

UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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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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EXECUTIVE DOCUMENTS

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

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

EXECUTIVE ORDER

Suspending the Enforcement of Utah Code §§ 20A-9-407(3)(a) and 20A-9-408(3)(b) Due to Infectious Disease COVID-19 Novel Coronavirus

WHEREAS, On March 6, 2020, a state of emergency was declared in response to the evolving outbreak of novel coronavirus disease 2019 (COVID-19);

WHEREAS, State and local authorities have recommended that individuals experiencing symptoms of COVID-19 self-isolate themselves as necessary to prevent further transmission of the disease;

WHEREAS, Utah Code §§ 20A-9-407(3)(a) and 20A-9-408(3)(b), subject to certain exceptions, require a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election (hereinafter, a "potential candidate") to file a declaration of candidacy in person with the filing officer at the Utah State Elections Office;

WHEREAS, A potential candidate may experience symptoms of COVID-19 and choose to self-isolate as recommended by state and local authorities;

WHEREAS, To require a potential candidate to file a declaration of candidacy in person may directly conflict with the recommendation of state and local authorities that individuals experiencing symptoms of COVID-19 self-isolate as necessary to prevent further transmission of the disease;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related to and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of Utah Code §§ 20A-9-407(3)(a) and 20A-9-408(3)(b) to the extent that the provisions require a potential candidate to file a declaration of candidacy in person.

I hereby also direct the Director of Elections to permit a potential candidate to file a declaration of candidacy as though the potential candidate is an individual qualified to use the procedures provided in Utah Code § 20A-9-202(1)(c).

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 12th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2020/002/EO

EXECUTIVE ORDER

Temporarily Suspending Utah Administrative Code R671-302 Regarding Public Access to Board of Pardons and Parole Hearings

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 12, 2020, the Utah Department of Corrections suspended access to the Utah State Prison in Draper and the Central Utah Correctional Facility in Gunnison by visitors and volunteers in order to prevent the spread of COVID-19;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, Strict adherence to Utah Administrative Code R671-302, News Media and Public Access to Hearings, will substantially hinder necessary action by the Utah Department of Corrections in coping with and preventing the continuing spread of COVID-19;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend by executive order the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with an emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of Utah Administrative Code R671-302, News Media and Public Access to Hearings. Effective immediately, the Utah Board of Pardons and Parole ("Board") shall restrict in-person access to Board hearings as follows:

A. At a parole revocation hearing, including an evidentiary hearing, in-person access shall be limited to: (1) a Board member; (2) a hearing officer; (3) a prison staff member; (4) an offender; (5) legal counsel for the offender; (6) an Adult Probation and Parole agent; (7) legal counsel for Adult Probation and Parole; (8) a witness; (9) a victim; (10) one representative of each victim; and (11) up to two family members of each victim.

B. At an original hearing, rehearing, special attention review hearing, and redetermination hearing, in-person access shall be limited to: (1) a Board member; (2) a hearing officer; (3) a prison staff member; (4) an offender; (5) a victim; (6) one representative of each victim; and (7) up to two family members of each victim.

C. At a pardon hearing, in-person access shall be limited to: (1) a Board member; (2) a prison staff member; (3) a pardon applicant; (4) legal counsel for the pardon applicant; (5) a victim; (6) one representative of each victim; (7) up to two family members of each victim; and (8) an authorized representative of the arresting or investigative agency, sentencing court, or prosecutor's office for each conviction being addressed.

D. At a commutation hearing, in-person access shall be limited by the Board as the Board reasonably determines is necessary to prevent or control the spread of COVID-19.

Notwithstanding the foregoing restrictions, the Board shall simultaneously transmit by electronic means hearings for public viewing and listening.

This Order shall remain in effect until the date of termination of the state of emergency declared in Executive Order 2020-1 unless terminated earlier by the Governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 17th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/003/EO

EXECUTIVE ORDER

Temporarily Suspending Utah Administrative Code R82-2-201 Regarding Liquor Returns, Refunds and Exchanges

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, On March 15, 2020, the Summit County Health Officer issued a Public Health Order requiring all restaurants, coffee shops, tea shops, employee cafeterias, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in Summit County to cease all dine-in food service, effective at 5:00 p.m. on March 15, 2020;

WHEREAS, On March 16, 2020, the Salt Lake County Mayor and the Salt Lake County Health Department Executive Director issued a Public Health Order requiring all food service, restaurants, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in Salt Lake County to close to members, guests, patrons, customers, and the general public, and to cease all dine-in food service effective at 11:00 p.m. on March 16, 2020;

WHEREAS, on March 17, 2020, the Executive Director of the Utah Department of Health issued a State Public Health Order requiring all food service, restaurants, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in the state of Utah to close to members, guests, patrons, customers, and the general public, and to cease all dine-in food service effective at 11:59 p.m. on March 18, 2020;

WHEREAS, Utah Administrative Code R82-2-201 governs all liquor returns, refunds, and exchanges, and mandates that wine and beer, due to their perishable nature and susceptibility to temperature changes, should be accepted at a DABC store with caution;

WHEREAS, Utah Administrative Code R82-2-201(2)(b)(iv) requires returns of more than \$500 to be processed via check, which may take several weeks;

WHEREAS, The aforementioned businesses will not be permitted to sell liquor for consumption on their premises while the public health orders are effective;

WHEREAS, Strict compliance with Utah Administrative Code R82-2-201 would substantially prevent, hinder, or delay necessary action in coping with the economic impact of the emergency;

WHEREAS, Returning liquor to the Department of Alcoholic Beverage Control (DABC) is necessary for businesses to cope with the economic impact of COVID-19;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend by executive order the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with an emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension and enforcement of Utah Administrative Code R82-2-201, to the extent that the provisions prohibit or strongly discourage the DABC from accepting returns of wine, heavy beer, cream-based spirits or liqueurs, and other distilled spirits.

The DABC shall accept a return by a DABC licensee of distilled spirits, wine, heavy beer, cream-based spirits or liqueurs, and other distilled spirits not acquired through the DABC's special order program (hereinafter, a "product") and shall waive the restocking fee for the return of the product if the licensee:

1. provides for each product a purchase receipt dated no earlier than March 2, 2020 and no later than March 18, 2020;
2. returns each product in an unopened and sealed condition;
3. schedules an appointment with a DABC store and returns the product to the DABC store (product purchased at a package agency may be returned only to a DABC store); and
4. complies with any other return processes, such as filling out required forms, implemented by the DABC.

I further suspend Utah Administrative Code R82-2-201(2)(b)(iv), which provides that returns exceeding \$500 will be processed via check mailed to the customer. DABC shall provide refunds in the manner it determines best serves the interests of the Department and the licensee.

This Order shall remain in effect through April 1, 2020.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 18th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2020/004/EO

EXECUTIVE ORDER

Suspending the Enforcement of Provisions of Utah Code §§ 52-4-202 and 52-4-207, and Related State Agency Orders, Rules, and Regulations, Due to Infectious Disease COVID-19 Novel Coronavirus

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, Federal, state, and local authorities have recommended that individuals limit public gatherings and that individuals experiencing symptoms of COVID-19 self-isolate to prevent and control the continuing spread of COVID-19;

WHEREAS, The public monitoring and participation requirements in the Open and Public Meetings Act, Utah Code § 52-4-101 et seq. (OPMA), will gather interested persons, members of the public, and members of a public body in a single, confined location where the risks of further spreading COVID-19 are far greater;

WHEREAS, Utah Code § 52-4-207(2) prohibits a public body from holding an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings;

WHEREAS, Utah Code §§ 52-4-207(3)(a)(ii), (c), (d), and (e) require a public body to take certain actions regarding anchor locations associated with an electronic meeting where members of the public body, interested persons, or the public are required or permitted to gather;

WHEREAS, Utah Code § 52-4-202(3)(a)(i)(A), requires a public body to give public notice of a meeting by posting written notice at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held;

WHEREAS, Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e) limit the ability of public bodies to hold electronic meetings and thereby implement the recommendations of federal, state, and local authorities to limit gatherings and encourage self-isolation in order to prevent and control the continuing spread of COVID-19;

WHEREAS, Strict compliance with the provisions of any order, rule, or regulation of any state agency implementing or conforming with Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e) would substantially prevent, hinder, or delay necessary action in coping with the continuing spread of COVID-19;

WHEREAS, Suspending the enforcement of Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), 207(3)(e), and any provision of any order, rule, or regulation of any state agency to the extent that the order, rule, or regulation implements or conforms with these subsections is directly related to and necessary to address the state of emergency declared due to COVID-19;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related to and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with the emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e), and the suspension of any provision of any order, rule, or regulation of any state agency to the extent that the order, rule, or regulation implements or conforms with these subsections.

Accordingly, a public body governed by OPMA may hold an electronic meeting even if the public body has not adopted a resolution, rule, or ordinance governing the use of electronic meetings. Furthermore, a public body that convenes or conducts an electronic meeting is not required to:

1. post written notice at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held;
2. post written notice at an anchor location;
3. establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;
4. provide space and facilities at an anchor location so that interested persons and the public may physically attend and monitor the open portions of the meeting; or
5. if comments from the public will be accepted during the electronic meeting, provide space and facilities at an anchor location so that interested persons and the public may physically attend, monitor, and participate in the open portions of the meeting.

Notwithstanding the foregoing, a public body that holds an electronic meeting shall:

1. provide a means by which interested persons and the public may remotely hear or observe, live, by audio or video transmission the open portions of the meeting;
2. if comments from the public will be accepted during the electronic meeting, provide a means by which interested persons and the public participating remotely may ask questions and make comments by electronic means in the open portions of the meeting; and
3. if the public body has not adopted a resolution, rule, or ordinance governing the use of electronic meetings, adopt as soon as practicable a resolution, rule, or ordinance, which may be adopted at an electronic meeting pursuant to this Order, governing the use of electronic meetings in accordance with Utah Code § 52-4-207.

A public hearing governed by OPMA may be conducted electronically according to the exemptions and conditions in this Order.

Except for provisions specifically suspended above, nothing in this Order shall be construed to exempt or excuse a public body from giving public notice of an electronic meeting as otherwise required by Utah Code §§ 52-4-207(3)(a)(i) and (3)(b).

This Order shall remain in effect until the termination of the state of emergency declared in Executive Order 2020-1.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 18th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2020/005/EO

EXECUTIVE ORDER

Declaring a State of Emergency Due to Magnitude 5.7 Earthquake

WHEREAS, On March 18, 2020, a magnitude 5.7 earthquake and nearly 50 aftershocks (hereinafter, the “earthquake”) struck Utah, centered near the township of Magna, Salt Lake County;

WHEREAS, The earthquake caused significant damage in multiple counties along the Wasatch Front;

WHEREAS, Impacts from earthquakes are a threat to public safety and property;

WHEREAS, Many of the communities affected by the earthquake are also responding to the novel coronavirus disease 2019 (COVID-19) pandemic, limiting resources;

WHEREAS, Numerous local communities have declared or are declaring local states of emergency due to COVID-19, are now declaring for the earthquake, and have requested resources and support from state departments and agencies to assist them in dealing with these emergencies;

WHEREAS, The Utah Division of Emergency Management has temporarily activated the State Emergency Operations Center to a Level 1;

WHEREAS, The Utah National Guard, Utah Department of Transportation, and Utah Geological Survey, among others, have deployed resources in response to the earthquake;

WHEREAS, The American Red Cross has opened a disaster shelter in West Valley City to aid individuals displaced by the earthquake;

WHEREAS, Declaring a state of emergency will facilitate the protection of persons and property from the impacts of the earthquake and will expedite the use of state resources and the deployment of federal and interstate resources, if required;

WHEREAS, Declaring a state of emergency will also permit the State to request and receive mutual aid assistance from other states through the Emergency Management Assistance Compact, if required;

WHEREAS, The conditions of extreme peril to the safety of persons and property due to the earthquake create a state of emergency within the intent of the Utah Disaster Response and Recovery Act, Utah Code § 53-2a-101 et seq.;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, declare a “State of Emergency” due to the aforesaid circumstances requiring aid, assistance, and relief available from state resources and hereby order:

1. The continued execution of the State Emergency Operations Plan;
2. Assistance from state government to political subdivisions as needed;
3. Coordination with local authorities and the private sector to maximize response and recovery; and
4. The Division of Emergency Management to ensure adequate state staffing to expedite disaster response and recovery efforts.
5. This State of Emergency is declared and effective immediately and shall remain in effect until I find the threat or danger has passed or the disaster reduced to the extent that emergency conditions no longer exist.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 20th day of March 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/006/EO

EXECUTIVE ORDER

Suspending Enforcement of Statutes Relating to Telehealth Services

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency due to coronavirus disease 2019 (COVID-19);

WHEREAS, Executive Order 2020-1 recognizes the need for state and local authorities, and the private sector to cooperate to slow the spread of COVID-19;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, on March 22, 2020, the Utah Department of Health and Mountainstar HCA announced Utah's first COVID-19-related death;

WHEREAS, the number of diagnosed COVID-19 cases in Utah continues to rise;

WHEREAS, the Centers for Disease Control and Prevention has issued guidelines encouraging healthcare facilities to use telehealth services to reduce unnecessary healthcare visits and to prevent transmission of COVID-19 and other respiratory viruses;

WHEREAS, state and local health authorities have encouraged patients with symptoms of illness consistent with COVID-19 to use telehealth services rather than go to a healthcare facility or doctor's office;

WHEREAS, the use of telehealth services is critical to ensure that the healthcare system is not overwhelmed during this state of emergency and to prevent the continuing spread of COVID-19;

WHEREAS, Utah Code Title 26, Chapter 60, Telehealth Act governs the use of telehealth services in Utah;

WHEREAS, Utah Code §§ 26-60-102(8)(b)(ii) and 26-60-103(2)(a) may limit the ability of a healthcare provider to offer telehealth services during this state of emergency;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of:

1. Utah Code § 26-60-102(8)(b)(ii); and
2. Utah Code § 26-60-103(2)(a) to the extent that it interferes with a medical provider's ability to offer telehealth services.

A medical provider that pursuant to this Order offers telehealth services that do not comply with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended, shall:

1. inform the patient the the telehealth service does not comply with those federal acts;
2. give the patient an opportunity to decline use of the telehealth service; and
3. take reasonable care to ensure security and privacy of the telehealth service.

