Toilet facilities and toilet rooms shall be easily cleanable.

(7) Except as provided in Subsection R392-501-11(7)(a), separate toilet rooms within the service building shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for women" by signs printed in English and in the native languages of the persons occupying the temporary labor community, or marked with easily understood pictures or symbols.

(a) Where a toilet room will be occupied by no more than one person at a time, can be locked from the inside, and contains at least one toilet, separate toilet rooms for each sex need not be provided.

(8)(a) A service building toilet room shall have a window not less than 6 square feet in area opening directly to the outside area or shall be otherwise satisfactorily ventilated in a manner approved by the local health officer.

(b) Outside openings shall be screened with 16 mesh material.

(c) Each vault privy room shall be ventilated with a properly screened opening or openings of at least two square feet.

(9) A toilet fixture or urinal may not be located in a room used for other than toilet purposes.

(10)(a) A service building as required in R392-501-4(8) shall be located within 200 feet of the door of any housing unit.

(b) A vault privy may not be located closer than 100 feet to a sleeping room, dining room, designated lunch area, or kitchen.

(11) Sinks shall be located either in the same room as toilet fixtures or immediately adjacent to the toilet room or service building.

(12) The operator shall provide soap and toilet tissue in suitable dispensers in each service building.

(13) The operator shall provide at least one solid, easily cleanable, covered waste receptacle for the collection of solid waste for each toilet room within a service building.

(14) The operator shall provide clean individual disposable towels at each sink. Alternate hand drying methods approved by the local health officer may be substituted for individual disposable towels.

(15) The number of shower or bathing facilities provided in a service building for each sex shall be based on the maximum number of workers of that sex which the labor community is designed to house at any one time, and shall be calculated from Table II.

**TABLE II**

**Required Minimum Shower or Bathing Facilities in a Labor Community**

Number of Workers of Same Sex	Required Shower or Bathing Facility
1 -- 15	1 shower or bath
16 - 30	2 showers or baths
31 - 45	3 showers or baths
46 -- 60	4 showers or baths

(16) Labor communities employing fewer than six workers, irrespective of sex, only require one shower or bath if located in a single occupancy room that can be locked from the inside.

(17) Except as provided in Subsection R392-501-11(15)(a), where shower or bathing facilities are communal, separate bathing or shower areas shall be provided for each sex. These areas shall be distinctly marked "MEN" or "WOMEN" by signs printed in English and in the native languages of the persons occupying the temporary labor community, or marked with easily understood pictures or symbols.

(a) Separate shower or bathing areas for each sex need not be provided if:

(i) shower or bathing rooms are designed to be occupied by no more than one person at a time; and

(ii) shower or bathing rooms can be locked from the inside.

**R392-501-12. Toilet and Handwashing Accessibility Requirements for Offsite Labor Locations.**

(1) On any offsite premises where workers are employed or permitted to work for a period of three hours or more, the operator shall provide within a convenient distance of the working area sufficient, suitable and separate toilet and handwashing facilities. The operator shall use the following standards to determine the number of toilet and handwashing facilities needed, and the distance to each:

(a) For one to 20 workers, male or female, one toilet facility and one handwashing facility within a one-quarter-mile walk of the work area;

(b) For work crews of 21 or more, one toilet facility per every 20 males or fraction thereof and one toilet facility for every 20 females or fraction thereof. These toilet facilities shall be within a one-quarter-mile walk of the work area; or

(c) As approved by the local health officer, the operator may develop a written agreement in the native language of the workers that shall state that the operator will furnish readily available transportation

that provides prompt access, within 10 minutes, to a toilet facility once during any continuous four hours of work.

(2) Toilet and handwashing facilities shall be accessibly located in close proximity to each other.

(3) The operator shall notify each employee of the location of the toilet and handwashing facilities and drinking water, and shall allow each employee reasonable opportunities during the workday to use them.

(4) Portable toilet facilities shall be operational and maintained in clean and sanitary condition.

(5) Portable handwashing facilities shall be refilled with potable water as necessary to ensure an adequate supply and shall be maintained in a clean and sanitary condition.

(6) Disposal of wastes from toilet and handwashing facilities shall not cause unsanitary conditions.

(7) The operator shall provide an adequate supply of disposable toilet tissue and single use towels for worker use.

**R392-501-13. Operation and Maintenance.**

(1) All buildings, grounds, rooms, equipment, and furnishings shall be maintained in a clean and operable condition.

(2) All reasonable means shall be employed to eliminate or control infestations of vermin within all parts of any community. This shall include approved screening or other approved control of outside openings in structures intended for occupancy or food service facilities.

(3) Each labor community shall be equipped with at least a 24-unit ANSI compliant first aid kit. The operator shall ensure that each first aid kit is:

(a) properly stocked;

(b) readily accessible; and

(c) conveniently located.

(4) The operator of a community with onsite staff shall employ at least one individual who is adequately trained to render first aid. This individual should possess at least a certificate of completion of the Basic First Aid Course as presented by the American National Red Cross or its equivalent.

**R392-501-14. Food Service.**

When food service is provided for labor community members, food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in R392-100 and local health department regulations.

**R392-501-15. Solid Wastes.**

(1) The operator shall provide adequate containers to prevent the accumulation of solid waste in the labor community.

(2) Solid waste generated at a labor community shall be stored in a leak-proof, non-absorbent container, which shall be kept covered with a tight-fitting lid.

(3) All solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.

**R392-501-16. Swimming Pool.**

The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools as well as other local health department regulations for all pools or spas made available to labor community members or staff.

**R392-501-17. Inspections and Investigations.**

(1)(a) Upon presenting proper identification, the operator shall permit the local health officer to enter upon the premises of a labor community to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with Rule R392-501.

(b) The local health officer may not enter an occupied tent or other structure designed or intended for temporary human habitation without the express permission of the occupant except when a warrant is issued to a duly authorized public safety officer which authorizes the local health officer to enter, or when the operator and the local health officer determine that there exists an imminent risk to the life, health, or safety of the occupant.

**R392-501-18. Closing or Restricting of Temporary Labor Communities or Housing Units.**

(1) If a local health officer deems a temporary labor community, housing unit, or portion thereof to be an imminent risk to the life, health, or safety of the public, the community or unit area may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any temporary labor community or housing unit closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to allow the public to utilize any temporary labor community, housing unit, or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

**KEY:** public health, oil-gas-and mining camp, labor camp, migrant [labor]camp

**Date of Enactment or Last Substantive Amendment:** [1987]2018

**Notice of Continuation:** November 8, 2016

**Authorizing, and Implemented or Interpreted Law:** 26-15-2; 26-1-5; 26-1-30(9); 26-1-30(23); 26-7-1

## Health, Disease Control and Prevention, Environmental Services

### R392-600

## Illegal Drug Operations Decontamination Standards

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43037

FILED: 06/28/2018

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule has been amended to provide clarification by removing the definitions "Highly suggestive of contamination" and "Non-highly suggestive of contamination", and all references to these definitions, simplifying this rule. These amendments further clarify that only a

decontamination specialist can conduct sampling to meet the decontamination standards as stated in Subsection R392-600-6(1).

**SUMMARY OF THE RULE OR CHANGE:** These proposed amendments remove the definitions for "Highly suggestive of contamination" and "Non-highly suggestive of contamination" and all references to these definitions. In addition, as stated in Subsection R392-600-6(1), that only a decontamination specialist shall conduct confirmation sampling; there are specific sections that needed to be clarified to meet Subsection R392-600-6(1).

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There are no anticipated costs or savings at the state level. Any costs will come out of existing budgets.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments by removing this language and clarifying this rule.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses by removing this language and clarifying this rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to those in this category by removing this language and clarifying this rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated costs or savings to affected persons removing this language and clarifying this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These proposed amendments remove the definitions for "highly suggestive of contamination" and "non-highly suggestive of contamination" from the rule in order to clarify that only a decontamination specialist can conduct sampling to meet the decontamination standards in Subsection R392-600-6(1). The Division of Disease Control and Prevention, Environmental Services does not expect any fiscal impact on small businesses nor non-small businesses since these amendments are simply to clarify existing requirements of the rule.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Mark Jones by phone at 801-538-6045, or by Internet E-mail at markejones@utah.gov or mail at PO Box 142104, Salt Lake City, UT 84114-2104

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2018**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018**

**AUTHORIZED BY: Joseph Miner, MD, Executive Director**

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY2019	FY 2020	FY 2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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 proposed rule amendments are not expected to have any fiscal impacts on large businesses revenues or expenditures, because these changes provide clarification to the rule by removing definitions that are not applicable. In addition, as stated in Subsection R392-600-6(1), that only a decontamination specialist shall conduct confirmation sampling; there are specific sections that needed to be clarified, to meet Subsection R392-600-6(1).

The head of Department of Health, Dr. Joseph Miner, has reviewed and approved this fiscal analysis.

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

**R392-600. Illegal Drug Operations Decontamination Standards.**

**R392-600-1. Authority and Purpose.**

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

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

**R392-600-2. Definitions.**

The following definitions apply in this rule:

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

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

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

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

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

(6) "Composite sample" means the combination of up to 3 individual wipe (grab) samples into one submission for analysis by a laboratory. The composite sample result will be the average or standardized result in units of micrograms of methamphetamine per 100 square centimeters.

(7) "Confirmation sampling" means collecting samples by a certified decontamination specialist during a preliminary assessment or upon completion of decontamination activities. Only confirmation sampling can be used to confirm that contamination is below the decontamination standards outlined in this rule.

(8) "Contaminant" means a hazardous material.

(9) "Contamination" or "contaminated" means: a) polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards; or b) that a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health under

Section 26-51-201, as defined under Utah Code Subsection 19-6-902  
(3).

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

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

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

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

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

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

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

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

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

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

(20) "FID" means flame ionization detector.

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

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

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

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

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

~~(26) "Highly suggestive of contamination" means the presence of visible or olfactory signs indicative of contamination, locations in and around where illegal drug production occurred, where hazardous materials were stored or suspected of being used to~~

~~manufacture illegal drugs, or areas that tested positive for contamination or other portions of the property that may be linked to processing and storage areas by way of the ventilation system or other activity that may cause contamination to be distributed across the property.]~~

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

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

(29) "LEL/O<sub>2</sub>" means lower explosive limit/oxygen.

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

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

~~(32) "Not Highly Suggestive of Contamination" means areas outside of the main location(s) where illegal drugs were produced and hazardous materials were stored or suspected of being used that do not reveal obvious visual or olfactory signs of contamination, but may, however, be contaminated by residue from the manufacture or storage of illegal drugs or hazardous materials.]~~

(33) "Non-confirmation sampling" means collecting samples by any party other than a certified decontamination specialist.

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

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

(36) "PID" means photo ionization detector.

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

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

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



([40]38) "Property" means: (a) any property, site, structure, part of a structure, or the grounds, surrounding a structure; and (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

([41]39) "Return air housing" means the main portion of an air ventilation system where air from the livable space returns to the air handling unit for heating or cooling.

([42]40) "Sample location" means the actual place where an environmental sample was obtained, including designation of the room, the surface (wall, ceiling, appliance, etc), and the direction and distance from a specified fixed point (corner, door, light switch, etc).

([43]41) "Services" means the activities performed by decontamination specialist in the course of decontaminating residual contamination from the manufacturing of illegal drugs or from the storage of chemicals used in manufacturing illegal drugs and includes not only the removal of any contaminants but inspections and sampling.

([44]42) "Toxic" means hazardous materials in sufficient concentrations that they can cause local or systemic detrimental effects to people.

([45]43) "UGWQS" means the Utah Ground Water Quality Standards established in R317-6-2.

([46]44) "VOA" means volatile organic analyte.

([47]45) "VOCs" means volatile organic compounds or organic chemicals that can evaporate at ambient temperatures used in the manufacture illegal drugs such as acetone, acetonitrile, aniline, benzene, benzaldehyde, benzyl chloride, carbon tetrachloride, chloroform, cyclohexanone, dioxane, ethanol, ethyl acetate, ethyl ether, Freon 11, hexane, isopropanol, methanol, methyl alcohol, methylene chloride, naphtha, nitroethane, petroleum ether, petroleum distillates, pyridine, toluene, o-toluidine, and any other volatile organic chemical that may be used to manufacture illegal drugs.

([48]46) "Waste" means refuse, garbage, or other discarded material, either solid or liquid.

### R392-600-3. Preliminary Assessment Procedures.

(1) The local health department shall notify owner of record of test[s] results reported to the local health department indicating that a property is potentially contaminated.

(a) If the test results were from non-confirmation sampling, the owner of record may obtain confirmation sampling, performed by a certified decontamination specialist, within 10 days of receipt of the notice and provide the local health department with the confirmation sampling test results.

(b) If the test results were from confirmation sampling, the local health department shall direct the owner of record to decontaminate the property as outlined in the following sections.

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

assessment of the contaminated portion of the property prior to initiating the preliminary assessment.

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

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

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

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

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

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

(f) use all available information to delineate areas [~~highly suggestive~~]of contamination;

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

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

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

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

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

(l) conduct and document appropriate testing for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property using instruments such as a LEL/O<sub>2</sub> meter, pH paper, PID, FID, or equivalent equipment; and

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

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

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

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

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

**R392-600-4. Work Plan.**

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

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

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

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

(d) photographs of the property;

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

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

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

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

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

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

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

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

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

(iv) all locations where decontamination will commence;

(v) all containment and negative pressure enclosure plans;

and

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

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

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

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

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

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

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

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

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

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

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

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

**R392-600-5. Decontamination Procedures.**

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

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

(3) The decontamination specialist or owner of record shall conduct the removal of the contamination from the property, except for porous materials from areas not [~~highly suggestive of contamination~~] contaminated that may be cleaned as outlined in subsection R392-600-5(~~1~~)(1).

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

(5) Ventilation Cleaning Procedures.

(a) Air registers shall be removed and cleaned as outlined in subsection R392-600-5(~~1~~)(1).

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

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

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

(e) The air handler units, including the return air housing, coils, fans, systems, and drip pan shall be cleaned as required in subsection R392-600-5(~~1~~)(1).

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

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

(6) Procedures for Contaminated Areas [~~Highly Suggestive of Contamination~~].

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

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

(e) b All non-porous surfaces such as floors, walls, ceilings, mirrors, window, doors, appliances, and non-fabric furniture may be cleaned to the point of stain removal and left in place or removed and properly disposed. [~~Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance subsection R392-600-5(12).~~]After on-site cleaning, the decontamination specialist [or owner of record] shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3).

(d) c All exposed concrete surfaces shall be thoroughly cleaned as outlined in R392-600-5(~~12~~)11 and tested to meet the decontamination standards contained in R392-600-6(2) and (3) or may be removed and properly disposed.

(e) d All appliances shall be removed and properly disposed, unless the decontamination specialist or owner of record determines that cleaning and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the materials meet the decontamination standards contained in subsections R392-600-6(2) and (3). Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance subsection R392-600-5(~~12~~)11. After on-site cleaning, the decontamination specialist [~~or owner of record~~] shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3). For appliances such as ovens that have insulation, a 100 square centimeter portion of the insulation shall also be tested. If the insulation does not meet the decontamination standards contained in R392-600-6(2) and [~~R392-600-6~~](3), the insulated appliances shall be removed and properly disposed.

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

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

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

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

(g) Spray-on acoustical ceilings shall be left undisturbed, and shall be sampled and tested for asbestos and for contamination to determine whether ceilings meet the decontamination standards

contained in R392-600-6(2) and (3), and if in need of removal, whether asbestos remediation protocols are applicable. If the materials exceed the standards, the decontamination specialist or owner of record shall properly remove and dispose of them.

(7) Structural Integrity and Security Procedures.

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

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

(a) All plumbing inlets to the septic or sewer system, including sinks, floor drains, bathtubs, showers, and toilets, shall be visually assessed for any staining or other observable residual contamination. All plumbing traps shall be assessed for VOC concentrations with a PID or FID in accordance with Section R392-600-6(~~7~~)6. All plumbing traps shall be assessed for mercury vapors in accordance with Section R392-600-6(~~10~~)9 by using a mercury vapor analyzer unless the results of the preliminary assessment indicate that contamination was unlikely to have occurred. If VOC concentrations or mercury vapor concentrations exceed the decontamination standards contained in R392-600-6(2) and (3), the accessible plumbing and traps where the excess levels are found shall be removed and properly disposed, or shall be cleaned and tested to meet the decontamination standards contained in R392-600-6(2) and (3).

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

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

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

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

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

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

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

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

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

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

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

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

(b) The decontamination specialist or owner of record shall examine the property for evidence of burn areas, burn or trash pits, debris piles, and stained areas suggestive of contamination. The decontamination specialist or owner of record shall test any burn areas, burn or trash pits, debris piles or stained areas with appropriate soil sampling and testing equipment, such as a LEL/O<sub>2</sub> meter, pH paper, PID, FID, mercury vapor analyzer, or equivalent equipment to determine if the area is contaminated.