This Order shall remain in effect until the date the state of emergency declared in Executive Order 2020-1 is terminated, or until otherwise modified, amended, rescinded, or superseded by me or by a succeeding governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 25th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/007/EO

EXECUTIVE ORDER

Suspending Certain Provisions of the Utah Election Code Regarding Signature Gathering

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, on March 22, 2020, the Utah Department of Health and Mountainstar HCA announced Utah's first COVID-19-related death;

WHEREAS, the number of diagnosed COVID-19 cases in Utah continues to rise;

WHEREAS, on March 16, 2020, President Trump and the White House Coronavirus Task Force issued the President's Coronavirus Guidelines for America to help protect Americans during the global COVID-19 outbreak;

WHEREAS, consistent with the President's Coronavirus Guidelines for America, state and local health authorities have encouraged individuals and businesses to limit in-person contact in order to prevent the continued spread of COVID-19;

WHEREAS, a primary election will be held in Utah on June 30, 2020;

WHEREAS, Utah Code Title 20A, Chapter 9, Part 4, Primary Elections governs the administration of primary elections, including requirements for an individual to appear as a candidate for elective office on the regular primary election ballot of the registered political party listed on the individual's declaration of candidacy;

WHEREAS, Utah Code § 20A-9-408 provides requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office (hereinafter, a "candidate") through a signature-gathering process;

WHEREAS, Utah Code § 20A-9-408(9)(a)(ii) requires a candidate to submit signatures to the election officer no later than 5 p.m. 14 days before the day on which the qualified political party holds the party's convention to select candidates for the elective office;

WHEREAS, Utah Code § 20A-9-408(9)(a)(i) requires a candidate to collect signatures using the same circulation and verification requirements described in Utah Code §§ 20A-7-204 and 20A-7-205;

WHEREAS, Utah Code § 20A-7-204(4)(b), as made applicable to a candidate's signature packets by Utah Code § 20A-

9-408(9)(a)(i), requires a candidate to create signature packets prior to circulation by "binding" a copy of a form approved by the lieutenant governor to signature sheets;

WHEREAS, Utah Code § 20A-7-205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), requires a candidate to ensure that any signature sheet is signed in the presence of and verified by an individual meeting certain qualifications by completing a verification printed on the last page of each signature packet;

WHEREAS, Utah Code §§ 20A-9-408(9)(d)(i) and (ii) require the election officer to check and take certain actions regarding any individual who completes a verification for a signature packet;

WHEREAS, Utah Code §§ 20A-7-204(4)(b) and 205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), necessitate a candidate or petition circulator to deliver a nomination petition to the public for signatures in person or by physical mail, a process that conflicts with recommendations by state and local leaders to limit in-person contact to prevent the continued spread of COVID-19, and limits the ability of candidates to gather and submit signatures during the state of emergency;

WHEREAS, the signature-gathering period for the June 30, 2020 general primary began on January 2, 2020, and ends at 5 p.m. on April 13, 2020;

WHEREAS, the State maintains a compelling interest in preserving the integrity of the signature-gathering process;

WHEREAS, Utah Code §§ 20A-9-408(9)(d)(iii) and (iv) require the election officer to determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Utah Code § 20A-7-206.3, used to verify a signature on a petition, and to certify whether each name is that of a registered voter who is qualified to sign the signature packet;

WHEREAS, the Utah Elections Office and I have consulted with, and have been advised by, the Utah Office of the Attorney General;

WHEREAS, in May 2019 Lieutenant Governor Cox retained Gayle McKeachnie, as an independent third-party advisor, to review and advise on all elections questions related to the gubernatorial campaign before the Lieutenant Governor makes a decision on those questions;

WHEREAS, the Utah Elections Office and I have consulted with, and have been advised by, Gayle McKeachnie regarding preserving candidates' access to the regular primary ballot while maintaining the integrity of the signature-gathering process;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of:

1. Utah Code § 20A-7-204(4)(b), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), to the extent that it requires a candidate to create signature packets prior to circulation by "binding" a copy of a form approved by the lieutenant governor to signature sheets;
2. Utah Code § 20A-7-205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), to the extent that it requires a candidate to ensure that any signature sheet is signed in the presence of and verified by an individual meeting certain qualifications by completing a verification printed on the last page of each signature packet;
3. Utah Code § 20A-9-408(9)(d)(i); and
4. Utah Code § 20A-9-408(9)(d)(ii).

This Order shall remain in effect until the date the state of emergency declared in Executive Order 2020-1 is terminated, or until otherwise modified, amended, rescinded, or superseded by me or by a succeeding governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 26th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/008/EO

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between March 03, 2020, 12:00 a.m., and March 16, 2020, 11:59 p.m. are included in this, the April 01, 2020, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 01, 2020. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through July 30, 2020, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R307-101-3	Filing No. 52596	No.

Agency Information

1. Department:	Environmental Quality		
Agency:	Air Quality		
Building:	Multi Agency State Office Building		
Street address:	195 N 1950 W		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO BOX 144820		
City, state, zip:	Salt Lake City, UT 84116-4820		
Contact person(s):			
Name:	Phone:	Email:	
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
Version of Code of Federal Regulations Incorporated by Reference
3. Purpose of the new rule or reason for the change:
This rule is updated to reflect changes to the federal air quality regulations as published in Title 40 of the Code of Federal Regulations (CFR).
4. Summary of the new rule or change:
This filing amends this rule to incorporate all changes within the updated version of 40 CFR from July 1, 2017, to July 1, 2019.
A public hearing is set for Monday, 05/04/2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, 05/01/2020, at 5 PM MDT. The final status of the public hearing will be posted on Friday, 05/01/2020, after 5 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.
https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:																												
This rule incorporates already existing federal regulations. No additional costs or benefits affect the state budget after incorporation.																												
B) Local governments:																												
This rule incorporates already existing federal regulations. No additional costs or benefits affect local governments after incorporation.																												
C) Small businesses ("small business" means a business employing 1-49 persons):																												
This rule incorporates already existing federal regulations. No additional costs or benefits affect small businesses after incorporation.																												
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																												
This rule incorporates already existing federal regulations. No additional costs or benefits affect non-small businesses after incorporation.																												
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):																												
This rule incorporates already existing federal regulations. No additional costs or benefits affect persons other than small-businesses, non-small businesses, state, or local government-entities after incorporation.																												
F) Compliance costs for affected persons:																												
There are no new compliance costs as a result of incorporation.																												
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																												
Regulatory Impact Table																												
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2020</th> <th>FY2021</th> <th>FY2022</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Total Fiscal</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2020	FY2021	FY2022	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$0	\$0	\$0	Total Fiscal	\$0	\$0	\$0
Fiscal Cost	FY2020	FY2021	FY2022																									
State Government	\$0	\$0	\$0																									
Local Governments	\$0	\$0	\$0																									
Small Businesses	\$0	\$0	\$0																									
Non-Small Businesses	\$0	\$0	\$0																									
Other Persons	\$0	\$0	\$0																									
Total Fiscal	\$0	\$0	\$0																									

Cost			
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
Scott Baird, Executive Director for the Department of Environmental Quality, has reviewed and accepts this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
Due to the nature of incorporating already existing federal regulations into state rules, no additional fiscal impacts on businesses will result from this amendment.			
B) Name and title of department head commenting on the fiscal impacts:			
Scott Baird, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Subsection 19-2-104(1)(a)		

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references :	
	First Incorporation
Official Title of Materials Incorporated (from title page)	Code of Federal Regulations

Publisher	Office of Federal Register
Date Issued	07/01/2017
Issue, or version	Title 40

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/04/2020
B) A public hearing (optional) will be held:	
On:	At:
05/04/2020	09:00 AM
	Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT

10. This rule change MAY become effective on:	06/03/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Division Director	Date:	02/10/2020
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R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout R307 is dated July 1, 2019[7].

KEY: air pollution, definitions

Date of Enactment or Last Substantive Amendment: ~~February 7, 2019~~ **2020**

Notice of Continuation: November 13, 2018

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Repeal and Reenact			
Utah Admin. Code Ref (R no.):	R307-165	Filing No. 52601	No.

Agency Information

1. Department:	Environmental Quality		
Agency:	Air Quality		
Building:	Multi Agency State Office Building		
Street address:	195 N 1950 W		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO BOX 144820		
City, state, zip:	Salt Lake City, UT 84116-4820		
Contact person(s):			
Name:	Phone:	Email:	
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
Emission Testing
3. Purpose of the new rule or reason for the change:
The reason for the repeal and reenact was to add Section R307-165-5, Reporting Requirements, and to re-organize this rule to make it more readable. With all of the changes made in reorganization, staff deemed it simpler and more efficient to do a complete repeal and reenact.
4. Summary of the new rule or change:
The main changes in the new rule from the old rule are the addition of a reporting section, changing rule formatting, and general clarity corrections to the text. More notable changes include removing the appeals to the board for stack testing frequency exemptions, clarifying Section R307-165-1, and conforming with existing Part H stack testing conditions.
A public hearing is set for Monday, 05/04/2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, 05/01/2020, at 5 PM MDT. The final status of the public hearing will be posted on Friday, 05/01/2020, after 5 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.
https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The reenacted rule is not anticipated to have any additional costs or benefits to the state budget because of the changes being mostly for correct rule formatting, alignment with federal requirements, and general clarity.
B) Local governments:
The reenacted rule is not anticipated to have any additional costs or benefits to local governments because of the changes being mostly for correct rule formatting, alignment with federal requirements, and general clarity.
C) Small businesses ("small business" means a business employing 1-49 persons):
The reenacted rule is not anticipated to have any additional costs or benefits to small businesses because of the changes being mostly for correct rule formatting, alignment with federal requirements, and general clarity.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The reenacted rule is not anticipated to have any additional costs or benefits to non-small businesses because of the changes being mostly for correct rule formatting, alignment with federal requirements, and general clarity.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
The reenacted rule is not anticipated to have any additional costs or benefits to persons other than small businesses, non-small businesses, state, or local government entities because of the changes being mostly for correct rule formatting, alignment with federal requirements, and general clarity.
F) Compliance costs for affected persons:
The reenacted rule is not anticipated to cause any additional compliance costs for affected persons because of the changes being mostly for correct rule formatting, alignment with federal requirements, and general clarity.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)
Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Scott Baird, Executive Director for the Department of Environmental Quality, has reviewed and approves of this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The reenacted rule is being implemented to formally add reporting requirements into the rule, remove the specific five-year testing requirements, remove the appeals to the board for testing frequency, and make general clarifying changes to the rule. The reenacted rule is not anticipated to have any fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Scott Baird, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 05/04/2020

B) A public hearing (optional) will be held:

On:	At:	At:
05/04/2020	10:00 AM	Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT

10. This rule change MAY become effective on: 06/03/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Division Director	Date:	02/18/2020
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R307. Environmental Quality, Air Quality.

~~**R307-165. Emission Testing.**~~

~~**R307-165-1. Purpose.**~~

~~R307-165 establishes the frequency of emission testing requirements for all areas in the state.~~

~~**R307-165-2. Testing Every 5 Years.**~~

~~Emission testing is required at least once every five years of all sources with established emission limitations specified in approval orders issued under R307-401 or in section IX, Part H of the Utah state implementation plan. In addition, if the director has reason to believe that an applicable emission limitation is being exceeded, the director may require the owner or operator to perform such emission testing as is necessary to determine actual compliance status. Sources approved in accordance with R307-401 will be tested within six months of start-up. The Board may grant exceptions to the mandatory testing~~

NOTICES OF PROPOSED RULES

requirements of R307-165-2 that are consistent with the purposes of R307.

R307-165-3. Notification of DAQ.

At least 30 days prior to conducting any emission testing required under any part of R307, the owner or operator shall notify the director of the date, time and place of such testing and, if determined necessary by the director, the owner or operator shall attend a pretest conference.

R307-165-4. Test Conditions.

All tests shall be conducted while the source is operating at the maximum production or combustion rate at which such source will be operated. During the tests, the source shall burn fuels or combinations of fuels, use raw materials, and maintain process conditions representative of normal operations. In addition, the source shall operate under such other relevant conditions as the director shall specify.

R307-165-5. Rejection of Test Results.

The director may reject emissions test data if they are determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the director was not provided an opportunity to have an observer present at the test.]

R307-165. Stack Testing.

R307-165-1. Purpose and Applicability.

(1) The purpose of Rule R307-165 is to establish the requirements for stack testing.

(2) Rule R307-165 applies to all emissions units with established source-specific emission limitations as specified in approval orders issued under Rule R307-401 or in the Utah State Implementation Plan Section IX, Part H.

(3) Rule R307-165 does not apply to opacity limitations or emissions units with emissions monitored under Rule R307-170.

R307-165-2. Testing Frequency.

(1) The owner or operator of an emissions unit under Subsection R307-165-1(2) shall conduct stack testing at least once every five years. More frequent testing may be required as specified in an applicable federal rule, approval order, Title V permit, or State Implementation Plan.

(2) If the director has reason to believe that an applicable emission limitation is being exceeded, the owner or operator shall perform such stack testing as is necessary to determine the actual compliance status and as required by the director.

(3) The owner or operator shall conduct stack testing of an emissions unit approved under Rule R307-401 within 180 days of startup.

R307-165-3. Notification of DAQ.

(1) Unless otherwise specified by federal rule, the owner or operator shall notify the director of the date, time and place of stack testing no less than 30 days, before conducting a stack test, and provide a copy of the source test protocol to the director.

(2) The source shall obtain approval of the protocol from the director prior to conducting the test. The source test protocol shall:

- (a) identify the reason for the test;
- (b) outline each proposed test methodology;
- (c) identify each stack to be tested; and
- (d) identify each procedure to be used.

(3) The owner or operator shall attend a pretest conference if determined necessary by the director.

R307-165-4. Test Conditions.

(1) The production rate during all stack testing shall be no less than 90% of the maximum production rate achieved in the previous three years. If the desired production rate is not achieved at the time of the test, the maximum production rate shall be 110% of the tested achieved rate, but not more than the maximum allowable production rate. This new allowable maximum production rate shall remain in effect until successfully tested at a higher rate. The owner or operator shall request a higher production rate when necessary. Testing at no less than 90% of the higher rate shall be conducted. A new maximum production rate of 110% of the new rate will then be allowed if the test is successful. This process may be repeated until the maximum allowable production rate is achieved.

(2) During the stack testing, the owner or operator shall burn fuels or combinations of fuels, use raw materials, and maintain process conditions representative of normal operations of the emissions unit.

(3) The owner or operator shall operate the emissions unit under such other relevant conditions as the director shall specify.

R307-165-5. Reporting.

The owner or operator shall submit a written report of the results from the stack testing to the director no later than 60 days after completion of the stack testing. The report shall include validated results and supporting information.

R307-165-6. Rejection of Test Results.

The director may reject stack testing results if determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the director was not provided an opportunity to have an observer present at the test.

KEY: air pollution, emission testing

Date of Enactment or Last Substantive Amendment: [September 2, 2005]2020

Notice of Continuation: December 9, 2019

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R307-210	Filing No. 52597	

Agency Information

1. Department:	Environmental Quality		
Agency:	Air Quality		
Building:	Multi Agency State Office Building		
Street address:	195 N 1950 W		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO BOX 144820		
City, state, zip:	Salt Lake City, UT 84116-4820		
Contact person(s):			
Name:	Phone:	Email:	
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Standards of Performance for New Stationary Sources

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

This rule is amended to reflect changes to the federal air quality regulations as published in Title 40 of the Code of Federal Regulations (CFR).

4. Summary of the new rule or change:

This filing amends the rule to incorporate all changes within the updated version of 40 CFR from July 1, 2017, to July 1, 2019.

A public hearing is set for Monday, 05/04/2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, 05/01/2020, at 5 PM MDT. The final status of the public hearing will be posted on Friday, 05/01/2020, after 5 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.