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

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

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

(f) The decontamination specialist or owner of record shall delineate the horizontal and vertical extent of any VOCs, lead, or mercury detected in the soil samples relative to background concentrations or EPA residential risk based screening concentrations as contained in the document listed in R392-600-8.

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

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

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

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

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

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

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

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

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

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

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

~~[(H)10] Decontamination procedures for motor vehicles.~~

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

~~[(H)11] Cleaning Procedure.~~

For all items, surfaces or materials that are identified as easily cleanable and for which the work plan indicates they will be decontaminated on site, the decontamination specialist or owner of record shall wash them with a detergent and water solution and then thoroughly rinse them. This procedure shall be repeated at least two additional times using new detergent solution and rinse water. The decontamination specialist or owner of record shall test all surfaces where decontamination on site has been attempted to verify compliance with the decontamination standards in R392-600-6(2) and ~~[R392-600-6](3)~~.

~~[(H)12] Waste Characterization and Disposal Procedures.~~

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

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

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

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

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

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

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

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

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

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

(1) The decontamination specialist shall conduct confirmation sampling after decontamination to verify that concentrations are below the decontamination standards prior to the submittal of a final report. Samples are not required if a contaminated surface has been removed and replaced, unless there is evidence that the area has been re-contaminated. All decontaminated areas and materials, areas not ~~highly suggestive of contamination~~ contaminated, and surfaces that have not been removed shall be sampled for compliance with the standards in Table 1.

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

TABLE 1

COMPOUND	DECONTAMINATION STANDARD
Red Phosphorus	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Iodine Crystals	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.

Methamphetamine	Less than or equal to 1.0 microgram Methamphetamine per 100 square centimeters
VOCs in Air	Less than or equal to 1 ppm
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 microgram Ecstasy per 100 square centimeters

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

TABLE 2

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

(4) Confirmation sampling procedures.

(a) All sample locations shall be photographed.

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

(c) All samples shall be obtained, preserved, and handled and maintained under chain-of-custody protocol in accordance with industry standards for the types of samples and analytical testing to be conducted.

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

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

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

(g) Cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in sterile packages, shall be used for all wipe sampling. The cotton gauze shall be wetted with analytical grade methanol for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

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

(i) Each sample shall be analyzed for methamphetamine, ephedrine, pseudoephedrine, and ecstasy depending upon the type of illegal drug operations using NIOSH Manual of Analytical Method

(NMAM) 9106, 9109 or 9111 or equivalent method approved by the Utah Department of Health.

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

(a) Grab samples or composite samples are allowed for confirmation [~~testing~~]sampling of [~~highly suggestive~~]contaminated areas.

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

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

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

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

(f) If there are any appliances, one 10 cm. x 10 cm. area (100 square centimeters) shall be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, each wipe sample may be a composite of up to three 100 square centimeter areas on three separate appliances, provided that the surfaces most likely to be contaminated are tested.

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

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

~~Confirmation sampling from areas not highly suggestive of contamination shall be collected in a manner consistent with the confirmation sampling described in Section R392-600-6(5). The samples may be combined together to form one composite sample per room or sampling area. The composite sample result shall be the averaged or standardized result provided by the laboratory or calculated from the total recovery value.~~

([7]6) VOC sampling and testing procedures.

(a) A properly calibrated PID or FID capable of detecting VOCs shall be used for testing. The background concentration of VOCs shall be obtained by testing three exterior areas outside the areas [~~highly suggestive~~]of contamination and in areas with no known or

suspected sources of VOCs. All VOC readings shall be recorded for each sample location.

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

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

([8]7) Testing procedures for corrosives.

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

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

(c) For vertical surfaces, a cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in sterile packages, shall be wetted with deionized water and wiped over a 10 cm. x 10 cm. area at least five times in two perpendicular directions. The cotton gauze shall then be placed into a clean sample container and covered with clean deionized water. The cotton gauze and water shall stand in the container for at least three minutes prior to testing. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

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

([9]8) Lead Sampling and Testing Procedures.

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

(i) Cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in sterile packages shall be used for wipe sampling. The cotton gauze shall be wetted with analytical grade 3 per cent nanograde nitric acid for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

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

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

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

([10]2) Mercury Sampling and Testing Procedures.

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

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

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

(~~(H)~~10) Septic tank sampling and testing procedures.

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

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

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

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

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

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

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

(~~(H)~~11) Confirmation sampling by Local Health Departments.

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

#### **R392-600-7. Final Report.**

(1) A final report shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **R392-600-8. Reference.**

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

**KEY:** illegal drug operations, methamphetamine decontamination

**Date of Enactment or Last Substantive Amendment:** [~~June 21, 2017~~]2018

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

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-55** Medicaid Policy for Hospital Emergency Department Copayment Procedures

### NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 43036

FILED: 06/27/2018

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on the five-year review for this rule, the Department of Health (Department) will repeal this rule

because Medicaid cost-sharing policy is already set forth in the Medicaid State Plan.

**SUMMARY OF THE RULE OR CHANGE:** This rule is repealed in its entirety because all cost-sharing policy is consolidated in the Medicaid State Plan, making the rule unnecessary.

**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 on the state budget because this repeal neither affects service coverage nor provider reimbursement.
- ◆ **LOCAL GOVERNMENTS:** There is no impact on local governments because they do not fund member services under the Medicaid program.
- ◆ **SMALL BUSINESSES:** There is no impact on small businesses because this repeal neither affects service coverage nor provider reimbursement.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact on Medicaid providers or Medicaid members because this repeal neither affects service coverage nor provider reimbursement.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact on a single Medicaid provider or a Medicaid member because this repeal neither affects service coverage 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 the repeal of this rule 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 08/14/2018

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	FY 2019	FY 2020	FY 2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
	\$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**

None of the 113 hospitals that provide outpatient emergency services will be impacted because cost-sharing policy is already implemented through the Medicaid State Plan. The repeal neither affects member services nor provider reimbursement.



**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**[R414-55. Medicaid Policy for Hospital Emergency Department Copayment Procedures.**

**R414-55-1. Introduction and Authority.**

~~This rule establishes Medicaid copayment policy for non-emergency use of outpatient hospital emergency departments by Medicaid clients who are not in any of the categories exempted from copayment requirements. The rule is authorized by 42 CFR 447.15 and 447.50 through 447.59, Oct. 2003 ed., which are adopted and incorporated by reference.~~

**R414-55-2. Definitions.**

~~In addition to the definitions in R414-1, the following definitions also apply to this rule:~~

- ~~(1) "Child" means any person under the age of 18.~~
- ~~(2) "Copayment" means that form of cost sharing required of a Medicaid client at the time a service is provided, with the amount of copayment specified beforehand.~~
- ~~(3) "Emergency Services" means those services defined by a select group of International Classification of Diseases, Clinical Modification (ICD-CM) diagnosis codes which Medicaid shall identify for hospital Emergency Departments by means of Medicaid Information Bulletins.~~
- ~~(4) "Hospital Emergency Department" means that area of a hospital in which emergency services are provided on a 24-hour-a-day basis.~~

**R414-55-3. Copayment Policy.**

~~Each Medicaid client is responsible to pay a copayment amount that complies with the requirements of the Utah Medicaid State Plan and Rule R414-1.~~

**KEY: Medicaid**

~~Date of Enactment or Last Substantive Amendment: October 1, 2015~~

~~Notice of Continuation: June 28, 2013~~

~~Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3]~~

**Insurance, Administration**

**R590-277**

**Managed Care Health Benefit Plan Contract Standards**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 43055

FILED: 07/02/2018

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being adopted as a result of H.B. 336 passed during the 2017 General Session. The effective date

for applicable provisions had a delayed effective date of 01/01/2018.

SUMMARY OF THE RULE OR CHANGE: This rule adopts key definitions to be used in contracts; prohibits contract limitations or exclusions except for those stated in this rule; provides for rights for a spouse or child in the event of contract termination; requires certain benefits for transplants, requires notification when premiums are being revised; requires coverage to be offered without regard to health status; includes required provisions to be included in contracts; and restricts the manner in which premium rates are calculated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Section 31A-2-202 and Section 31A-23a-402 and Section 31A-23a-412 and Section 31A-45-103

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of health insurance contracts.
- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments. If a local government plan offered their employees a self-funded health plan, this rule would not apply. If a local government plan offered their employees a fully-insured health plan, it is not anticipated that there will be additional costs or savings. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of health insurance contracts.
- ◆ SMALL BUSINESSES: There is no anticipated costs or savings to small businesses. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of contracts.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated costs or savings to persons other than small businesses, businesses or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of contracts.

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 will not result in a fiscal impact to businesses.

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

ADMINISTRATION  
 ROOM 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2018

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2018

AUTHORIZED BY: Steve Gooch, Information Specialist

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY 2019	FY 2020	FY 2021
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**  
 This new rule is not expected to have any fiscal impacts on large businesses' revenues or expenditures, because this rule merely adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of health insurance contracts.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

**R590. Insurance Administration.**  
**R590-277. Managed Care Health Benefit Plan Contract Standards.**

**R590-277-1. Authority.**  
 This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-2-202, 31A-23a-402, 31A-23a-412, and 31A-45-103.

**R590-277-2. Purpose and Scope.**  
 (1) The purpose of this rule is to provide reasonable standardization and simplification of terms and coverages of a managed care health benefit plan policy in order to:

- (a) facilitate public understanding and comparison;
- (b) prohibit provisions which may be misleading or confusing in connection either with the purchase of such coverages or with the settlement of claims; and
- (c) provide for full disclosure.

(2) This rule applies to any health benefit plan issued by a managed care organization to an individual or group, including policies issued to an association, trust, discretionary group, or other similar group.

**R590-277-3. Definitions.**  
 (1) "Accident", "accidental injury", and "accidental means" shall be defined to employ result language and shall not include words that establish an accidental means test or use words such as external, violent, visible wounds, or similar words of description or characterization.

(a) The definition shall not be more restrictive than the following: "injury" or "injuries" means accidental bodily injury sustained by the insured person that is the direct cause of the condition for which benefits are provided, independent of disease or bodily infirmity or any other cause and that occurs while the insurance is in force.

(b) The definition may exclude injuries for which benefits are paid under worker's compensation, any employer's liability or similar law, or a motor vehicle no-fault policy.

(2) "Complications of pregnancy" means a disease or condition which is distinct from pregnancy but is adversely affected or caused by pregnancy and not associated with a normal pregnancy.

(a) "Complications of pregnancy" includes acute nephritis, nephrosis, cardiac decompensation, ectopic pregnancy which is terminated, a spontaneous termination of pregnancy when a viable birth is not possible, puerperal infection, eclampsia, pre-eclampsia and toxemia.

(b) Complications of pregnancy does not include false labor, occasional spotting, doctor prescribed rest during the period of pregnancy, morning sickness, and conditions of comparable severity associated with management of a difficult pregnancy.

(3)(a) "Cosmetic surgery" or "reconstructive surgery" means any surgical procedure performed primarily to improve physical appearance.

(b) Cosmetic surgery or reconstructive surgery does not include surgery, which is necessary:

- (i) to correct damage caused by injury or sickness;
- (ii) for reconstructive treatment following medically necessary surgery;
- (iii) to provide or restore normal bodily function; or

(iv) to correct a congenital disorder that has resulted in a functional defect.

(4) "Experimental or Investigational Treatment" means medical treatment, services, supplies, medications, drugs, or other methods of therapy or medical practices, which are not accepted as a valid course of treatment by the Utah Medical Association, the U.S. Food and Drug Administration, the American Medical Association, or the Surgeon General.

(5) "Health care professional" means an individual to the extent that the individual is defined to be a health care professional under Title 26, Chapter 46.

(6) "Health care provider" means a health care provider as defined in Section 78B-3-403 who:

(a) is practicing within the scope of the provider's license; and

(b) has agreed either directly or indirectly, by contract or any other arrangement with an insurer to render health care or professional services to insureds.

(7) "Hospital" means a facility that is licensed and operating within the scope of such license. This definition may not preclude the requirement of medical necessity of hospital confinement or other treatment.

(8)(a) "Medical necessity" means health care services or products that a prudent health care professional would provide to a patient for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is:

(i) in accordance with generally accepted standards of medical practice in the United States;

(ii) clinically appropriate in terms of type, frequency, extent, site, and duration;

(iii) not primarily for the convenience of the patient, physician, or other health care provider; and

(iv) covered under the policy.

(b) When a medical question-of-fact exists, medical necessity shall include the most appropriate available supply or level of service for the individual in question, considering potential benefits and harms to the individual, and known to be effective.

(i) For interventions not yet in widespread use, the effectiveness shall be based on scientific evidence.

(ii) For established interventions, the effectiveness shall be based on:

(A) scientific evidence;

(B) professional standards; and

(C) expert opinion.

(9) "Mental health" means benefits for services and items with respect to mental health conditions defined under the terms of the applicable plan or health insurance coverage, in accordance with applicable federal and state law, and consistent with generally recognized standards of current medical practice.

(10) "Physician" may be defined by including words such as qualified physician or licensed physician. The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the policy, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

(11)(a) "Scientific evidence" means:

(i) scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for

scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; or

(ii) findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

(b) Scientific evidence shall not include published peer-reviewed literature sponsored to a significant extent by a pharmaceutical manufacturing company or medical device manufacturer or a single study without other supportable studies.

(12) "Sickness" means illness, disease, or disorder of an insured person.

(13) "Substance use disorder" means benefits with respect to services and items for substance use disorders as defined under the terms of the plan or health insurance coverage and in accordance with state and federal law.

(14)(a) "Total disability" shall mean an individual who:

(i) is not engaged in employment or occupation for which they are or have become qualified by reason of education, training or experience; and

(ii) is unable to perform all of the substantial and material duties of their regular occupation.

(b) The definition of total disability in a policy may use words of similar import.

(c) An insurer may require care by a physician other than the insured or a member of the insured's immediate family.

(d) The definition may not exclude benefits based on the individual's:

(i) ability to engage in any employment or occupation for wage or profit;

(ii) inability to perform any occupation whatsoever, any occupational duty, or any and every duty of his occupation; or

(iii) inability to engage in any training or rehabilitation program.

(15)(a) "Usual and customary" shall mean the most common charge for similar services, medicines or supplies within the area in which the charge is incurred.

(b) In determining whether a charge is usual and customary, an insurer shall consider one or more of the following factors:

(i) the level of skill, extent of training, and experience required to perform the procedure or service;

(ii) the length of time required to perform the procedure or services as compared to the length of time required to perform other similar services;

(iii) the severity or nature of the illness or injury being treated;

(iv) the amount charged for the same or comparable services, medicines or supplies in the locality; the amount charged for the same or comparable services, medicines or supplies in other parts of the country;

(v) the cost to the provider of providing the service, medicine or supply; and

(vi) other factors determined by the insurer to be appropriate.

#### **R590-277-4. Prohibited Policy Provisions.**

(1) A health benefit plan may not impose any preexisting condition limitation or exclusion provisions.

(2) Limitations or exclusions. Unless otherwise required by law, a policy shall not limit or exclude coverage or benefits by type of illness, accident, treatment, or medical condition, except as follows:

- (a) abortion;
- (b) acupuncture and acupressure services;
- (c) administrative charges for completing insurance forms, duplication services, interest, finance charges, or other administrative charges;
- (d) administrative exams and services;
- (e) aviation;
- (f) axillary hyperhidrosis;
- (g) benefits provided under:

Medicaid:

- (ii) state or federal worker's compensation; or
- (iii) employer's liability or occupational disease law;
- (h) fitness training, exercise equipment, or membership fees to a spa or health club;
- (i) charges for appointments scheduled and not kept;
- (j) chiropractic care;
- (k) complementary and alternative medicine;
- (l) corrective lenses, and examination for the prescription or fitting thereof, except lens implant following cataract surgery and as required by R590-266;

(m) cosmetic surgery; reversal, revision, repair, complications, or treatment related to a non-covered cosmetic surgery. This exclusions does not apply to reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved party; or reconstructive surgery because of congenital disease or anomaly of a covered dependent child that has resulted in a functional defect;

- (n) custodial care;
- (o) dental care or treatment;
- (p) dietary products, except as required by R590-194;
- (q) educational and nutritional training, except as required by R590-200;

(r) experimental and/or investigational services;

(s) felony, riot or insurrection, when the insured is a voluntary participant;

(t) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet, including orthotics. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;

(u) gastric or intestinal bypass services including lap banding, gastric stapling, and other similar procedures to facilitate weight loss; the reversal, or revision of such procedures; or services required for the treatment of complications from such procedures;

(v) gene therapy;

(w) genetic testing;