<https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment>

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule incorporates already existing federal regulations. No additional costs or benefits affect the state budget after incorporation.

B) Local governments:

This rule incorporates already existing federal regulations. No additional costs or benefits affect local governments after incorporation.

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

This rule incorporates already existing federal regulations. No additional costs or benefits exist for small businesses after incorporation.

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

This rule incorporates already existing federal regulations. No additional costs or benefits exist for non-small businesses after incorporation.

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

This rule incorporates already existing federal regulations. No additional costs or benefits exist for persons other than small business, non-small businesses, state, or local government entities after incorporation.

F) Compliance costs for affected persons:

There are no new compliance costs as a result of incorporation.

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

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

NOTICES OF PROPOSED RULES

Scott Baird, Executive Director for the Department of Environmental Quality, has reviewed and accepts this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

Due to the nature of the incorporated materials already existing as federal regulations, the incorporation into state rules will result in no additional fiscal impacts on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Scott Baird, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)(a)		
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Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	Code of Federal Regulations
Publisher	Office of the Federal Register
Date Issued	07/01/2019
Issue, or version	Title 40

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 05/04/2020

B) A public hearing (optional) will be held:

On:	At:	At:
05/04/2020	09:00 AM	Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT

10. This rule change MAY become effective on: 06/03/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Division Director	Date:	02/10/2020
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R307. Environmental Quality, Air Quality.

R307-210. Standards of Performance for New Stationary Sources. R307-210-1. Standards of Performance for New Stationary Sources.

The provisions of 40 Code of Federal Regulations (CFR) Part 60, effective on July 1, 2019^[7], except for Subparts Cb, Cc, Cd, Ce, BBBB, DDDD, and HHHH, are incorporated by reference into these rules with the exception that references in 40 CFR to "Administrator" shall mean "director" unless by federal law the authority referenced is specific to the Administrator and cannot be delegated.

KEY: air pollution, stationary sources, new source review

Date of Enactment or Last Substantive Amendment: ~~May 23, 2018~~ 2020

Notice of Continuation: May 12, 2016

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R307-214	Filing No.	52598

Agency Information

1. Department:	Environmental Quality
Agency:	Air Quality
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W
City, state:	Salt Lake City, UT 84116
Mailing address:	PO BOX 144820

City, state, zip:	Salt Lake City, UT 84114-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
National Emission Standards for Hazardous Air Pollutants
3. Purpose of the new rule or reason for the change:
This rule is updated to reflect changes to the federal air quality regulations as published in Title 40 of the Code of Federal Regulations (CFR).
4. Summary of the new rule or change:
This filing amends the rule to incorporate all changes within the updated version of 40 CFR from July 1, 2017, to July 1, 2019.
A public hearing is set for Monday, 05/04/2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, 05/01/2020, at 5 PM MDT. The final status of the public hearing will be posted on Friday, 05/01/2020, after 5 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.
https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule incorporates already existing federal regulations. No additional costs or benefits affect the state budget after incorporation.
B) Local governments:
This rule incorporates already existing federal regulations. No additional costs or benefits affect local governments after incorporation.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule incorporates already existing federal regulations. No additional costs or benefits exist for small businesses after incorporation.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule incorporates already existing federal regulations. No additional costs or benefits exist for small businesses after incorporation.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This rule incorporates already existing federal regulations. No additional costs or benefits exist for persons other than small businesses, non-small businesses, state, or local government entities after incorporation.

F) Compliance costs for affected persons:
There are no new compliance costs as a result of incorporation.

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

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Net Benefits	Fiscal	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:				
Scott Baird, Executive Director for the Department of Environmental Quality, has reviewed and accepts this fiscal analysis.				
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:				
Due to the nature of incorporating already existing federal regulations into Utah state rules, there will be no additional fiscal impacts on businesses as a result of this amendment.				
B) Name and title of department head commenting on the fiscal impacts:				
Scott Baird, Executive Director				

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):
Subsection 19-2-104(1)(a)

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references :	
	First Incorporation
Official Title of Materials Incorporated (from title page)	Code of Federal Regulations
Publisher	Office of the Federal Register
Date Issued	07/01/2019
Issue, or version	Title 40

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/04/2020
B) A public hearing (optional) will be held:	
On:	At:
05/04/2020	09:00 AM
At:	
Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT	

10. This rule change MAY become effective on:	06/03/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Division Director	Date:	02/10/2020
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R307. Environmental Quality, Air Quality.

R307-214. National Emission Standards for Hazardous Air Pollutants.

R307-214-1. Pollutants Subject to Part 61.

The provisions of Title 40 of the Code of Federal Regulations (40 CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, effective as of July 1, 2019[7], are incorporated into these rules by reference. For pollutant emission standards delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the director.

R307-214-2. Sources Subject to Part 63.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, 2019[7], are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the director, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).
- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

(6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

(7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.

(8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

(9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.

(12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

(13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

(15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

(31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).

(32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).

(33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).

(35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.

(37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

(41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.

(42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.

(44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

(45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).

(48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.

(50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries:

NOTICES OF PROPOSED RULES

Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.

(55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.

(56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products.

(57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).

(58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.

(59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

(60) 40 CFR Part 63, Subpart HHHH, National Emission Standards for Wet-Formed Fiberglass Mat Production.

(61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.

(62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.

(63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.

(64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(65) 40 CFR Part 63, Subpart NNNN, National Emission Standards for Large Appliances Surface Coating Operations.

(66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.

(67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.

(69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.

(70) 40 CFR Part 63, Subpart SSSS, National Emission Standards for Metal Coil Surface Coating Operations.

(71) 40 CFR Part 63, Subpart TTTT, National Emission Standards for Leather Tanning and Finishing Operations.

(72) 40 CFR Part 63, Subpart UUUU, National Emission Standards for Cellulose Product Manufacturing.

(73) 40 CFR Part 63, Subpart VVVV, National Emission Standards for Boat Manufacturing.

(74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

(75) 40 CFR Part 63, Subpart XXXX, National Emission Standards for Tire Manufacturing.

(76) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(79) 40 CFR Part 63, Subpart BBBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.

(82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

(84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.

(85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PPPPP, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(97) 40 CFR Part 63, Subpart UUUUU, National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired Electric Utility Steam Generating Units.

(98) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.

(99) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.

(100) 40 CFR Part 63, Subpart ZZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(101) 40 CFR Part 63 Subpart BBBB National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

(102) 40 CFR Part 63 Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

(103) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(104) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(105) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(106) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.

(107) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources.

(108) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(109) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(110) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.

(111) 40 CFR Part 63, Subpart OOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(112) 40 CFR Part 63, Subpart PPPPP, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.

(113) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(114) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

(115) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.

(116) 40 CFR Part 63, Subpart VVVVV, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.

(117) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

(118) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

(119) 40 CFR Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

(120) 40 CFR Part 63, Subpart YYYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.

(121) 40 CFR Part 63, Subpart ZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

(122) 40 CFR Part 63, Subpart AAAAAA, National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.

(123) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.

(124) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

(125) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.

(126) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.

KEY: air pollution, hazardous air pollutant, MACT, NESHAP
Date of Enactment or Last Substantive Amendment: ~~May 23, 2018~~ 2020
Notice of Continuation: September 8, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R307-405-2	Filing No.	52599

Agency Information

1. Department:	Environmental Quality		
Agency:	Air Quality		
Building:	Multi Agency State Office Building		
Street address:	195 N 1950 W		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO BOX 144820		
City, state, zip:	Salt Lake City, UT 84114-4820		
Contact person(s):			
Name:	Phone:	Email:	
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
Applicability
3. Purpose of the new rule or reason for the change:
The purpose of the amendment to Section R307-405-2 is to remove the specific line within the rule that incorporates the Code of Federal Regulations (CFR) and instead have the incorporation fall under another rule to streamline the rulemaking process.
4. Summary of the new rule or change:
Subsection R307-405-2(1) is removed to instead have the CFR version incorporation fall under another rule to streamline the rulemaking process.
A public hearing is set for Monday, 05/04/2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, 05/01/2020, at 5 PM MDT. The final status of the public hearing will be posted on Friday, 05/01/2020, after 5 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.
https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change will have no additional costs or benefits affecting the state budget as it simply moves the CFR incorporation by reference language from Section R307-405-2 to Section R307-101-3. (EDITOR'S NOTE: The proposed amendment to Rule R307-101 is under Filing No. 52596 in this issue, April 1, 2020, of the Bulletin.)
B) Local governments:
This rule change will have no additional costs or benefits affecting local governments as it simply moves the CFR incorporation by reference language from Section R307-405-2 to Section R307-101-3.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change will have no additional costs or benefits affecting small businesses as it simply moves the CFR incorporation by reference language from Section R307-405-2 to Section R307-101-3.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule change will have no additional costs or benefits affecting non-small businesses as it simply moves the CFR incorporation by reference language from Section R307-405-2 to Section R307-101-3.

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

This rule change will have no additional costs or benefits affecting persons other than small businesses, non-small businesses, state, or local government entities as it simply moves the CFR incorporation by reference language from Section R307-405-2 to Section R307-101-3.

F) Compliance costs for affected persons:

There are no new compliance costs as a result of this amendment.

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

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Scott Baird, Executive Director for the Department of Environmental Quality, has reviewed and accepts this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The amendment to Section R307-405-2 simply moves the CFR incorporation by reference to Section R307-101-3 which will result in no fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Scott Baird, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)(a)		
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Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references :

	First Incorporation
Official Title of Materials Incorporated (from title page)	Code of Federal Regulations
Publisher	The Office of the Federal Register
Date Issued	07/01/2019
Issue, or version	Title 40

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/04/2020
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B) A public hearing (optional) will be held:

On:	At:	At:
05/04/2020	09:00 AM	Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT

10. This rule change MAY become effective on:

06/03/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Division Director	Date:	02/10/2020
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R307. Environmental Quality, Air Quality.

R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).

R307-405-2. Applicability.

[~~_____ (1) All references to 40 CFR in R307-405 shall mean the version that is in effect on July 1, 2018.~~]

(1)[~~(2)~~] The provisions of 40 CFR 52.21(a)(2) are hereby incorporated by reference.

(2)[~~(3)~~] Notwithstanding the exemptions in R307-401, any source that is subject to R307-405 is subject to the requirement to obtain an approval order in Sections R307-401-5 through 8.

KEY: air pollution, PSD, Class I area, greenhouse gases

Date of Enactment or Last Substantive Amendment: ~~February 4, 2016~~ 2020

Notice of Continuation: November 13, 2018

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

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R307-410	Filing No.	52600

Agency Information

1. Department:	Environmental Quality
Agency:	Air Quality
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W

City, state:	Salt Lake City, UT 84116	
Mailing address:	PO BOX 144820	
City, state, zip:	Salt Lake City, UT 84116-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Permits: Emissions Impact Analysis
3. Purpose of the new rule or reason for the change:
The purpose of the amendment is to streamline the future rulemaking for updating the version of the Code of Federal Regulations (CFR) incorporated into the rule. With this amendment, the specific date of the version of the CFR is moved from Rule R307-410 to Section R307-101-3. (EDITOR'S NOTE: The proposed amendment to Rule R307-101 is under Filing No. 52596 in this issue, April 1, 2020, of the Bulletin.)
4. Summary of the new rule or change:
The amendment moves the version of the CFR incorporated by reference from Rule R307-410 to Section R307-101-3.
A public hearing is set for Monday, 05/04/2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, 05/04/2020, at 5 PM MDT. The final status of the public hearing will be posted on Friday, M05/01/2020, after 5 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.
https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change will have no additional costs or benefits affecting the state budget as it simply moves the CFR incorporation by reference language from Rule R307-410 to Section R307-101-3.

B) Local governments:																												
This rule change will have no additional costs or benefits affecting local governments as it simply moves the CFR incorporation by reference language from Rule R307-410 to Section R307-101-3.																												
C) Small businesses ("small business" means a business employing 1-49 persons):																												
This rule change will have no additional costs or benefits affecting small businesses as it simply moves the CFR incorporation by reference language from Rule R307-410 to Section R307-101-3.																												
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																												
This rule change will have no additional costs or benefits affecting non-small businesses as it simply moves the CFR incorporation by reference language from Rule R307-410 to Section R307-101-3.																												
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):																												
This rule change will have no additional costs or benefits affecting persons other than small businesses, non-small businesses, or local government entities as it simply moves the CFR incorporation by reference language from Rule R307-410 to Section R307-101-3.																												
F) Compliance costs for affected persons:																												
There are no new compliance costs as a result of this amendment.																												
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																												
Regulatory Impact Table																												
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2020</th> <th>FY2021</th> <th>FY2022</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Total Fiscal Cost</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2020	FY2021	FY2022	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$0	\$0	\$0	Total Fiscal Cost	\$0	\$0	\$0
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Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
Scott Baird, Executive Director for the Department of Environmental Quality, has reviewed and accepts this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
The amendment to Rule R307-410 moving the CFR incorporation by reference language to Section R307-101-3 will have no fiscal impact on businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Scott Baird, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Subsection 19-2-104(1)(a)		

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references :	
	First Incorporation
Official Title of Materials Incorporated (from title page)	Code of Federal Regulations
Publisher	The Office of the Federal Register

Date Issued	07/01/2019
Issue, or version	Title 40

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/04/2020
B) A public hearing (optional) will be held:	
On:	At:
05/04/2020	09:00 AM
	Multi Agency State Office Building, Division of Air Quality, 195 N 1950 W, Fourth Floor, Salt Lake City, UT

10. This rule change MAY become effective on:	06/03/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Division Director	Date:	02/10/2020
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R307. Environmental Quality, Air Quality.
R307-410. Permits: Emissions Impact Analysis.
R307-410-3. Use of Dispersion Models.

All estimates of ambient concentrations derived in meeting the requirements of R307 shall be based on appropriate air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W, [4] Guideline on Air Quality Models [3], [effective July 1, 2018,] which is hereby incorporated by reference. Where an air quality model specified in the Guideline on Air Quality Models or other EPA approved guidance documents is inappropriate, the director may authorize the modification of the model or substitution of another model. In meeting the requirements of federal law, any modification or

substitution will be made only with the written approval of the Administrator, EPA.

R307-410-5. Documentation of Ambient Air Impacts for Hazardous Air Pollutants.

(1) Prior to receiving an approval order under R307-401, a source shall provide documentation of increases in emissions of hazardous air pollutants as required under (c) below for all installations not exempt under (a) below.

(a) Exempted Installations.

(i) The requirements of Section R307-410-5 do not apply to installations which are subject to or are scheduled to be subject to an emission standard promulgated under 42 U.S.C. 7412 at the time a notice of intent is submitted, except as defined in (ii) below. This exemption does not affect requirements otherwise applicable to the source, including requirements under R307-401.

(ii) The director may, upon making a written determination that the delay in the implementation of an emission standard under Section R307-214-2, that incorporates 40 CFR Part 63, might reasonably be expected to pose an unacceptable risk to public health, require, on a case-by-case basis, notice of intent documentation of emissions consistent with (c) below.

(A) The director will notify the source in writing of the preliminary decision to require some or all of the documentation as listed in (c) below.