(x) hearing aids, and examination for the prescription or fitting thereof;

(y) illegal activities, limited to losses related directly to the insured's voluntary participation where the insured has been found guilty of an illegal activity;

(z) infertility services;

(aa) mental health and substance use disorders, except as required by Section 31A-22-625 and R590-266;

(bb) injury as a result of a motor vehicle, to the extent the health benefit plan's covered person is required by law to have no-fault coverage. The exclusion applies only to charges up to the minimum coverage required by law, whether or not such coverage is in effect;

(cc) nuclear release;

(dd) refractive eye surgery;

(ee) rehabilitation therapy services, such as physical, speech, and occupational, except as required to correct an impairment caused by a covered accident or illness, or as required by R590-266;

(ff) respite care;

(gg) rest cures;

(hh) service in the armed forces or units auxiliary to it;

(ii) services rendered by employees of hospitals, laboratories or other institutions;

(jj) services performed by the covered person's parent, spouse or child;

(kk) services for which no charge is normally made in the absence of insurance;

(ll) shipping and handling;

(mm) telephone/electronic consultations;

(nn) territorial limitations outside the United States;

(oo) terrorism, including acts of terrorism;

(pp) transplants, except as required by R590-266;

(qq) transportation, except medically necessary ambulance services;

(rr) war or act of war, whether declared or undeclared; or

(ss) others as may be approved by the commissioner.

(3) Commissioner authority. Policy provisions precluded in this section shall not be construed as a limitation on the authority of the commissioner to prohibit other policy provisions that in the opinion of the commissioner are unjust, unfair or unfairly discriminatory to the policyholder, beneficiary or a person insured under the policy.

#### **R590-277-5. General Requirements.**

(1) Policy definitions. No policy subject to this rule may contain definitions respecting the matters defined in R590-277-3 unless such definitions comply with the requirements of that section.

(2) Rights of spouse and dependents.

(a) A policy may not provide for termination of coverage of the spouse or a dependent solely because of the occurrence of an event specified for termination of coverage of the insured, other than for nonpayment of premium.

(b) A policy shall provide that in the event of the insured's death the spouse of the insured shall become the insured.

(3) Cancellation, Renewability, and Termination. A policy cancellation, renewability and termination provision shall comply with Sections 31A-22-618.6, 31A-22-618.7, and 31A-22-618.8.

(4) Transplant donor coverage. A policy providing coverage for the recipient in a transplant operation shall also provide reimbursement of any medical expenses of a live donor, after benefits for the recipient's own expenses have been paid.

(5) Notice of premium change. A notice of change in premium shall be given no fewer than 45 days before the renewal date.

(6)(a) A completed application shall be made part of the policy. A copy of the completed application shall be provided to the applicant prior to or upon delivery of the policy.

(b) R590-277-5(6) does not apply to an employer sponsored health benefit plan.

(7) A managed care organization offering a health benefit plan to an individual or small employer:

(a) shall offer coverage to all individuals and eligible employees on a guaranteed basis without regard to health status;

(b) may modify coverage at the time of renewal to the extent that such modification is consistent with state law and effective on a uniform basis among all individuals in the health benefit plan;

(c) may not offer coverage to only certain individuals or dependents in the group or to only part of the group; and

(d) must renew or continue coverage at the option of the policyholder, subject to Subsections 31A-22-618.6 and 618.7.

**R590-277-6. Required Provisions.**

(1) A policy and certificate shall include a renewal, continuation or nonrenewal provision. The provision shall be appropriately captioned, shall appear on the first page of the policy or certificate, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(2) Endorsement acceptance.

(a) Except for an endorsement by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, any endorsement added to a policy after date of issue or at reinstatement or renewal that reduces or eliminates benefits or coverage in the policy shall require signed acceptance by the policyholder.

(b) After the date of policy issue, any endorsement that increases benefits or coverage with a concurrent increase in premium during the policy term, must be agreed to in writing signed by the policyholder, except if the increased benefits or coverage is required by law.

(3) Additional premium. Where a separate additional premium is charged for benefits provided in connection with an endorsement, the premium charge shall be set forth in the policy or certificate.

(4) Benefit payment standard. A policy or certificate that provides for the payment of benefits based on standards described as usual and customary, reasonable and customary, or words of similar import, shall include a definition of the terms and an explanation of the terms in its accompanying outline of coverage or certificate.

(5) Conversion privilege.

(a) If a policy or certificate contains a conversion privilege, it shall comply, in substance, with the following: The caption of the provision shall read "Conversion Privilege" or words of similar import.

(b) The provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person by whom the conversion privilege may be exercised.

(c) The provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.

**R590-277-7. Restrictions Relating to Premium Rates.**

(1) The premium charged shall not be adjusted more frequently than annually, except that the premium rates may be changed:

(a) to reflect changes to the enrollment;

(b) to reflect changes to the health benefit plan; or

(c) as expressly permitted by federal or state law.

(2) Premium rates may vary only with respect to the particular coverage involved on the basis of the following:

(a) whether the plan covers an individual or family;

(b) geographic rating area, determined by the policyholder's primary address, as follows:

(i) Area 1, comprised of Cache and Rich counties;

(ii) Area 2, comprised of Box Elder, Morgan, and Weber counties;

(iii) Area 3, comprised of Davis, Salt Lake, Summit, Tooele, and Wasatch counties;

(iv) Area 4, comprised of Utah county;

(v) Area 5, comprised of Iron and Washington counties; and

(vi) Area 6, comprised of Beaver, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Uintah, and Wayne counties;

(c) age of each enrollee, as of the date of the policy issuance or renewal, in accordance with the Utah Age Curve;

TABLE  
UTAH AGE CURVE

Age Band	Slope Factor	Age Band	Slope Factor
0-20	0.793	43	1.616
21	1.000	44	1.681
22	1.050	45	1.748
23	1.113	46	1.818
24	1.191	47	1.891
25	1.298	48	1.966
26	1.363	49	2.045
27	1.390	50	2.127
28	1.390	51	2.212
29	1.390	52	2.300
30	1.390	53	2.392
31	1.390	54	2.488
32	1.390	55	2.588
33	1.390	56	2.691
34	1.390	57	2.799
35	1.390	58	2.911
36	1.390	59	2.691
37	1.404	60	3.000
38	1.425	61	3.000
39	1.450	62	3.000
40	1.479	63	3.000
41	1.516	64	3.000
42	1.562	65	3.000

(d) family composition; and

(e) tobacco use, except that the rate shall not vary by more than 1.5 to 1.

(3) R590-277-7(2) does not apply to:

(a) a large employer health benefit plan; or

(b) an individual or small employer health benefit plan issued prior to January 1, 2014 which the contract rating complies with:

(i) Title 31A-30, Individual, Small Employer, and Group Health Insurance Act; and

(ii) Rule R590-167, Individual, Small Employer, and Group Health Benefit Plan Rule.

**R590-277-8. Existing Policies.**

A policy issued prior to the effective date of this rule shall be amended to comply with this rule on the first policy anniversary following the effective date of this rule.

**R590-277-9. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-277-10. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days after the effective date of this rule.

**R590-277-11. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance, managed care health benefits**

**Date of Enactment or Last Substantive Amendment: 2018**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202; 31A-23a-402; 31A-23a-412; 31A-45-103**

**End of the Notices of Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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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://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.

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## Health, Family Health and Preparedness, Children With Special Health Care Needs **R398-2** Newborn Hearing Screening

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 43013  
FILED: 06/19/2018

### **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 26-10-6(3)(4) requires Newborn Hearing Screening. This rule outlines how the screening will be completed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 26-10-6 is still in effect. This rule defines how the program will implement and facilitate the statute. Therefore, this rule should be continued.

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

FAMILY HEALTH AND PREPAREDNESS,  
CHILDREN WITH SPECIAL HEALTH CARE NEEDS  
44 N MARIO CAPECCHI DR  
SALT LAKE CITY, UT 84113  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Joyce McStotts by phone at 801-584-8239, by FAX at 801-584-8488, or by Internet E-mail at [jmcstotts@utah.gov](mailto:jmcstotts@utah.gov)

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 06/19/2018

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## Health, Family Health and Preparedness, Children With Special Health Care Needs **R398-20** Early Intervention

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 43054  
FILED: 07/02/2018

### **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 26-10-2, the Department of Health shall, as funding permits, provide for maternal and child health services and services for children with a disability if the individual needs the services and the individual cannot reasonably obtain the services from other

sources. Intent language from the 2003 General Session and 2013 General Session implemented the parent cost participation fee. This rule provides the outline of how the fees will be implemented.