(B) The source may respond in writing within thirty days of receipt of the notice, or such longer period as the director approves.

(C) In making a final determination, the director will document objective bases for the determination, which may include public information and studies, documented public comment, the applicant's written response, the physical and chemical properties of emissions, and ambient monitoring data.

(b) Lead Compounds Exemption. The requirements of Section R307-410-5 do not apply to emissions of lead compounds. Lead compounds shall be evaluated pursuant to requirements of Section R307-410-4.

(c) Submittal Requirements.

(i) Each applicant's notice of intent shall include:

(A) the estimated maximum pounds per hour emission rate increase from each affected installation,

(B) the type of release, whether the release flow is vertically restricted or unrestricted, the maximum release duration in minutes per hour, the release height measured from the ground, the height of any adjacent building or structure, the shortest distance between the release point and any area defined as "ambient air" under 40 CFR 50.1(e), [effective July 1, 2018,] which is hereby incorporated by reference for each installation for which the source proposes an emissions increase,

(C) the emission threshold value, calculated to be the applicable threshold limit value - time weighted average (TLV-TWA) or the threshold limit value - ceiling (TLV-C) multiplied by the appropriate emission threshold factor listed in Table 2, except in the case of arsenic, benzene, beryllium, and ethylene oxide which shall be calculated using chronic emission threshold factors, and formaldehyde, which shall be calculated using an acute emission threshold factor. For acute hazardous air pollutant releases having a duration period less than one hour, this maximum pounds per hour emission rate shall be consistent with an identical operating process having a continuous release for a one-hour period.

TABLE 2
EMISSION THRESHOLD FACTORS FOR HAZARDOUS AIR POLLUTANTS
(cubic meter pounds per milligram hour)

VERTICALLY-RESTRICTED AND FUGITIVE EMISSION RELEASE POINTS

DISTANCE TO PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
20 Meters or Less	0.038	0.051	0.017
21 - 50 Meters	0.051	0.066	0.022
51 - 100 Meters	0.092	0.123	0.041
Beyond 100 Meters	0.180	0.269	0.090

VERTICALLY-UNRESTRICTED EMISSION RELEASE POINTS

DISTANCE TO PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
50 Meters or Less	0.154	0.198	0.066
51 - 100 Meters	0.224	0.244	0.081
Beyond 100 Meters	0.310	0.368	0.123

(ii) A source with a proposed maximum pounds per hour emissions increase equal to or greater than the emissions threshold value shall include documentation of a comparison of the estimated ambient concentration of the proposed emissions with the applicable toxic screening level specified in (d) below.

(iii) A source with an estimated ambient concentration equal to or greater than the toxic screening level shall provide additional documentation regarding the impact of the proposed emissions. The director may require such documentation to include, but not be limited to:

(A) a description of symptoms and adverse health effects that can be caused by the hazardous air pollutant,

(B) the exposure conditions or dose that is sufficient to cause the adverse health effects,

(C) a description of the human population or other biological species which could be exposed to the estimated concentration,

(D) an evaluation of land use for the impacted areas,

(E) the environmental fate and persistency.

(d) Toxic Screening Levels and Averaging Periods.

(i) The toxic screening level for an acute hazardous air pollutant is 1/10th the value of the TLV-C, and the applicable averaging period shall be:

(A) one hour for emissions releases having a duration period of one hour or greater,

(B) one hour for emission releases having a duration period less than one hour if the emission rate used in the model is consistent with an identical operating process having a continuous release for a one-hour period or more, or

(C) the dispersion model's shortest averaging period when using an applicable model capable of estimating ambient concentrations for periods of less than one hour.

(ii) The toxic screening level for a chronic hazardous air pollutant is 1/30th the value of the TLV-TWA, and the applicable averaging period shall be 24 hours.

(iii) The toxic screening level for all carcinogenic hazardous air pollutants is 1/90 the value of the TLV-TWA, and the applicable averaging period shall be 24 hours, except in the case of formaldehyde which shall be evaluated consistent with (d)(i) above and arsenic, benzene, beryllium, and ethylene oxide which shall be evaluated consistent with (d)(ii) above.

KEY: air pollution, modeling, hazardous air pollutant, stack height
Date of Enactment or Last Substantive Amendment: ~~December 15, 2015~~ 2020
Notice of Continuation: May 15, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R616-3	Filing No. 52612	

Agency Information

1. Department:	Commission		
Agency:	Boiler, Elevator and Coal Mine Safety		
Room no.:	Third Floor		
Building:	Heber M. Wells		
Street address:	160 East 300 South		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 146620		
City, state, zip:	Salt Lake City, UT 84114-6620		
Contact person(s):			
Name:	Phone:	Email:	
Pete C. Hackford	801-452-3797	phackford@utah.gov	
Rick Sturm	801-326-7266	rsturm@utah.gov	
Ami Windham	801-530-6874	awindham@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:	Elevator Rules
3. Purpose of the new rule or reason for the change:	Subsections R616-3-5(A), (B), and (C) are removed because they are redundant from an adopted Code. Subsections R616-3-5(D) and (E) are being moved to Section R616-3-3 as new subsections (H) and (I) respectively which is where they apply.
4. Summary of the new rule or change:	This rule change will not have any effect on how this rule will be enforced. Subsections R616-3-5(A), (B), and (C) are being removed as they are already in material incorporated by reference. Subsections R616-3-5(D) and (E) are being moved to Section R616-3-3 where they apply.

Fiscal Information

5. Aggregate anticipated cost or savings to:			
A) State budget:			
There is no cost or savings with this rule change as it only removes redundancy and rearranges text.			
B) Local governments:			
There is no cost or savings with this rule change as it only removes redundancy and rearranges text.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no cost or savings with this rule change as it only removes redundancy and rearranges text.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no cost or savings with this rule change as it only removes redundancy and rearranges text.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no cost or savings with this rule change as it only removes redundancy and rearranges text.			
F) Compliance costs for affected persons:			
There is no cost or savings with this rule change as it only removes redundancy and rearranges text.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

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

H) Department head approval of regulatory impact analysis:

Jacson R. Maughan, Commissioner of the Utah Labor Commission, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There is no cost or savings with this rule change as it only removes redundancy and rearranges text.

B) Name and title of department head commenting on the fiscal impacts:

Jacson R. Maughan, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 34A-1-101 et seq.

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 05/01/2020

10. This rule change MAY become effective on: 05/22/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Jacson R. Maughan, Commissioner	Date:	03/16/2020
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R616. Labor Commission, Boiler, Elevator and Coal Mine Safety. R616-3. Elevator Rules.

R616-3-1. Authority.

This rule is established pursuant to Section 34A-7-201 for the purpose of the Labor Commission ascertaining, fixing, and enforcing reasonable standards regarding elevators for the protection of life, health, and safety of the general public and employees.

R616-3-2. Definitions.

- A. "ANSI" means the American National Standards Institute, Inc.
- B. "ASME" means the American Society of Mechanical Engineers.
- C. "Commission" means the Labor Commission created in Section 34A-1-103.
- D. "Division" means the Division of Boiler, Elevator and Coal Mine Safety of the Labor Commission.
- E. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform and that moves in guides in a substantially vertical direction.
- F. "Escalator" means a stairway, moving walkway, or runway that is power driven, continuous and used to transport one or more individuals.

R616-3-3. Safety Codes for Elevators.

The following safety codes are adopted and incorporated by reference within this rule:

- A. ASME A17.1-2016/CSA B44-16, Safety Code for Elevators and Escalators, and amended as follows:
 - 1. Delete 2.2.2.5;
 - 2. Amend 8.6.5.8 as follows: Existing hydraulic cylinders installed below ground when found to be leaking shall be replaced with cylinders conforming to 3.18.3.4 or the car shall be provided with safeties conforming to 3.17.1 and guide rails, guide rail supports and fastenings conforming to 3.23.1. This code is issued every two years. New issues become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation.
- B. ASME A17.3 - 2015 Safety Code for Existing Elevators and Escalators. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Boiler, Elevator and Coal Mine Safety.
- C. ASME A90.1-2015, Safety Standard for Belt Manlifts.
- D. ANSI A10.4-2016, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

E. ICC/ANSI A117.1 (2009) Accessible and Usable Buildings and Facilities, sections 407 and 408, and 410 approved October 20, 2010.

F. ASME A18.1-2014 Safety Standard For Platform Lifts And Stairway Chairlifts.

G. ASME A17.6-2010 Standard for Elevator Suspension, Compensation, and Governor Systems.

H. The Commission may, by rule, add or delete from the applicable safety codes for any good and sufficient safety reason.

I. In the event that adopted safety codes are in conflict with one another, the ASME A17.1, Safety Code for Elevators and Escalators will take precedence. The exception to this is for compliance with the accessibility guidelines of Pub. L. No. 101-336 "The Americans with Disability Act of 1990". In this instance, the International Building Code standards adopted in R616-3-3 for accessibility as applied to elevators take precedence over ASME A17.1.

R616-3-4. Inspector Qualification.

A. Any person who performs elevator safety inspections must be a State Elevator Inspector certified by the Division.

B. A State Elevator Inspector is a person who meets the following nationally recognized standards of qualifications for inspectors of elevators and escalators:

(1) Has four or more years of verifiable documented education and experience in the mechanical and/or electrical aspects of the elevator industry and is a person deemed to meet the ASME A17.1 definition of "elevator personnel";

(2) Has two or more years of college courses in an elevator industry-related engineering field; or

(3) Meets the definition of "elevator personnel" in ASME A17.1 and has documented training as one of the following:

(i) an Elevator Inspector performing inspections for an enforcing authority;

(ii) an Elevator Inspector trainee working under the direct supervision of an Elevator Inspector performing inspections for an enforcing authority;

(iii) an Elevator Inspector performing inspections and licensed by or under the jurisdiction of an enforcing authority; or

(vi) an Elevator Inspector trainee licensed by or working under the direct supervision of a licensed Elevator Inspector performing inspections and working under the jurisdiction of an enforcing authority.

C. Prior to a person becoming certified as a State Elevator Inspector, a person must pass a state-issued examination with at least a 70% score which will test the person's knowledge and understanding of the Utah Elevator and Escalator Safety Act, Utah Code Ann. 34A-7-201 et seq.; the Utah Administrative Code sections relating to elevators, R616-3 et seq.; and the national code sections adopted and incorporated by Utah in R616-3-3.

~~R616-3-5. Modifications and Variances to Codes.~~

~~A. In a case where the Division finds that the enforcement of any code would not materially increase the safety of employees or general public, and would work undue hardships on the owner/user, the Division may allow the owner/user a variance. Variances must be in writing to be effective and can be revoked after reasonable notice is given in writing.~~

~~B. Persons who apply for a variance to a safety code requirement must present the Division with the rationale as to how their elevator installation provides safety equivalent to the applicable safety code.~~

~~C. No errors or omissions in these codes shall be construed as permitting any unsafe or unsanitary condition to exist.~~

~~D. The Commission may, by rule, add or delete from the applicable safety codes for any good and sufficient safety reason.~~

~~E. In the event that adopted safety codes are in conflict with one another, the ASME A17.1, Safety Code for Elevators and Escalators will take precedence. The exception to this is for compliance with the accessibility guidelines of Pub. L. No. 101-336 "The Americans with Disability Act of 1990". In this instance, the International Building Code standards adopted in R616-3-3 for accessibility as applied to elevators take precedence over ASME A17.1.]~~

R616-3-6. Exemptions.

A. These rules apply to all elevators in Utah with the following exemptions:

1. Private residence elevators installed inside a single family dwelling. Common elevators which serve multiple private residences are not exempt from these rules.

2. Elevators in buildings owned by the Federal government.

B. Owners of elevators exempted in R616-3-6.A. may request a safety inspection by Division of Boiler, Elevator and Coal Mine Safety inspectors. Code non-compliance items will be treated as recommendations by the inspector with the owner having the option as to which, if any, are corrected. Owners requesting these inspections will be invoiced at the special inspection rate. If the owner requests a State of Utah Certificate to Operate for the elevator, all of the recommendations must be completed to the satisfaction of the inspector and the owner will be invoiced the appropriate certificate fee.

R616-3-7. Inspection of Elevators, Permit to Operate, Unlawful Operations.

A. It shall be the responsibility of the Division to make inspections of all elevators when deemed necessary or appropriate.

B. Elevator inspectors shall examine conditions in regards to the safety of the employees, public, machinery, drainage, methods of lighting, and into all other matters connected with the safety of persons using or in close proximity to each elevator, and when necessary give directions providing for the better health and safety of persons in or about the same. The owner/user is required to freely permit entry, inspection, examination and inquiry, and to furnish a guide when necessary.

C. If the Division finds that an elevator complies with the applicable safety codes and rules, the owner/user shall be issued a Certificate of Inspection and Permit to Operate.

1. The Certificate of Inspection and Permit to Operate is valid for 24 months.

2. The Certificate of Inspection and Permit to Operate shall be displayed in a conspicuous location for the entire validation period. If the certificate is displayed where accessible to the general public, as opposed to being in the elevator machine room, it must be protected under a transparent cover.

D. If the Division finds an elevator is not being operated in accordance with the safety codes and rules, the owner/user shall be notified in writing of all deficiencies and shall be directed to make specific improvements or changes as are necessary to bring the elevator into compliance.

E. Pursuant to Section 34A-7-204, if the improvements or changes are not made within a reasonable time, by agreement of the division and the owner, the elevator is being operated unlawfully.

F. If the owner/user refuses to allow an inspection to be made, the elevator is being operated unlawfully.

G. If the owner/user refuses to pay the required fee, the elevator is being operated unlawfully.

NOTICES OF PROPOSED RULES

H. If the owner/user operates an elevator unlawfully, the Commission may order the elevator operation to cease pursuant to Section 34A-1-104.

I. If, in the judgment of an elevator inspector, the lives or safety of employees or public are, or may be, endangered should they remain in the danger area, the elevator inspector shall direct that they be immediately withdrawn from the danger area, and the elevator removed from service until repairs have been made and the elevator has been brought into compliance.

R616-3-8. Inclined Wheelchair Lift Headroom Clearance.

A. Headroom clearance for inclined wheelchair lifts throughout the range of travel shall be not less than 80 inches (2032 mm) as measured vertically from the leading edge of the platform floor.

B. For existing facilities only, in the event that it is not technically or economically feasible to provide other means of access for disabled persons, inclined wheelchair lifts may be installed if all of the following conditions are met:

1. The appropriate building inspection jurisdiction approves the use of an inclined wheelchair lift for the specific application.

2. Headroom clearance throughout the range of travel shall be not less than 60 inches as measured vertically from the leading edge of the platform floor.

3. The passenger restriction sign as required by ASME A18.1 3.1.2.3 shall be amended as follows: "PHYSICALLY DISABLED PERSONS ONLY. NO FREIGHT. HEADROOM CLEARANCE IS LIMITED. USE ONLY IN THE SITTING POSITION".

R616-3-9. Valves in Hydraulic Elevator Operating Fluid Systems.

A. Due to the potential loss of pressure retaining capability when over torqued, bronze-bodied valves shall not be installed in the hydraulic systems of a hydraulic elevator.