**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:** Legislative intent language implemented the parent cost participation fee. The intent language is still in effect.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 CHILDREN WITH SPECIAL HEALTH CARE NEEDS  
 44 N MARIO CAPECCHI DR  
 SALT LAKE CITY, UT 84113  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Joyce McStotts by phone at 801-584-8239, by FAX at 801-584-8488, or by Internet E-mail at jmcstotts@utah.gov

**AUTHORIZED BY:** Joseph Miner, MD, Executive Director

**EFFECTIVE:** 07/02/2018

**Health, Health Care Financing,  
 Coverage and Reimbursement Policy  
 R414-42  
 Telemedicine**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 43053  
 FILED: 07/02/2018

**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 26-18-13 requires the Department of Health (Department) to implement telemedicine services through administrative rules. In addition, Section 26-1-5 grants the Department the authority to adopt, amend, or rescind administrative rules.

**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 that support or oppose 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 defines telemedicine services, and specifies coverage and limitations.

**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:** 07/02/2018

**Natural Resources, Parks and  
 Recreation  
 R651-622  
 Rock Climbing**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 43048  
 FILED: 06/28/2018

**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: Park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

**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 during or since the last five-year review from interested persons supporting or opposing 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: This rule establishes parameters for technical rock climbing within state parks. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 PARKS AND RECREATION  
 ROOM 116  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

Natural Resources, Parks and  
 Recreation  
**R651-623**

Sale or Distribution of Printed Material

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 43047  
 FILED: 06/28/2018

**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: The Utah State Parks Board has rulemaking authority under Section 79-4-304; park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

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

during or since the last five-year review from interested persons supporting or opposing 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: This rule was created in order to provide an orderly and lawful way of distributing printed materials. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 PARKS AND RECREATION  
 ROOM 116  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

Natural Resources, Parks and  
 Recreation  
**R651-624**  
 Sanitation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 43048  
 FILED: 06/28/2018

**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: Park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

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 during or since the last five-year review from interested persons supporting or opposing 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: This rule is for the protection of park resources and visitors, and provides a sanitary way in which refuse can be disposed of. Therefore, this rule should be continued.

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 provides for the health and safety of park visitors by requiring shirts and shoes be worn when entering museums, visitor centers, and administrative offices of the park system. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Jeff Rasmussen, Acting Director

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

EFFECTIVE: 06/28/2018

Natural Resources, Parks and Recreation  
**R651-625**  
Shirts and Shoes

Natural Resources, Parks and Recreation  
**R651-626**  
Skating, Skateboards and Motorized Transportation Devices

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 43045  
FILED: 06/28/2018

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 43044  
FILED: 06/28/2018

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

**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: The Utah State Parks Board has rulemaking authority under Section 79-4-304; Park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah State Parks Board has rulemaking authority under Section 79-4-304; and is also enacted under Section 79-4-203 which establishes the powers and duties of the Division of Parks and Recreation.

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 during or since the last five-year review from interested persons supporting or opposing this rule.

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 during or since the last five-year review from interested persons supporting or opposing 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: This rule establishes parameters where skates, motorized transportation devices and skateboards may be used safely within the state park system. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at [tammywright@utah.gov](mailto:tammywright@utah.gov)

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

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**Natural Resources, Parks and  
Recreation  
R651-627  
Swimming**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 43043  
FILED: 06/28/2018

**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: Park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

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 during or since the last five-year review from interested persons supporting or opposing 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: This rule was created to protect the health and safety of park visitors. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at [tammywright@utah.gov](mailto:tammywright@utah.gov)

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

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**Natural Resources, Parks and  
Recreation  
R651-628  
Trails and Walks**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 43042  
FILED: 06/28/2018

**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: Park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

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 during or since the last five-year review from interested persons supporting or opposing 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: This rule establishes proper and safe use of trails and walks within the park system. It protects park resources and visitors. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Jeff Rasmussen, Acting Director

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

EFFECTIVE: 06/28/2018

**Natural Resources, Parks and Recreation  
R651-629  
Unattended Property**

**Natural Resources, Parks and Recreation  
R651-631  
Winter Sports**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 43041  
FILED: 06/28/2018

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 43040  
FILED: 06/28/2018

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

**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: Park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah State Parks Board has rulemaking authority under Section 79-4-304.

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 during or since the last five-year review from interested persons supporting or opposing this rule.

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 during or since the last five-year review from interested persons supporting or opposing 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: This rule complies with unclaimed property Title 77, Chapters 24 and 24a, and Title 41, Chapter 1a. It establishes proper procedures for the handling of personal property, impounded property, lost and found articles, and the impounding of a vehicle within the state parks system. Therefore, this rule should be continued.

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 was created to establish proper areas within the state parks system for winter sports such as skiing, sledding, tobogganing, snowshoeing, skating, and other similar winter sports activities. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
PARKS AND RECREATION

ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Jeff Rasmussen, Acting Director

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

EFFECTIVE: 06/28/2018

**Natural Resources, Parks and  
Recreation  
R651-632  
Enforcement**

**Natural Resources, Parks and  
Recreation  
R651-633  
Special Closures or Restrictions**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 43039  
FILED: 06/28/2018

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 43038  
FILED: 06/28/2018

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

**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: Park rangers are given authority under Sections 79-4-501 and 53-13-103 to enforce rules for the protection of the state parks and park property from misuse or damage, and to preserve the peace within the state parks.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah State Parks Board has rulemaking authority under Sections 79-4-304 and 79-4-203; park rangers are given authority under Section 79-4-501 to enforce rules for the protection of the state parks and park property, from misuse or damage, and to preserve the peace within the state parks.

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 during or since the last five-year review from interested persons supporting or opposing this rule.

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 during or since the last five-year review from interested persons supporting or opposing 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: Park rangers are fully-certified peace officers within the state of Utah and may enforce rules and laws for the protection of state parks and park property, from misuse or damage, and to preserve the peace within the state parks. Therefore, this rule should be continued.

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 provides a process for emergency closures or restrictions, and specifies areas that are prohibited or restricted from public access or activities that may be dangerous to public safety or park resources. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116

1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 06/28/2018

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**Regents (Board of), University of Utah,  
 Administration  
 R805-2  
 Government Records Access and  
 Management Act Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 43024  
 FILED: 06/26/2018

**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: The rule is authorized under Subsections 63A-12-104(2) and 63G-2-204(2)(d), and Section 63G-3-201. Section 63A-12-104 permits governmental entities to designate at which level the requirements of that chapter are undertaken and Subsection 63G-2-204(2)(d) permits the governmental entity to adopt

rules specifying where and to whom requests for access shall be directed.

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 University of Utah is not aware of any written comments received during the specified time period.

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 establishes the departments and officers within the University of Utah whose primary responsibility is receiving open records requests. This information is not set forth in the Utah Code and, without this information, there is no mechanism for ensuring that records requests are submitted to the department within the University of Utah with the ability to fulfill the request. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 REGENTS (BOARD OF)  
 UNIVERSITY OF UTAH, ADMINISTRATION  
 ROOM 309 PARK BLDG  
 201 S PRESIDENTS CIR  
 SALT LAKE CITY, UT 84112-9009  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Gregory Thompson by phone at (801) 581-8046, or by Internet E-mail at greg.c.thompson@utah.edu

AUTHORIZED BY: Ruth Watkins, President

EFFECTIVE: 06/26/2018

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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal & Reenact  
REP = Repeal

### Administrative Services

Facilities Construction and Management  
No. 42846 (AMD): R23-23. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation  
Published: 05/15/2018  
Effective: 06/26/2018

### Finance

No. 42854 (AMD): R25-7. Travel-Related Reimbursements for State Employees  
Published: 05/15/2018  
Effective: 06/21/2018

### Commerce

Occupational and Professional Licensing  
No. 42807 (AMD): R156-70a. Physician Assistant Practice Act Rule  
Published: 05/15/2018  
Effective: 06/21/2018

### Education

Administration  
No. 42857 (NEW): R277-113. LEA Fiscal and Auditing Policies  
Published: 05/15/2018  
Effective: 06/22/2018

### Environmental Quality

Water Quality  
No. 42691 (AMD): R317-2. Standards of Quality for Waters of the State  
Published: 04/01/2018  
Effective: 07/02/2018

### Health

Health Care Financing, Coverage and Reimbursement Policy  
No. 42871 (AMD): R414-42. Telemedicine  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42787 (AMD): R414-60A. Drug Utilization Review Board  
Published: 05/01/2018  
Effective: 06/27/2018