B. This requirement is in effect for all new installations and remodel installations involving the hydraulic system.

C. If a bronze-bodied valve installed on an existing elevator begins to leak, that valve shall be replaced by a steel-bodied valve.

R616-3-10. Hydraulic Elevator Piping.

A. This rule establishes minimum standards for hydraulic fluid piping in hydraulic elevators. The piping specifications referred to in this rule are governed by ASME or ASTM piping specifications (e.g. ASME Specification SA-53 Table X2.4).

B. Hydraulic elevators not incorporating a safety valve may use schedule 40 piping.

C. For newly installed hydraulic elevators that do incorporate a safety valve:

1. Where piping is protected by the safety valve, schedule 40 piping may be used;

2. Where grooved or threaded connections are used in piping that is unprotected by the safety valve, i.e. between the safety valve and the hydraulic jack(s), nominal pipe size (NPS)3 or schedule 80 piping may be used;

3. Where piping is unprotected by the safety valve, but welded or bolted flange connections are used, schedule 40 piping may be used.

R616-3-11. Shunt Trips in Elevator Systems.

A. The means (shunt trip) to automatically disconnect the main line power supply to the elevator discussed in 2.8.3.3.2 of A17.1 is not required for hydraulic elevators with a rise of 50 feet or less.

R616-3-12. Hoistway Vents.

Hoistway ventilation as outlined in the International Building Code is under the jurisdiction of the local building official.

R616-3-13. Hand Line Control Elevators.

A. Operation of a hand line control elevator is not permitted.

B. Owners of hand line control elevators are required to render the elevator electrically and mechanically incapable of operation.

R616-3-14. Remodeled Elevators.

A. When an elevator is classified as a remodeled (modernized) elevator by the Division, the components of the elevator involved in the modernization must comply with the standards of the latest version of ASME A17.1 and ASME A17.3 in effect at the time the remodeling of the elevator commences.

R616-3-15. Fees.

A. Fees to be charged as provided by Section 34A-1-106 and 63J-1-303 shall be adopted by the Labor Commission and approved by the Legislature pursuant to Section 63J-1-301(2).

B. The fee for the initial certification permit shall be invoiced to and paid by the company or firm installing the elevator.

C. The renewal certification permit shall be invoiced to and paid by the owner/user.

D. Any request for a special inspection shall be invoiced to and paid by the person/company requesting the inspection, at the hourly rate plus mileage and expenses.

R616-3-16. Notification of Installation, Revision or Remodeling.

A. Before any elevator covered by this rule is installed or a major revision or remodeling begins on the elevator, the Division must be advised at least one week in advance of such installation, revision, or remodeling unless emergency dictates otherwise.

R616-3-17. Initial Agency Action.

Issuance or denial of a Certificate of Inspection and Permit to Operate by the Division, and orders or directives to make changes or improvements by the elevator inspector are informal adjudicative actions commenced by the agency per Section 63G-4-201.

R616-3-18. Presiding Officer.

The elevator inspector is the presiding officer referred to in Section 63G-4-201. If an informal hearing is requested pursuant to R616-3-18, the Commission shall appoint the presiding officer for that hearing.

R616-3-19. Request for Informal Hearing.

Within 30 days of issuance, any aggrieved person may request an informal hearing regarding the reasonableness of a permit issuance or denial or an order to make changes or improvements. The request for hearing shall contain all information required by Sections 63G-4-201(3)(a) and 63G-4-201(3)(b).

R616-3-20. Classification of Proceeding for Purpose of Utah Administrative Procedures Act.

Any hearing held pursuant to R616-3-18 shall be informal and pursuant to the procedural requirements of Section 63G-4-203 and any agency review of the order issued after the hearing shall be per Section 63G-4-302. An informal hearing may be converted to a formal hearing pursuant to Subsection 63G-4-202(3).

KEY: elevators, certification, safety
Date of Enactment or Last Substantive Amendment: ~~October 22, 2018~~ **2020**
Notice of Continuation: August 23, 2016
Authorizing, and Implemented or Interpreted Law: 34A-1-101 et seq.

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R945-1	Filing No. 52603	No.

Agency Information

1. Department:	UTech Board of Trustees		
Agency:	Administration		
Street address:	310 South Main Street, Suite 1250		
City, state:	Salt Lake City, UT 84101		
Mailing address:	310 South Main Street, Suite 1250		
City, state, zip:	Salt Lake City, UT 84101		
Contact person(s):			
Name:	Phone:	Email:	
Kim Ziebarth	801-341-6010	kim.ziebarth@utec.edu	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
UTech Technical College Scholarship
3. Purpose of the new rule or reason for the change:
This amendment is being done because it was determined there was a need to clarify eligibility for students who complete graduation requirements early but for which the diploma is not immediately conferred, and to address scholarship eligibility for home school students.
4. Summary of the new rule or change:
The changes update policy to align UTech definition of underserved population with federal definition with reference to the UTech Data Dictionary, and change the definition for graduation from high school to include conferral of high school diploma or attainment of homeschool credential completion.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
This has ongoing fiscal cost of \$800,000 to the state budget per year. This amendment is anticipated to have inestimable savings to the state budget because tax revenue returned by future income of scholarship recipients cannot be calculated.
B) Local governments:
This amendment is not anticipated to have a cost or savings to local governments because this rule deals with scholarships awarded to students by technical colleges within the Utah System of Technical Colleges and does not require any expenditures of, or generate, any revenues for local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This amendment is not anticipated to have a cost or savings to small businesses because this rule deals with scholarships awarded to students by technical colleges within the Utah System of Technical Colleges and does not require any expenditures of, or generate, any revenues for small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This amendment is not anticipated to have a cost or savings to non-small businesses because this rule deals with scholarships awarded to students by technical colleges within the Utah System of Technical Colleges and does not require any expenditures of, or generate, any revenues for non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This amendment is anticipated to have an inestimable benefit to persons who receive the scholarship. The benefit is inestimable because the scholarship amount that will be awarded to each recipient will vary according to available funding and the parameters set forth in this rule, and because personal income derived from employment resulting from education funded by the scholarship cannot be calculated. Otherwise, this amendment is not anticipated to have a cost or savings to other persons because this rule deals with scholarships awarded to students by technical colleges within the Utah System of Technical Colleges and does not require any expenditures of or generate any revenues for other persons.
F) Compliance costs for affected persons:
There are no compliance costs for affected persons.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there

are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$800,000	\$800,000	\$800,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$800,000	\$800,000	\$800,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Interim Commissioner of Technical Education for the Utah System of Technical Colleges, Jared Haines, has approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
This proposed rule will not result in a direct fiscal impact to businesses. This rule deals with scholarships awarded to students by technical colleges within the Utah System of Technical Colleges and does not require any expenditures of, or generate, any revenues for small businesses. Businesses may experience an indirect impact through the employment and productivity of individuals trained under the scholarship.			
B) Name and title of department head commenting on the fiscal impacts:			
Jared Haines, Interim Commissioner			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 53B-2a-116		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/01/2020
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10. This rule change MAY become effective on:	05/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Kim Ziebarth, Associate Commissioner for Academic and Student Affairs	Date:	03/10/2020
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R945. UTech Board of Trustees, Administration.

R945-1. UTech Technical College Scholarship.

R945-1-1. Purpose and Authority.

(1) The purpose of this rule is to establish requirements related to the technical college scholarships ~~described~~ as provided in Section 53B-2a-116, including a college's administration of the scholarships, student eligibility and priority, application processes, and determination of satisfactory progress.

(2) This rule is authorized and directed ~~by~~ as provided in Subsection 53B-2a-116(6).

R945-1-2. Definitions.

As used in this rule:

(1) "Career and Technical Education Pathway" means:

(a) For a technical college, a certificate-granting program approved in accordance with Utah System of Technical Colleges (UTech) policy;

(b) For an institution of higher education, a program approved in accordance with State Board of Regents policy that leads to a certificate ~~and~~ or associate degree and that prepares ~~students~~ a student for an occupation; or

(c) For a school district or charter school, a sequence of courses that leads to a secondary school credential of labor market value approved by the State Board of Education.

(2) "Deferral" means the carrying forward of a UTech Scholarship, as ~~described~~ provided in Subsection R945-1-6(4).

(3) "Graduate from High School" means to ~~qualify for~~ be conferred a high school diploma as ~~specified~~ provided in Subsection R277-705-2(3)(-)) or a secondary student completion credential for homeschool.

(4) "High Demand Program" means the same as that term ~~is defined~~ as provided in Subsection 53B-2a-116(1)(a).

(5) "Institution of Higher Education" means an institution within the Utah System of Higher Education ~~described~~ as provided in Subsection 53B-1-102(1)(a).

(6) "Satisfactory Progress" means completion of any course, as included in an official transcript from the provider of a career and technical education pathway, that is specific to a career and technical education pathway discipline. ~~Courses~~ A course in a career and technical education pathway that ~~are~~ is not specific to a pathway discipline, such as a general education ~~courses, are~~ course, is not eligible.

(7) "Secondary School" means grades 7-12 in whatever kind of school the grade levels exist, as provided in Subsection R277-705-2(5).

(8) "Technical College" means an institution within the Utah System of Technical Colleges ~~described~~ as provided in Section 53B-2a-105.

(9) "Underserved Population" ~~means any individual of ethnic or racial minority status; any individual with a disability; any individual identified as a displaced homemaker, single parent, economically disadvantaged, or of limited English proficiency under Carl D. Perkins Grant reporting procedures; or any individual receiving Pell Grant, Bureau of Indian Affairs, or Department of Workforce Services benefits.~~ means the same as that term is defined in the UTech Data Dictionary.

(10) "UTech Scholarship" means a financial award provided by a technical college as provided in ~~accordance with~~ Section 53B-2a-116 and this rule to a student enrolled in a technical college.

R945-1-3. Award Requirements.

To receive a UTech Scholarship, an applicant shall satisfy the following criteria:

(1) Graduate from high school within the 12 months prior to receiving a scholarship;

(2) ~~Enroll~~ enroll in, or show intent to enroll in, a high demand program at a technical college within the 12 months after high school graduation, except as granted in a deferral; and

(3) ~~While~~ while enrolled in a secondary school, make satisfactory progress in a career and technical education pathway offered by a technical college, an institution of higher education, or a school district or charter school.

R945-1-4. Application Process.

The process for an individual to apply to a technical college to receive a UTech Scholarship shall be administered by the technical college, and shall include the following:

(1) ~~College Application:—~~ The technical college shall provide an application form, process, and instructions which include the

elements as provided in this rule, and which may be integrated with other scholarship application forms and processes administered by the college.

~~(2) UTech Scholarship Specificity:—~~ (2) In its application forms and processes, the technical college shall clearly identify the UTech Scholarship's name, award requirements, use, and application process, and shall provide for the applicant to specify that the applicant is applying to be considered for the UTech Scholarship.

(3) ~~Application Deadline:—~~ The technical college shall establish deadlines for submission of applications in accordance with the college's scholarship application processes.

(4) ~~Required Documentation:—~~ The technical college shall require and retain the following information from each applicant in its application forms and accompanying documents:

(a) ~~Identity~~ identity and contact information consistent with the college's regular scholarship applications, such as name, address, and date of birth[-];

(b) ~~Application~~ application date[-];

(c) UTech Scholarship specificity as ~~described~~ provided in Subsection R945-1-4(2)(-));

(d) ~~Demographic~~ demographic information to include underserved population identification[-]; and

(e) ~~High~~ high school information, on transcripts or otherwise documented, to include:

(i) ~~Name~~ name of high school attended;

(ii) ~~Expected~~ expected or actual high school graduation date; and

(iii) ~~Expected~~ expected or actual satisfactory progress in a career and technical education pathway offered by a technical college, an institution of higher education, or a school district or charter school.

(f) Technical college enrollment intentions to include:

(i) ~~Name~~ name of technical college;

(ii) ~~High~~ high demand program in which the student is enrolled or intends to enroll;

(iii) ~~Date~~ date on which the student began or expects to begin the high demand program;

(iv) ~~Intended~~ intended enrollment hours per week;

(v) ~~Expected~~ expected program completion date; and

(vi) ~~If~~ if a deferral is requested, justification for the deferral as provided in ~~accordance with~~ Subsection 945-1-6(4)(a).

R945-1-5. Determination of Scholarship Awards and Amounts.

A technical college shall determine scholarship eligibility, prioritize selection of award recipients and the amount of each award, and grant scholarships according to the following provisions and sequence.

~~(1) Determination of Eligibility:—~~ (1) For each application deadline in Subsection R945-1-4(3), the college shall identify from the application documentation:

(a) ~~Eligible Applicant:—~~ Each applicant that satisfies or is expected to satisfy ~~all~~ each award ~~requirements~~ requirement as provided in Section R945-1-3;

(b) ~~Eligible Award Period:—~~ For for each eligible applicant, the period determined by:

(i) ~~Start Date:—~~ The the date on which the applicant expects to begin a high demand program, or, in the case of an applicant who has previously begun the intended high demand program, the day after the high school graduation date; and

(ii) ~~End Date:—~~ 12 months after the high school graduation date, or, in the case of a requested deferral, 12 months after the start date.

(c) ~~Eligible Award Amount:—~~ For each eligible applicant, the total cost of tuition, program fees, and required textbooks projected to

NOTICES OF PROPOSED RULES

accrue for the high demand program in which the applicant intends to be enrolled during the eligible award period, informed by the applicant's intended enrollment hours per week.

~~[(2) Prioritizing and Awarding of Scholarships:—]~~(2) The college shall award scholarships within an application deadline group as follows:

(a) ~~[Underserved Populations:—The]~~the college shall first award a scholarship to each eligible applicant who is a member of an underserved population, in the amount as provided in Subsection R945-1-5(3~~[-]~~); and

(b) ~~[Remaining Applicants:—The]~~the college shall, with any funds remaining after awarding scholarships to members of underserved populations, award scholarships to all other eligible applicants in the amounts as provided in Subsection R945-1-5(3).

(3) ~~[Calculation of Award Amounts:—The]~~the college shall determine award amounts for each scholarship recipient identified in Subsection R945-1-5(2) as follows:

(a) ~~[Full Eligible Award Amount:—If]~~if available funds as provided in Section R945-1-7 are sufficient for the total of all eligible award amounts identified in Subsection R945-1-5(1)(c) in a given priority group ~~[designated]~~as provided in Subsection R945-1-5(2), then each eligible applicant in the group shall be awarded 100% of the applicant's eligible award amount; ~~or[-]~~

(b) ~~[Partial Eligible Award Amount:—If]~~if available funds are less than the total of all eligible award amounts for the priority group, the available funds shall be divided by the number of eligible applicants in the group to determine the maximum award per recipient. ~~[—Each]~~

~~_____~~(c) each eligible applicant shall be awarded up to the maximum award, not to exceed 100% of the applicant's eligible award amount. ~~[—Any]~~

~~_____~~(d) any unobligated funds remaining for applicants awarded less than the maximum award shall be retained in the scholarship fund for future applicants.

~~[(e) Unavailability of Funds:—If]~~(e) if there are no available scholarship funds remaining after awards have been determined for a higher priority group, no scholarships shall be awarded for remaining applicants.

R945-1-6. Conditions and Utilization of Scholarship.

(1) ~~[Eligibility Verification:—]~~Before applying funds for a scholarship awarded as provided in Subsection R945-1-5(2) to a student, a technical college shall verify that all award requirements as provided in Section R945-1-3 have been met by obtaining and retaining additional documentation of actual qualifications which at the time of application were expected or intended to have been met.

(2) ~~[Use of Funds:—]~~Scholarship funds may be used only for tuition, program fees, and required textbooks in a high demand program in which the recipient is enrolled, up to the recipient's award amount determined in Subsection R945-1-5(3). Funds shall be applied by the college directly to an authorized ~~[costs]~~cost and shall not be issued to a recipient in cash.

(3) ~~[Time Limitation:—]~~Except in the case of a granted deferral, a technical college may only apply a scholarship toward a recipient's costs ~~[described]~~as provided in Subsection R945-1-6(2) from the day on which the college awards the scholarship as identified in Subsection R945-1-5(2) until 12 months after the day on which the recipient graduates from high school.

(4) ~~[Deferral:—]~~A college may, by request from the recipient at any time before or during the recipient's award period, defer all or any portion of a scholarship for up to three years after the day on which the recipient graduates from high school.

(a) ~~[Deferrals]~~a deferral may be granted at the discretion of the college for military service, humanitarian~~[/]~~ or religious service, documented medical reasons, or other exigent reasons.

(b) The duration of a deferred scholarship shall be for the time remaining in the recipient's award period, not to exceed 12 months.

(5) ~~[Cancellation:—]~~A technical college may cancel a scholarship if the recipient does not, as determined by the college:

(a) ~~[Maintain]~~maintain enrollment in the college on at least a half-time basis; or

(b) ~~[Make]~~make satisfactory progress toward the completion of a certificate in a high demand program.

(6) ~~[Unused Funds:—]~~Upon termination of a recipient's scholarship due to non-acceptance, completion, cancellation, or any other reason, any unused award ~~[amounts]~~amount shall be removed from liability~~[/]~~ or obligated status ~~[under]~~as provided in Subsection R945-1-7(4) and retained in the college's restricted UTech Scholarship account.

R945-1-7. UTech Scholarship Funds.

~~[(1) Distribution of Award Funds:—]~~(1) The annual distribution of UTech Scholarship award funds to technical colleges by the Board of Trustees shall be as provided in Subsection 53B-2a-116(2).

(2) ~~[Restricted Funds:—]~~UTech Scholarship funds shall be considered restricted funds by a technical college, shall be recorded only in restricted UTech Scholarship accounts, and shall be used only for scholarship recipients' tuition, program fees, and required textbooks during their award periods.

(3) ~~[Unused/Carryover]~~Funds: Each technical college is encouraged to annually utilize all UTech Scholarship funds for qualified students. Surplus funds ~~[(i.e.,]including~~ fund balance or net assets~~[-]~~ shall be retained in the restricted fund and carried over from one fiscal year to the next.

(4) ~~[Obligated Funds:—]~~The projected value of a given student's scholarship award shall be recorded as a liability from the time of the student's selection until the student's scholarship ends~~[-]~~ and shall be regarded as utilized funds when determining unused~~[/]~~ or carryover funds. Obligated funds remaining after the student's scholarship ends shall be returned to unused~~[/]~~ or carryover funds.

R945-1-8. Appeals.

A technical college shall provide a process and criteria, to be referenced in application materials, by which an applicant may appeal a decision made by the college that is related to this rule, to include provision for any unresolved appeal to be submitted to the Commissioner of Technical Education for final agency action.

R945-1-9. Reporting.

A technical college shall submit calendar year-end data regarding its UTech Scholarships to the Office of the Commissioner by January 15 of each year, and at other times as required by the Office of the Commissioner, to include information pertaining to the provisions of this rule with respect to applications, awards, enrollments, utilization, funding, or other information as directed by the Commissioner.

KEY: scholarships, technical college, career and technical education, secondary education

Date of Enactment or Last Substantive Amendment: ~~July 16, 2019~~2020

Notice of Continuation: February 29, 2016

Authorizing, and Implemented or Interpreted Law: 53B-2a-116

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R986-700	Filing No. 52604	

Agency Information

1. Department:	Workforce Services		
Agency:	Employment Development		
Building:	Olene Walker Building		
Street address:	140 East 300 South		
City, state:	Salt Lake City, Utah 84111		
Mailing address:	PO Box 45244		
City, state, zip:	Salt Lake City, UT 84145-0244		
Contact person(s):			
Name:	Phone:	Email:	
Amanda B. McPeck	801-517-4709	ampeck@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
Child Care Assistance
3. Purpose of the new rule or reason for the change:
This amendment creates a new administrative disqualification hearing (ADH) process for determining if a child care provider should be disqualified from receiving child care subsidy (CC) funds; changes and clarifies the procedures for collecting overpaid benefits; and provides technical, conforming, and stylistic changes.
4. Summary of the new rule or change:
This amendment removes rule sections regarding Overpayments; Provider Disqualification; Removal from Approved Provider Status; and Consequences for Failure to Comply; and Appeals; and replaces those rule sections with new sections regarding Overpayments, Collection of Overpayments, Intentional Program Violation (IPV), Administrative Disqualification Hearing (ADH), and Approved Provider Disqualification. The new sections describe the circumstances under which a child care provider may be disqualified from receiving CC subsidy and grant funds; defines when CC subsidy has been overpaid; and the means the Department of Workforce Services (Department) may use to collect an overpayment. This amendment clarifies the effect of a disqualification or substantiated IPV on a provider's receipt of grant funding. The creation of the new ADH and collection processes requires conforming technical changes to several other rules concerning approved providers' responsibilities and grants. This amendment

also provides technical and stylistic changes in accordance with the Rulewriting Manual for Utah.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This amendment is not expected to have any fiscal impact on state revenues or expenditures. There are no additional state employees or resources needed to oversee this proposed rule amendment. This amendment will not increase workload and can be carried out with existing budget. This amendment does not change the amount of available CC subsidy funds or grant funding.
B) Local governments:
This amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the program is federally-funded and does not rely on local governments for funding, administration, or enforcement.
C) Small businesses ("small business" means a business employing 1-49 persons):
This amendment is not expected to cause any costs or savings to small businesses because this amendment simply sets forth the procedures for determining if a provider should be disqualified from receiving CC subsidy or grant funds, and for collecting overpaid CC subsidy. Nothing in this amendment affects the amount of available CC subsidy or grant funding, a provider's substantive responsibilities or eligibility for funding, or any other matter that would cause a fiscal impact to any small business.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This amendment is not expected to cause any costs or savings to non-small businesses because this amendment simply sets forth the procedures for determining if a provider should be disqualified from receiving CC subsidy or grant funds, and for collecting overpaid CC subsidy. Nothing in this amendment affects the amount of available CC subsidy or grant funding, a provider's substantive responsibilities or eligibility for funding, or any other matter that would cause a fiscal impact to any non-small business.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):

This amendment is not expected to cause any costs or savings to other persons because this amendment simply sets forth the procedures for determining if a provider should be disqualified from receiving CC subsidy or grant funds, and for collecting overpaid benefits. Nothing in this amendment affects the amount of available CC subsidy or grant funding, a provider's substantive responsibilities or eligibility for funding, or any other matter that would cause a fiscal impact to any other persons.

F) Compliance costs for affected persons:

This amendment is not expect to cause any compliance costs for affected persons because this amendment does not create any new administrative fees. Provider compliance responsibilities are not substantively changed with this amendment. Providers and CC subsidy clients are statutorily required to repay any overpaid CC funds.

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

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that these rule changes will not result in a fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Jon Pierpont, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 35A-3-310 Section 53F-5-210

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 05/01/2020

10. This rule change MAY become effective on: 05/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title: Jon Pierpont, Executive Director **Date:** 03/11/2020

R986. Workforce Services, Employment Development.**R986-700. Child Care Assistance.****~~R986-700-715. Overpayments.~~**

~~(1) An overpayment occurs when a client or provider received CC for which they were not eligible including when a provider accepts payment but does not provide care. If the Department fails to establish one or more of the eligibility criteria and through no fault of the client, payments are made, it will not be considered to have been an overpayment if the client would have been eligible and the amount of the subsidy would not have been affected.~~

~~(2)(i) Even if CC funds are authorized by the Department, a CC provider cannot receive and retain funds for any month during which no CC services were provided. If authorized or unauthorized subsidy funds received and retained by a provider but no CC services were provided during the month, the provider will be required to reimburse the Department for the excess funds and may be disqualified from receipt of further CC subsidy funds as provided in R986-700-718.~~

~~(ii) A provider is considered to have retained subsidy funds if the provider knew or should have known the child would not receive services that month and fails to notify the Department within ten days, or if the provider does not notify the Department by the 25th of the month when the child was not in care at least eight hours that month.~~

~~(iii) If the client does not use at least eight hours of child care by the 25th of the month but the child returns after the 25th of the month and attends for at least eight hours total in the month, it may result in a partial overpayment for that month. The partial overpayment may not be assessed if the provider reports by the 25th of the month that a child was not in care during that month or stopped attending care during that month and the child returns after the 25th of the month and attends for at least eight hours total in the month.~~

~~(3) In the event that excess funds were issued for the month of service, the payment cannot be used to cover the client's out of pocket expenses, copayments, or carried forward for future months of service with a provider. The payment must be returned to the Department or, if possible, the payment for the following month may be reduced to offset the over-issuance. An overpayment may also occur when a provider receives a greater subsidy payment amount than the client was charged for the month of service.~~

~~(4) All CC overpayments must be repaid to the Department.~~

~~(a) Client overpayments may be deducted from ongoing CC payments for clients who are receiving CC. If the Department is at fault in the creation of an overpayment, the Department will deduct \$10 from each month's CC payment unless the client requests a larger amount.~~

~~(b) Provider overpayments. If a provider does not repay any outstanding overpayment within 30 days of notice of the overpayment, the Department will commence collection procedures which may include recouping the overpayment by deducting a portion of the overpayment from ongoing child care subsidies from the Department. This is true even if the child or client no longer receives child care from the provider. The decision whether to recoup the overpayment from ongoing child care payments or to commence collection procedures lies with the Department and not the provider or client/s.~~

~~(i) If the Department elects to recoup the overpayment from ongoing child care payments, and the overpayment is less than \$1,000, the Department will recoup the full amount within 90 days. If the overpayment is more than \$1,000 the Department will recoup~~

~~the amount within six months. If the recoupment presents a hardship because it is more than 50% of the provider's ongoing monthly subsidy amount, the provider can contact the Department to discuss alternative arrangements for repayment.~~

~~(ii) If a provider stops providing care and has a balance due on an overpayment, and seeks approval to become a provider at a later date, approval cannot be granted until the overpayment is paid in full even if any disqualification period has expired.~~

~~(5) CC will be terminated if a client fails to cooperate with the Department's efforts to investigate alleged overpayments.~~

~~(6) If the Department has reason to believe an overpayment has occurred and it is likely that the client will be determined to be disqualified or ineligible as a result of the overpayment, payment of future CC may be withheld, at the discretion of the Department, to offset any overpayment which may be determined.~~

~~(7) A CC provider may appeal an overpayment as provided for public assistance appeals in rule R986-100. Any appeal must be filed in writing within 30 days of the date of the notice of agency action establishing the overpayment.~~

~~(8) If a provider or individual facility fails to enter into a payment plan to repay the overpayment or abide by the terms of the payment plan for 12 consecutive months, the provider will be taken off the approved provider list until all overpayments are paid in full or the arrearage on the payment plan is brought current. This is true even if there is only one overpayment.]~~

~~R986-700-718. Provider Disqualification; Removal From Approved Provider Status.~~

~~(1) If a parent or provider commits an IPV, as defined in R986-100-117, the parent or provider will be responsible for repayment of the overpayment, if there is one, and will be disqualified from receipt of any funds from the Office of Child Care, including subsidy funds, grants and funds as a provider or as a parent:~~

~~(a) for a period of one year for the first IPV;~~

~~(b) for a period of two years for the second IPV; and~~

~~(c) for life for the third IPV.~~

~~(2) If the overpayment resulted from parent or provider fault not amounting to fraud or an agency error, the client and or provider will be responsible for repayment of the overpayment. There is no disqualification or ineligibility period for a fault overpayment.~~

~~(3) Effective February 1, 2018, a licensed provider that, in any six month period, fails three times to timely certify attendance during the monthly certification period as required in rule R986-700-706(9)(f) shall be disqualified.~~

~~(4) A CC provider may appeal an overpayment, removal from approved provider status, or disqualification as provided for public assistance appeals in rule R986-100. Any appeal must be filed in writing within 30 days of the date of the notice of agency action establishing the overpayment or disqualification. A provider who has been disqualified or removed from approved provider status may not continue to receive CC subsidy funds pending appeal. The disqualification period will take effect even if the provider files an appeal of the decision issued by the ALJ. If the provider fails to file an appeal within 30 days of the date of the notice of agency action and the Department issues a default decision, and the provider files a request to set aside the default, CC subsidy funds will not continue unless or until the default is set aside by the ALJ. If the request to set aside the default is denied, the provider will be disqualified pending appeal of the denial to set aside the default.~~

~~(5) A provider is ineligible for CC subsidy funds after a disqualification until all overpayments established in conjunction~~

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with the disqualification have been paid in full even if the disqualification period has ended.

~~(6) A provider that intentionally breaches any program rule as provided in R986-100-117, except as provided in subsection (1) of this section, or violates CC rule R986-700-706(2) through (5) or who assumes a client's identity in order to gain access to client information or payment of Department funds will be disqualified for one year for the first offense, two years for the second offense and for life for the third offense.~~

~~(7) All disqualification periods run concurrently.~~

~~(8) A disqualification issued to a provider under this subsection will follow the facility, any successor facilities, and the principal(s) of the facility.~~

~~(a) A "successor facility" is any facility that acquires the business or acquires substantially all of the assets of a facility that has been disqualified. This includes a facility whose provider changes from one status to another like a provider who was disqualified as a licensed family provider who then changes to be a license exempt provider.~~

~~(b) "Acquired" means to come into possession of, obtain control of, or obtain the right to use the assets of a business by any legal means including a gift, lease, repossession or purchase. For purposes of succession, a purchase through bankruptcy court proceedings where assets are being liquidated is not considered an acquisition, if the court places restrictions on the transfer of liabilities to the purchaser. It is not necessary to purchase the assets in order to have acquired the right to their use, nor is it necessary for the predecessor to have actually owned the assets for the successor to have acquired them. The right to the use of the asset is the determining factor.~~

~~(c) "Assets" include any property, tangible or intangible, which has value. Assets may include the acquisition of the name of the business, customers, accounts receivable, patent rights, goodwill, employees, or an agreement by the predecessor not to compete.~~

~~(d) "Substantially all" means acquisition of 90 percent or more of all of the predecessor's assets.~~

~~(f) A "principal" is the individual or individuals who were responsible for the day to day business of the child care center provided that individual had an ownership interest in the center. An ownership interest includes a shareholder, director or officer of a corporation and a partner, member or manager of a limited liability partnership or company.]~~

R986-700-722. Ineligible Provider.