No. 42788 (AMD): R414-60B. Preferred Drug List  
Published: 05/01/2018  
Effective: 06/27/2018

No. 42851 (AMD): R414-401-3. Assessment  
Published: 05/15/2018  
Effective: 07/01/2018

### Family Health and Preparedness, Emergency Medical Services

No. 42826 (AMD): R426-8. Emergency Medical Services Ground Ambulance Rates and Charges  
Published: 05/15/2018  
Effective: 07/01/2018

### Human Resource Management

Administration  
No. 42810 (AMD): R477-1. Definitions  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42811 (AMD): R477-2. Administration  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42812 (AMD): R477-4. Filling Positions  
Published: 05/15/2018  
Effective: 07/01/2018

NOTICES OF RULE EFFECTIVE DATES

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No. 42813 (AMD): R477-5. Employee Status and Probation  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42814 (AMD): R477-6. Compensation  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42815 (AMD): R477-7. Leave  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42816 (AMD): R477-8. Working Conditions  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42817 (AMD): R477-9. Employee Conduct  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42818 (AMD): R477-10. Employee Development  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42819 (AMD): R477-11. Discipline  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42820 (AMD): R477-12. Separations  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42821 (AMD): R477-16. Abusive Conduct Prevention  
Published: 05/15/2018  
Effective: 07/01/2018

No. 42822 (AMD): R477-101. Administrative Law Judge  
Conduct Committee  
Published: 05/15/2018  
Effective: 07/01/2018

Human Services

Administration, Administrative Services, Licensing  
No. 42862 (AMD): R501-12. Foster Care Services  
Published: 05/15/2018  
Effective: 07/01/2018

Child and Family Services

No. 42829 (NEW): R512-76. Expungement of DCFS  
Allegations  
Published: 05/15/2018  
Effective: 06/21/2018

Public Service Commission

Administration

No. 42850 (AMD): R746-8. Utah Universal Public  
Telecommunications Service Support Fund (UUSF)  
Published: 05/15/2018  
Effective: 06/21/2018

Workforce Services

Employment Development

No. 42855 (AMD): R986-700. Child Care Assistance  
Published: 05/15/2018  
Effective: 07/01/2018

Unemployment Insurance

No. 42861 (AMD): R994-405. Ineligibility for Benefits  
Published: 05/15/2018  
Effective: 06/21/2018

**End of the Notices of Rule Effective Dates Section**



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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 July 02, 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://rules.utah.gov/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	42634	AMD	04/23/2018	2018-6/4
<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
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	42846	AMD	06/26/2018	2018-10/6
<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
R25-7	Travel-Related Reimbursements for State Employees	42854	AMD	06/21/2018	2018-10/9
R25-8	Overtime Meal Allowance	42573	5YR	02/08/2018	2018-5/142
<u>Inspector General of Medicaid Services (Office of)</u>					
R30-1	Office of Inspector General of Medicaid Services	42658	REP	06/01/2018	2018-7/6
R30-1	Office Procedures	42694	NEW	06/01/2018	2018-7/10
R30-2	Adjudicative Procedures	42695	NEW	06/01/2018	2018-7/14
R30-3	Declaratory Orders	42696	NEW	06/01/2018	2018-7/17
<u>Risk Management</u>					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	42934	EMR	07/01/2018	2018-12/39
<b>AGRICULTURE AND FOOD</b>					
<u>Administration</u>					
R51-5	Rural Rehabilitation Loans	42559	NEW	05/02/2018	2018-5/4
R51-6	Agricultural Advisory Board Electronic Meeting	42472	NEW	03/23/2018	2018-3/4
<u>Conservation Commission</u>					
R64-2	Conservation Commission Electronic Meetings	42944	5YR	06/01/2018	2018-12/43
<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
R68-9	Utah Noxious Weed Act	42943	5YR	06/01/2018	2018-12/43

R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	42721	5YR	03/26/2018	2018-8/145
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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>accountability</u> Education, Administration	42755	R277-109	NSC	04/12/2018	Not Printed
<u>accreditation</u> Education, Administration	42885	R277-410	NSC	05/17/2018	Not Printed
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<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 procedures</u> Administrative Services, Inspector General of Medicaid Services (Office of)	42695	R30-2	NEW	06/01/2018	2018-7/14
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<u>aerospace</u>					
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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	
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Administrative Services, Inspector General of Medicaid Services (Office of)	42658	R30-1	REP	06/01/2018	2018-7/6
	42694	R30-1	NEW	06/01/2018	2018-7/10
<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>memberships</u>					
Education, Administration	42884	R277-409	NSC	05/17/2018	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>minors</u>						
Commerce, Consumer Protection	42841	R152-39	NSC	04/26/2018	Not Printed	
<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>mobile foods</u>						
Health, Disease Control and Prevention, Environmental Services	42685	R392-102	NEW	05/18/2018	2018-7/97	
<u>mobile homes</u>						
Health, Disease Control and Prevention, Environmental Services	42731	R392-402	R&R	05/24/2018	2018-8/89	
<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>						
Commerce, Consumer Protection	42833	R152-20	NSC	04/26/2018	Not Printed	
Environmental Quality, Administration	42979	R305-4	5YR	06/13/2018	2018-13/140	
Environmental Quality, Air Quality	42642	R307-123	5YR	03/08/2018	2018-7/163	
<u>motorcycle rider training schools</u>						
Public Safety, Driver License	42825	R708-30	5YR	04/19/2018	2018-10/157	
<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>nail technicians</u>						
Commerce, Occupational and Professional Licensing	42778	R156-11a	AMD	06/07/2018	2018-9/4	

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<u>naloxone</u>						
Health, Disease Control and Prevention, Health Promotion	42283	R384-210	NEW	06/07/2018	2017-22/30	
	42283	R384-210	CPR	06/07/2018	2018-4/70	
<u>National Board certification</u>						
Education, Administration	42699	R277-521	AMD	05/08/2018	2018-7/26	
<u>natural resources</u>						
School and Institutional Trust Lands, Administration	42678	R850-40	AMD	05/08/2018	2018-7/137	
<u>naturopathic physician</u>						
Commerce, Occupational and Professional Licensing	42785	R156-71	AMD	06/07/2018	2018-9/8	
<u>naturopaths</u>						
Commerce, Occupational and Professional Licensing	42785	R156-71	AMD	06/07/2018	2018-9/8	
<u>negotiated exchanges</u>						
Transportation, Administration	42688	R907-80	AMD	05/09/2018	2018-7/142	
<u>negotiated sales</u>						
Transportation, Administration	42688	R907-80	AMD	05/09/2018	2018-7/142	
<u>NESHAP</u>						
Environmental Quality, Air Quality	42435	R307-214	AMD	05/23/2018	2018-3/30	
<u>new hire registry</u>						
Workforce Services, Unemployment Insurance	42740	R994-315	5YR	03/29/2018	2018-8/159	
<u>new source review</u>						
Environmental Quality, Air Quality	42434	R307-210	AMD	05/23/2018	2018-3/29	
<u>newborn hearing screening</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	43013	R398-2	5YR	06/19/2018	Not Printed	
<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	
	42700	R277-532	AMD	05/08/2018	2018-7/29	
<u>noncompliance</u>						
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<u>nonpublic schools</u>						
Education, Administration	42885	R277-410	NSC	05/17/2018	Not Printed	
<u>nontraditional learning programs</u>						
Education, Administration	42888	R277-418	NSC	05/17/2018	Not Printed	
<u>noxious weeds</u>						
Agriculture and Food, Plant Industry	42943	R68-9	5YR	06/01/2018	2018-12/43	
<u>nurse 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>nurses</u>						
Commerce, Occupational and Professional Licensing	42448	R156-31b	5YR	01/08/2018	2018-3/69	