(1) A provider is not eligible for any CC payment if the provider is:

- (a) an undocumented alien; or
- (b) under age 18.

(2) A provider who has been disqualified pursuant to Sections R994-700-733 and R994-700-734~~[committed an IPV as a provider, or as a recipient of any funds from the Office of Child Care including subsidy and grant payments, as determined by the Department or by a court,]~~ is not eligible for any CC payment. The disqualification ~~[for an IPV-]~~will remain in effect until the ~~[IPV-]~~disqualification period has run, any related~~[resulting]~~ overpayment has been satisfied, and the provider is otherwise eligible.]

~~(3) A provider disqualified under R986-700-718 is not eligible for any CC payment.]~~

R986-700-726. Approved Provider Status.

(1) If an eligible~~[existing approved]~~ provider chooses not to comply with the following requirements, OCC will presume the

provider has voluntarily chosen not to receive payment for CC clients. To obtain and retain approved provider status, an eligible provider shall comply with each of the following provisions.~~[-]~~

~~(a)[+] CCQS. A licensed-center provider must participate in the CCQS[-A licensed center provider is not required to receive a certified quality rating to be eligible for CC payments, but may not withdraw from participation as provided in]~~ pursuant to Section R986-700-741.

~~(b)[2] Care About Childcare. A provider, except an FFN provider, shall report its monthly, full-time child care rates to the local Care About Child Care agency.~~

~~(c)[3] Verification. A provider must provide verification information to~~ the Utah Department of Health, Child Care Licensing Program (CCL) and DWS to determine initial and continuing eligibility, which includes~~[the following:~~

~~(a)-] submission of a completed Internal Revenue Service (IRS) Form W-9,[-Form, Federal Employer Identification Number (EIN) or Social Security Number (SSN);~~

~~(b)-] For a provider approved by the Department before May 8, 2020, the provider shall submit a completed IRS Form W-9 by December 31, 2020.~~

~~(i) Payment may be withheld from a~~~~[A-] provider who fails to provide verification information [may lose approved provider status-]~~until verification information is provided.

~~(d)[4] Provider Guide. A provider must read and agree to the terms and conditions contained in the Provider Guide. A provider that has not previously received CC payment must comply with this subsection before being approved and receiving payment.[-at the time the provider is first approved for CC payment as well as any substantial changes to those terms and conditions-]~~

~~(i)[a] An approved~~~~[Licensed] provider[s] will be notified of any substantial change[s] to the terms and conditions of the Provider Guide.~~

~~(A)[i] An approved~~~~[licensed] provider will be provided at least 30 days' notice of~~ any~~[all] substantial change[s] to the terms and conditions of the Provider Guide.~~

~~(B)[ii] An approved~~~~[licensed] provider shall agree to the terms and conditions of the Provider Guide during the subsequent provider certification period[-as required under]~~ pursuant to Subsection R986-700-727(5).

~~(C)[iii] If an approved provider fails to agree to any changes, CC payment will be withheld pursuant to~~ [the provisions of] Section R986-700-729.

~~(b) A provider that has not previously received CC payments must comply with this provision before being approved and receiving payment.]~~

~~(e)[5] Certification. A provider must complete~~ any~~[all] ongoing certification[s] in the Provider Portal, including~~ any~~[those] certification[s] described in Subsection R986-700-727(5).~~

~~(i)[a] If a provider fails to complete a required certification, CC payment may be withheld pursuant to~~ [the provisions of] Section R986-700-729.

~~(ii)[b] If a provider fails to complete a required certification, the provider may be subject to an audit conducted by the Department.~~

~~(2)[6] [A]The Director of OCC may recommend~~ disqualifying a provider pursuant to Sections R986-700-733 and R986-700-734 if a provider;

~~(a) fails to~~~~[who does not] provide necessary information or cooperate with a Department investigation or audit [as provided in]~~ pursuant to Section R986-700-730;

(b) has an established pattern of overpayments pursuant to Section R986-700-731;

(c) commits an Intentional Program Violation pursuant to Section R986-700-732; or

(d) demonstrates a pattern of behavior indicating an inability or unwillingness to fulfil the provider's responsibilities under Section R986-700-727~~[- may be removed from approved provider status].~~

(3) If a provider is no longer an approved provider and the provider has accrued overpayments that have not been repaid and later seeks to become an approved provider, approval will not be granted until any overpayment is paid in full.

R986-700-727. Approved Provider Responsibilities.

(1) The provider shall assume the responsibility to collect any copayment[s] and any other fee[s] for child care services rendered. Neither the Department nor the state~~[-of Utah]~~ assumes responsibility for private payment to a provider[s].

(2) Records. The provider shall keep an accurate record[s] of CC client time and attendance.

(a) A complete time~~[Time]~~ and attendance record[s] for each~~[all]~~ CC client[s] must be kept for at least three years.

(b) If a provider is not able to produce an accurate time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.

(c) "Accurate record" means a record that:

(i) was made at or near the time of the event;~~[-]~~

(ii) was made by, or from information transmitted by, someone with knowledge;~~[-]~~ and

(iii) neither the source of information nor the method or circumstances of preparation of the record indicate a lack of trustworthiness.

(3) Provider Portal.

(a) The provider has an ongoing responsibility to access the Provider Portal located at the Department website to:

(i)~~[a]~~ submit ongoing, monthly certification;~~[-]~~

(ii)~~[b]~~ submit and manage bank account information, including to;

(A)~~[i]~~ read and agree to the Financial Terms and Conditions contained in the Portal;

(iii)~~[e]~~ view CC payment information;~~[-]~~ and

(iv)~~[d]~~ manage Provider Portal user access to ensure only a~~[those]~~ user[s] with authority to make changes can do so.

(b)~~[i]~~ The provider is liable for any~~[all]~~ change[s] made and information provided through the Provider Portal.

(4) Change reporting. Upon knowledge of the following changes, the provider shall report within ten calendar days, or by the 25th of the month, whichever is sooner:

(a) a reduced or part-time rate for an individual child in care, as applicable;~~[- This includes reporting]~~

(b) any rate change[s] or other update[s] that occurs for each child once a rate has been submitted in the portal;

(c)~~[b]~~ a child is no longer in child care;

(d)~~[e]~~ a child is not expected to be in child care the following month;

(e)~~[d]~~ that the provider received a greater CC payment amount than what was charged to the client for the month of service;~~[-~~

~~(i) An excess CC payment cannot be used to cover outstanding balances, copayments, registration fees, late fees, field trips, or future services.~~

~~(ii) The difference will either be deducted from the next month's CC payment or the funds must be returned to the Department;~~

~~(f)~~[e]~~ that a child has not attended for at least eight hours by the 25th of the month, regardless of whether the child attends or is expected to attend for at least eight hours following the 25th of the month; or~~[and]~~~~

~~(g)~~[f]~~ a change in financial institution account information for direct deposit.~~

(5) Certification.

(a) A licensed provider shall certify between the 25th of each month and the last day of the month, in a manner specified by the Department, the following:

(i) the provider has reviewed each child's attendance; and

(ii) the provider has reported any reportable change[s] in each child's attendance, including any future change[s] known or expected by the provider;~~[- and]~~

~~(b)~~[ii]~~ [t]The provider shall certify that the provider agrees to the terms and conditions specified in the most current Provider Guide.~~

~~(c)~~[b]~~ If a provider fails to certify by the last day of the month, CC payment may be withheld until certification is completed~~[-]~~ pursuant to ~~[the provisions of]~~ Section R986-700-729.~~

(6) A provider who is assessed an overpayment or IPV pursuant to Sections R986-700-731 or R986-700-732 may be subject to increased monitoring or other remedial action pursuant to OCC policy to ensure future compliance with program rules.

R986-700-728. Appropriate use of CC.

(1) CC is to support an eligible client's monthly employment and any allowed training activity~~[ies]~~ and allows for temporary absences and unforeseen circumstances.

(2) A provider must provide at least~~[minimum of]~~ eight hours of care during the CC month to be eligible for CC payment.

(a) A provider has the burden of proof to demonstrate the provider provided care to any CC client for which it receives CC payment.

(b) Pursuant to Subsection R986-700-727(2), if a provider is not able to produce a time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.

(3) Inappropriate use of a CC payment includes~~[- but is not limited to]:~~

(a) applying the CC payment to a:

(i) copayment[s],

(ii) registration fee[s],

(iii) late fee[s],

(iv) field trip[s], or

(v) ~~[a-]~~client's out of pocket expenses; or

(b) carrying forward the CC payment for future months of service.

(4) An excess CC payment cannot be used to cover an outstanding balance, a copayment, a registration fee, a late fee, a field trip, or future services. If excess funds are issued for a month of service, the excess funds must be returned to the Department. The CC payment for the following month may be reduced to offset the over-issuance.

(5) A provider who receives a CC payment for services which were not provided is responsible for repayment of the resulting overpayment under Title 35A, Chapter 3, Part 6, Administrative Determination of Overpayment Act, and Sections R986-700-731 and R986-700-731.1, and there may be a disqualification period pursuant to Sections R986-700-733 and R986-700-734~~[of removal from approved provider status under R986-700-718]~~, and potential criminal

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prosecution under Title[Section] 76, Chapter 8, Part 12, Public Assistance Fraud.

(6) A provider who provides services for any part of a month and then terminates services with the client or for a [f]child during the month[;] shall reimburse the Department for the days when care was not provided.

(a) If it was necessary to remove the child from care because the child or others were endangered, and the incident was reported to CCL or local authorities, the Department may waive repayment.

(7) The Department will issue a IRS Form 1099 annually where applicable to each eligible provider[s] who[have] received a CC payment during the year.

(8) A provider who applies CC funds inappropriately may be subject to an overpayment and possible [child care-]disqualification pursuant to Sections R986-700-731, R986-700-733, and R986-700-734.

R986-700-729. Withholding of CC Payment.

(1) Pursuant to Section R986-700-731.1, CC payment may[will] be withheld if a provider is found to have been overpaid and:

- (a) fails to repay the overpayment[;] or
- (b) fails to enter into a repayment or recoupment plan in accordance with Department policy[;] or
- (c) is not current with repayment[s] in accordance with a repayment plan.

(2) CC payment may[will] be withheld if a provider fails to comply with each requirement of Sections R986-700-726 and R986-700-727[agree to the terms and conditions of the Provider Guide during a provider certification period].

(3) CC payment[s] withheld pursuant to Section R986-700-729 will be released once the provider complies with the requirement.

(4) A provider shall not charge a client for a withheld CC payment. Although the client remains eligible, the provider will not receive CC payment until the provider complies with all[the] participation requirements as provided by Sections R986-700-726, R986-700-727, R986-700-729, and R986-700-731.1[this rule].

R986-700-730. Audits and Investigations.

(1) The Department has the right to investigate a child care provider and audit the provider's['] records.

(a) An audit[s] or[and] investigation[s] may be performed by a person or entity under contract with the Department, [from-]a Department employee[s], or other person[s] authorized by the Department to obtain information on behalf of the Department.

(b) A provider must cooperate with an investigation or audit to determine ongoing client eligibility or if client eligibility was correctly determined.

(2) A client or a provider[Clients and providers] must cooperate with any investigation or audit in a timely manner.

(a) A timely manner means ten business days for written or electronic documentation and two business days to return a phone call or email request.

- (b) Cooperation means timely:
 - (i) providing information and verification of any record[s] as requested by the Department[;]
 - (ii) returning a telephone call[;] and
 - (iii) responding to an email request[s].

(c) Cooperation with an audit includes submitting a written statement that the person chooses not to respond to an audit finding included in a draft audit report.

(3) If a client fails to cooperate with an investigation or audit without good cause, the case will be referred to the public

assistance overpayments unit and the client may be found liable for an overpayment[CC will be terminated if a client fails to cooperate with the Department's efforts to investigate an alleged overpayment without good cause].

(4) If a provider fails to cooperate with an investigation or audit without good cause, or fails to keep an accurate and complete time and attendance record for three years without good cause, CC payment may be withheld until the provider cooperates and the Director of OCC may recommend disqualifying the provider pursuant to Sections R986-700-733 and R986-700-734. [If a provider fails to cooperate with an investigation or audit, provide any and all information or verification requested, or fails to keep records for three years without good cause, t]The provider will also be referred to the public assistance overpayments unit and the provider may be found liable for an overpayment.

(a) [A]If a provider significantly impairs or unnecessarily delays[who obstructs] an audit or investigation, CC payment may be withheld and the Director of OCC may recommend disqualifying the provider pursuant to Sections R986-700-733 and R986-700-734[may be removed from approved provider status].

(5) Good cause. Good cause is limited to circumstances where the client or provider can show that the reason for the failure to cooperate, to timely respond to a request[s], or to provide or keep a record[s] was due to circumstances beyond the client or provider's control or were compelling and reasonable.

(6) Providing incomplete or incorrect information will be treated as a failure to cooperate[provide information] if the incorrect or insufficient information results in an improper decision with regard to eligibility.

(7) A provider has the burden of proof to demonstrate the provider actually provided care to any CC client for which it receives CC payment.

R986-700-731. Overpayments.

(1) An overpayment occurs when:

- (a) a client or provider receives CC for which the client was not eligible;
- (b) a provider receives a CC payment but does not provide care for at least eight hours during the month;
- (c) a provider receives a greater CC payment amount than the client is charged for the month of service; or
- (d) a provider applies CC to nonallowable costs pursuant to Section R986-700-728.

(2) Pursuant to Section 35A-3-603 of the Administrative Determination of Overpayment Act, any provider, client, or other person who receives an overpayment shall return the overpaid funds to the Department, regardless of fault. The client and provider shall be jointly and severally responsible for repayment of any overpayment except when:

- (a) an overpayment is caused by an Intentional Program Violation (IPV) on the part of solely the client or solely the provider; or
- (b) a provider receives a CC payment, provides at least eight hours of child care during the month, and provides an attendance record to verify the provision of care, unless the provider terminated services during the month as described in Subsection R986-700-728(6).

(3) A provider who is assessed an overpayment pursuant to this section may be subject to increased monitoring or other remedial action pursuant to Subsection R986-700-727(6).

R986-700-731.1. Collection of Overpayments.

(1) A CC overpayment must be repaid to the Department pursuant to Section 35A-3-603 of the Administrative Determination of Overpayment Act.

(a) The Department reserves the right to pursue collection of any overpayment pursuant to Title 35A, Chapter 3, Part 6, Administrative Determination of Overpayment Act.

(b) For the purposes of this section "recoupment" or "recoup" means applying a CC payment or grant funds, such as an Enhanced Subsidy Grant (ESG) through Child Care Quality System (CCQS), to an overpayment balance.

(c) For the purposes of this section "withholding" means delaying payment until a specified condition is met. Once the condition is met, the payment will be released.

(2) A client who is receiving CC and has an outstanding CC overpayment balance may be subject to recoupment of the overpayment from ongoing CC payment.