<u>nursing facility</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42851	R414-401-3	AMD	07/01/2018	2018-10/47	
<u>nutrition</u>						
Education, Administration	42620	R277-719	5YR	02/26/2018	2018-6/48	
	42614	R277-719	AMD	04/09/2018	2018-5/39	
<u>occupational licensing</u>						
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	
<u>off-highway vehicles</u>						
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	
	42989	R651-601	5YR	06/13/2018	2018-13/143	
	42961	R651-615	5YR	06/07/2018	2018-13/148	
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Administrative Services, Inspector General of Medicaid Services (Office of)	42658	R30-1	REP	06/01/2018	2018-7/6	
<u>Office of the Inspector General of Medicaid Services</u>						
Administrative Services, Inspector General of Medicaid Services (Office of)	42694	R30-1	NEW	06/01/2018	2018-7/10	
	42695	R30-2	NEW	06/01/2018	2018-7/14	
	42696	R30-3	NEW	06/01/2018	2018-7/17	
<u>oil</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	
	42858	R307-510	NSC	05/14/2018	Not Printed	
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Natural Resources, Oil, Gas and Mining; Oil and Gas	42508	R649-6	5YR	01/24/2018	2018-4/109	
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<u>operator certification</u>						
Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29	
<u>opioid antagonist</u>						
Health, Disease Control and Prevention, Health Promotion	42283	R384-210	NEW	06/07/2018	2017-22/30	
	42283	R384-210	CPR	06/07/2018	2018-4/70	
<u>optometry</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42782	R414-52	5YR	04/10/2018	2018-9/71	
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Human Services, Child and Family Services	42603	R512-305	5YR	02/15/2018	2018-5/146	
<u>out-of-state</u>						
Education, Administration	42891	R277-421	NSC	05/17/2018	Not Printed	
<u>outdoor recreation</u>						
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25	
	42633	R357-16	NSC	03/14/2018	Not Printed	
<u>Outdoor Recreation Infrastructure Grant</u>						
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25	
	42633	R357-16	NSC	03/14/2018	Not Printed	
<u>outdoor wood boilers</u>						
Environmental Quality, Air Quality	42644	R307-208	5YR	03/08/2018	2018-7/164	
<u>overtime</u>						
Human Resource Management, Administration	42816	R477-8	AMD	07/01/2018	2018-10/79	
<u>ozone</u>						
Environmental Quality, Air Quality	42673	R307-110-12	AMD	06/07/2018	2018-7/49	
<u>paper coating</u>						
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	42654	R307-344	5YR	03/08/2018	2018-7/170	
<u>parent/guardian</u>						
Education, Administration	42904	R277-468	NSC	05/17/2018	Not Printed	
<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>parks</u>						
Natural Resources, Parks and Recreation	42989	R651-601	5YR	06/13/2018	2018-13/143	
	42990	R651-602	5YR	06/13/2018	2018-13/143	
	42946	R651-603	5YR	06/07/2018	2018-13/144	
	42948	R651-604	5YR	06/07/2018	2018-13/144	
	42949	R651-605	5YR	06/07/2018	2018-13/145	
	42950	R651-606	5YR	06/07/2018	2018-13/145	
	42952	R651-607	5YR	06/07/2018	2018-13/146	
	42953	R651-608	5YR	06/07/2018	2018-13/146	
	42954	R651-609	5YR	06/07/2018	2018-13/147	
	42955	R651-610	5YR	06/07/2018	2018-13/147	
	42959	R651-613	5YR	06/07/2018	2018-13/147	
	42960	R651-614	5YR	06/07/2018	2018-13/148	
	42961	R651-615	5YR	06/07/2018	2018-13/148	
	42981	R651-616	5YR	06/13/2018	2018-13/149	
	42982	R651-617	5YR	06/13/2018	2018-13/149	
	42983	R651-618	5YR	06/13/2018	2018-13/150	
	42985	R651-619	5YR	06/13/2018	2018-13/150	
	42986	R651-620	5YR	06/13/2018	2018-13/151	
	42987	R651-621	5YR	06/13/2018	2018-13/151	
	43048	R651-622	5YR	06/28/2018	Not Printed	
	43047	R651-623	5YR	06/28/2018	Not Printed	
	43046	R651-624	5YR	06/28/2018	Not Printed	
	43045	R651-625	5YR	06/28/2018	Not Printed	
	43044	R651-626	5YR	06/28/2018	Not Printed	
	43043	R651-627	5YR	06/28/2018	Not Printed	
	43042	R651-628	5YR	06/28/2018	Not Printed	
	43041	R651-629	5YR	06/28/2018	Not Printed	



	42988	R651-630	5YR	06/13/2018	2018-13/152
	43040	R651-631	5YR	06/28/2018	Not Printed
	43039	R651-632	5YR	06/28/2018	Not Printed
	43038	R651-633	5YR	06/28/2018	Not Printed
<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>pawnshops</u>					
Commerce, Consumer Protection	42838	R152-32a	NSC	04/26/2018	Not Printed
	42929	R152-32a	5YR	05/17/2018	2018-12/45
<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
	42854	R25-7	AMD	06/21/2018	2018-10/9
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Natural Resources, Wildlife Resources	42793	R657-45	5YR	04/12/2018	2018-9/73
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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, Forestry, Fire and State Lands	42978	R652-110	5YR	06/11/2018	2018-13/153
Natural Resources, Wildlife Resources	42794	R657-42	5YR	04/12/2018	2018-9/73
	42374	R657-62	AMD	02/07/2018	2018-1/41
	42493	R657-62	AMD	03/26/2018	2018-4/57
<u>personnel management</u>					
Human Resource Management, Administration	42810	R477-1	AMD	07/01/2018	2018-10/51
	42813	R477-5	AMD	07/01/2018	2018-10/63
	42814	R477-6	AMD	07/01/2018	2018-10/65
	42817	R477-9	AMD	07/01/2018	2018-10/84
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Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed

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<u>physical therapy</u>						
Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed	
<u>physician assistants</u>						
Commerce, Occupational and Professional Licensing	42807	R156-70a	AMD	06/21/2018	2018-10/24	
<u>pilot lights</u>						
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	42667	R307-356	5YR	03/08/2018	2018-7/177	
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Public Service Commission, Administration	42331	R746-409-1	AMD	01/09/2018	2017-23/75	
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<u>PM10</u>						
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<u>PM2.5</u>						
Environmental Quality, Air Quality	42673	R307-110-12	AMD	06/07/2018	2018-7/49	
	42651	R307-303	5YR	03/08/2018	2018-7/168	
<u>podiatric physician</u>						
Commerce, Occupational and Professional Licensing	42869	R156-5a	5YR	05/01/2018	2018-10/155	
<u>podiatrists</u>						
Commerce, Occupational and Professional Licensing	42869	R156-5a	5YR	05/01/2018	2018-10/155	
<u>policies</u>						
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	42700	R277-532	AMD	05/08/2018	2018-7/29	
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Health, Disease Control and Prevention, Environmental Services	42744	R392-302	AMD	05/24/2018	2018-8/66	
<u>postsecondary proprietary schools</u>						
Commerce, Consumer Protection	42839	R152-34	NSC	04/26/2018	Not Printed	
<u>postsecondary schools</u>						
Commerce, Consumer Protection	42840	R152-34a	NSC	04/26/2018	Not Printed	
<u>POTW</u>						
Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	2018-4/96	
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Commerce, Occupational and Professional Licensing	42848	R156-37c	5YR	04/24/2018	2018-10/155	
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Transportation, Operations, Construction	42690	R916-2	AMD	05/09/2018	2018-7/148	
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Health, Health Care Financing, Coverage and Reimbursement Policy	42442	R414-303	5YR	01/08/2018	2018-3/84	

<u>primers</u>						
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<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	
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Human Services, Administration	42766	R495-881	5YR	04/02/2018	2018-8/156	
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Education, Administration	42894	R277-426	NSC	05/17/2018	Not Printed	
<u>private security officers</u>						
Commerce, Occupational and Professional Licensing	42925	R156-63a	5YR	05/15/2018	2018-11/55	
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<u>procedures</u>						
Judicial Performance Evaluation Commission, Administration	42262	R597-5	NEW	01/02/2018	2017-22/68	
Natural Resources, Parks and Recreation	42723	R651-103	NEW	05/22/2018	2018-8/142	
Public Service Commission, Administration	42767	R746-210	5YR	04/05/2018	2018-9/75	
	42769	R746-240	5YR	04/05/2018	2018-9/76	
	42770	R746-340	5YR	04/05/2018	2018-9/77	
<u>proceedings</u>						
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	42780	R277-122	NSC	04/13/2018	Not Printed	
<u>professional competency</u>						
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	42627	R414-302-6	AMD	05/08/2018	2018-6/15
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	42881	R277-403	NSC	05/17/2018	Not Printed
	42887	R277-417	NSC	05/17/2018	Not Printed
	42326	R277-621	NEW	01/09/2018	2017-23/17
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	42850	R746-8	AMD	06/21/2018	2018-10/118
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	42541	R307-347	EXT	01/31/2018	2018-4/114
	42657	R307-347	5YR	03/08/2018	2018-7/172
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	42359	R856-3	R&R	01/23/2018	2017-24/36
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