(3) If a provider does not repay an overpayment within 30 days of the order establishing that overpayment, the Department will take one of the following actions:

(a) for a provider receiving an ESG, recoup grant funds pursuant to Subsection R986-700-742(3), regardless of whether the provider agrees to recoupment;

(b) recoup a CC payment, if the provider voluntarily agrees to recoupment;

(c) establish a repayment plan with the provider;

(d) if the provider is not receiving an ESG and does not establish a repayment plan or voluntary recoupment, or fails to comply with a repayment plan, withhold any CC payment until the provider establishes a repayment plan or voluntary recoupment, the provider complies with the repayment plan, or overpayment is paid in full; or

(e) file an abstract of the final administrative order and pursue a lien pursuant to Section 35A-3-606.

(4) Overpayment assessed against a provider before May 8, 2020. For a provider that accrued any overpayment that has not been repaid before May 8, 2020, the following provisions apply.

(a) A provider shall repay an overpayment within 12 months of the order establishing that overpayment or enter into and comply with a repayment plan.

(b) A provider that does not repay an overpayment within 12 months of the order establishing the overpayment or comply with a repayment plan shall be subject to one of the following:

(i) for a provider receiving an ESG, involuntary recoupment of an ESG pursuant to Subsection R986-700-742(3), regardless of whether the provider agrees to recoupment;

(ii) voluntary recoupment of a CC payment, if the child care provider agrees to the voluntary recoupment;

(iii) the Department may withhold CC payment until the overpayment is paid in full; or

(c) the Department may file an abstract of the final administrative order and pursue a lien pursuant to Section 35A-3-606.

(5) A provider shall not penalize any current CC client as a result of the Department's collection action.

(i) "Penalize" includes:

(A) requiring a client to pay new or additional fees for service, excluding the copayment or amount exceeding the CC payment; or

(B) terminating services with the client.

(6) If the client or provider files a timely appeal, collection procedures will be stayed during the appeal process.

R986-700-732. Intentional Program Violation.

(1) An Intentional Program Violation (IPV) occurs when a person:

(a) either personally or through a representative;

(b) intentionally, knowingly, or recklessly, as defined in Section 76-2-103 concerning definitions of culpable conduct;

(c) violates a program rule, or helps another person violate a program rule;

(d) in an attempt to:

(i) obtain,

(ii) maintain,

(iii) increase, or

(iv) prevent the decrease or termination of CC payment.

(2) The evidentiary standard for determining an IPV is clear and convincing evidence.

(3) Acts which may constitute an IPV include:

(a) making a false or misleading statement;

(b) misrepresenting, concealing, or withholding information;

(c) posing as someone else;

(d) taking, using, or accepting a CC payment the person knew they were not eligible to receive,

(e) not reporting the receipt of a CC payment the person knew they were not eligible to receive;

(f) not reporting a material change as required by Sections R986-700-727 and R986-100-113; and

(g) committing an act intended to mislead, misrepresent, conceal or withhold a fact, or propound a falsity.

(4) When an IPV is alleged, the Department may:

(a) refer the case for criminal prosecution;

(b) in the case of a client IPV, issue a notice of agency action finding the person committed an IPV, which the person may appeal through the fair hearing process set forth in Rule R986-100;

(c) in the case of a provider IPV which occurred before May 8, 2020, or for which the Director of OCC does not recommend disqualifying the provider, in addition to any increased monitoring or remedial action pursuant to Subsection R986-700-727(6), issue a notice of agency action establishing an overpayment and penalty finding the provider committed an IPV, which the provider may appeal via the fair hearing process set forth in Rule R986-100; or

(d) in the case of a provider IPV for which the Director of OCC recommends disqualifying the provider, in addition to any increased monitoring or remedial action pursuant to Subsection R986-700-727(6), refer the case for an administrative disqualification hearing (ADH) pursuant to Section R986-700-733.

(5) The Department may not disqualify a provider unless an ADH has been held and the ALJ has ordered disqualification or the provider has been criminally convicted.

(6) The Department may not make a concurrent referral for an ADH and a criminal prosecution.

(a) If a case referred for criminal prosecution is dismissed or referred back to the Department without prosecution, the Department may issue a notice of agency action or refer the case for an ADH pursuant to Subsection R986-700-732(4).

(7) A provider found to have committed an IPV will be responsible for repayment of both any related overpayment and a civil penalty pursuant to Subsection 35A-3-603(4).

R986-700-733. Administrative Disqualification Hearing (ADH).

(1) An ADH will be held if the Director of OCC recommends disqualifying a provider pursuant Subsections R986-700-726(2), R986-700-730(4), or R986-700-732(4). If the provider

does not participate in the ADH, the ALJ will make a decision based solely on the evidence before the ALJ.

(2) The hearing procedures set forth in Rule R986-100 apply to an ADH unless otherwise specified or inconsistent with this section.

(3) The Division of Adjudication will schedule any ADH. Each party will be given 30-days' notice of the date and time of the ADH.

(a) The Department may withdraw a request for an ADH at any time before the scheduled hearing by sending written notice to the Division of Adjudication and any party.

(4) The Division of Adjudication may combine a fair hearing and an ADH into a single hearing if the relevant factual issues arise out of the same or related circumstances.

(a) The notice of hearing shall indicate whether a fair hearing and an ADH will be combined into a single hearing.

(b) If the hearings are combined, the applicable filing deadline and hearing timeframe are those contained in this section to the extent of any conflict.

(c) If the provider fails to appear or participate in the combined hearing, the fair hearing will be dismissed but the ADH will still be held.

(5) The ALJ shall advise a witness that the witness has the right to refuse to answer any question during the hearing, and that the ALJ may draw any reasonable adverse inference based on a party's refusal to answer a question during the hearing.

(6) A qualified employee of the Department shall represent the Department at the ADH.

(7) If any party fails to participate in the hearing and disagrees with the hearing decision, the party may request reopening of the hearing as set forth in Section R986-100-131.

(8) Within 90 days of the date the notice of hearing is issued, the ALJ shall conduct the hearing, arrive at a decision, and issue written notice of the decision to the Department and each party. If the ADH is postponed for any reason, the 90-day time limit will be extended by as many days as the ADH is postponed.

(a) The ALJ shall determine if the provider should be disqualified pursuant to Section R986-700-734.

(9) The ALJ is not required to disqualify a provider based solely upon a finding of IPV. If the ALJ determines the provider's conduct does not warrant disqualification, the Department may establish an overpayment pursuant to Section R986-700-731, assess a penalty pursuant to Section R986-700-732, and take remedial action pursuant to Subsection R986-700-727(6).

(10) Any party, including the Department, may request a further appeal pursuant to Section 63G-4-402 of the Administrative Procedures Act, Section R986-100-135, and Subsection R986-100-735(3).

R986-700-734. Approved Provider Disqualification.

(1) When determining whether to disqualify a provider from approved provider status the Department may consider:

- (a) the seriousness of offense or offenses;
- (b) the extent of offense or offenses;
- (c) a history of adjudicated overpayments or IPVs;
- (d) previous imposition of increased monitoring or remedial action by the Department;
- (e) failure to comply with monitoring or remedial action by the Department;
- (f) the extent of notice, education, or warning given to the provider by the Department pertaining to the offense or offenses for which the provider is being considered for disqualification;

(g) the adequacy of assurances by the provider that the provider will comply prospectively with each Department and OCC requirement related to the offense; and

(h) whether a lesser sanction will be sufficient to remedy the problem.

(2) Disqualification period.

(a) The first disqualification assessed against a provider shall be 12 months.

(b) The second disqualification assessed against a provider shall be 24 months.

(c) The third disqualification assessed against a provider shall be a lifetime disqualification.

(3) A provider that has been disqualified pursuant to Sections R986-700-733 and R986-700-734:

(a) may not receive an enhanced subsidy grant (ESG), a state-funded grant, or other Child Care Development Fund (CCDF) funding during the disqualification period; and

(b) will remain ineligible for any CC payment, ESG, state-funded grant, or other CCDF funding until any overpayment and penalty established in conjunction with the disqualification has been satisfied in full.

(4) A disqualification is effective two benefit months from the date of the ALJ order.

(5) A disqualification will take effect even if the provider files an appeal pursuant to Section 63G-4-402 of the Administrative Procedures Act, Section R986-100-135, and Subsection R986-100-735(3).

(6) Disqualifications run concurrently.

(7) A disqualification assessed to a provider will follow the facility, any successor facility, and a principal of the facility.

(a) A "successor facility" is any facility that acquires the business or acquires substantially all the assets of a facility that has been disqualified. This includes a facility whose provider changes from one status to another; such as a provider who was disqualified as a licensed family provider who then changes to be a license exempt provider.

(b) "Acquired" means to come into possession of, obtain control of, or obtain the right to use the assets of a business by any legal means including a gift, lease, repossession, or purchase. For purposes of succession, a purchase through bankruptcy court proceedings where assets are being liquidated is not considered an acquisition, if the court places restrictions on the transfer of liability to the purchaser. It is not necessary to purchase the assets to have acquired the right to their use, nor is it necessary for the predecessor to have actually owned the assets for the successor to have acquired them. The right to the use of the asset is the determining factor.

(c) "Assets" include any property, tangible or intangible, which has value. Assets may include the acquisition of the name of the business, customers, accounts receivable, patent rights, goodwill, employees, or an agreement by the predecessor not to compete.

(d) "Substantially all" means acquisition of 90 percent or more of the predecessor's assets.

(e) A "principal" is an individual who is responsible for the day to day business of a child care center, if that individual has an ownership interest in the center. An ownership interest includes a shareholder, director, or officer of a corporation, and a partner, member, or manager of a limited liability partnership or company.

R986-700-735. Appeals.

(1) A client may appeal an adverse agency action pursuant to Rule R986-100. ~~A client appeal based on adverse action by the~~

~~Department shall be made to the Department in accordance with R986-100-123 et seq.]~~

(2) A provider may appeal an overpayment [as provided in]pursuant to Rule[rule] R986-100[-123 et seq]. Any appeal must be filed in writing within 30 days of the date of the notice of agency action establishing the overpayment.

(3) A provider may appeal an ADH disqualification pursuant to Section 63G-4-402 of the Administrative Procedures Act, Section R986-100-135, and Subsection R986-100-735(3). Any appeal must be filed in writing within 30 days of the date of the ALJ order.

R986-700-742. Enhanced Subsidy Grant (ESG).

(1) To receive an Enhanced Subsidy Grant (ESG) a program must:

- (a) receive a certified quality rating of:
 - (i) High Quality,~~[s]~~ or
 - (ii) High Quality Plus;
- (b) serve children for whom child care was paid for with CC subsidy [~~payments~~]during the 12-month period used to calculate the ESG;

(c) maintain a license in good standing with CCL during the 12-month certification period;

(d) maintain status as a DWS-Eligible child care program during the 12-month certification period;

(e) agree to the comply with each[the] requirement[s] outlined in the certified quality rating award notice;

(f) agree to the amount of the ESG stated on the certified quality rating award notice;

(g) agree to receive the ESG through the process established by OCC policy;

(h) not be disqualified pursuant to Sections R986-700-733 and R986-700-734;~~removed from approved provider status due to an adjudicated Intentional Program Violation (IPV), as defined in R986-100-117 and R986-700-718;~~

(i) not have a pending administrative review on the awarded certified quality rating;~~[s]~~ and

(j) not have a pending referral from the Director of OCC for an administrative disqualification hearing pursuant to Sections R986-700-733 and R986-700-734[Notice of Agency Action for a suspected Intentional Program Violation (IPV) issued against the provider, as defined in R986-100-117].

(2) Upon final disposition of a pending administrative review, an ESG may be issued retroactively where all other ESG requirements are met and the program has not been disqualified pursuant to Sections R986-700-733 and R986-700-734[found to have committed an IPV pursuant to R986-100-117 and R986-700-718].

(3) An ESG for a program that has an outstanding adjudicated overpayment or other debt owing to OCC shall be issued as follows:

(a) if the overpayment amount is less than the monthly ESG amount, the ESG shall be reduced by the amount of outstanding overpayment due; or

(b) if the overpayment amount is greater than the monthly ESG, a monthly ESG shall continue-to be reduced until the overpayment is fully repaid.

(4) An overpayment where there is not a suspected IPV and for which there is a pending administrative review or appeal shall not impact the ESG until final disposition of the action is issued.

(5) The monthly ESG will be calculated in accordance with OCC policy.[]

~~(6) A program found to have been overpaid CC subsidy due to an IPV on the part of the program while receiving ESG shall, in~~

addition to repaying the overpaid CC subsidy, repay the ESG received during the time period of the IPV.]

~~[R986-700-757. Consequences for Failure to Comply; Appeals.~~

~~(1) A child care provider that fails to comply with Sections R986-700-751 through 756 will be removed from approved provider status until the provider complies. The child care provider may also be held liable for additional penalties under Section R986-700-718 if the requirements for liability under that section are met.~~

~~(2) A child care provider or covered individual may appeal an adverse action related to the background check requirements by following the procedure for appeals set forth in Section R986-700-705(7).]~~

R986-700-770. Provider Grant Eligibility.

To be eligible for Child Care Development Fund (CCDF)-funded OCC grant[s] from the Department[;] a provider must:

- (1) meet each[all] CCDF requirement[s];
- (2) participate in CCQS, if applicable;
- (3)(a) have no outstanding overpayment pursuant to R986-700-731[715], or

(b) have an established repayment plan or recoupment with the Department and be current in repayment[s] pursuant to R986-700-731.1;

(4) hold a license in good standing from CCL;

(5) [-]not have a pending referral from the Director of OCC for an administrative disqualification hearing pursuant to Sections R986-700-733 and R986-700-734[Notice of Agency Action for a suspected Intentional Program Violation (IPV) issued against the provider, as defined in R986-100-117]; and

(6) not be disqualified from receiving CC payment pursuant to Sections R986-700-733 and R986-700-734[removed from approved provider status due to an adjudicated Intentional Program Violation (IPV), as defined in R986-100-117 and R986-700-718].

KEY: child care, grant programs

Date of Enactment or Last Substantive Amendment: [~~January 9, 2020~~

Notice of Continuation: September 3, 2015

Authorizing, and Implemented or Interpreted Law: 35A-3-310; 53A-1b-110; 53F-5-210

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R990-101	Filing No. 52602	

Agency Information

1. Department:	Workforce Services
Agency:	Housing and Community Development
Building:	Olene Walker Building
Street address:	140 East 300 South
City, state:	Salt Lake City, UT
Mailing address:	PO Box 45244
City, state, zip:	Salt Lake City, UT 84145-0244
Contact person(s):	

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Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Qualified Emergency Food Agencies Fund (QEFAF)
3. Purpose of the new rule or reason for the change:
The amendment updates this rule to reflect the competitive grant application process that will be the allocation method for QEFAF program in fiscal year 2021 and forward. The amendment also provides technical, conforming, and stylistic changes.
4. Summary of the new rule or change:
In 2017, this rule was amended to address allocations for fiscal years 2018, 2019, and 2020. New guidelines have been developed for the program and for allocation of QEFAF. The amendment reflects the new guidelines for QEFAF for fiscal year 2021 and forward. The amendment also provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Department of Workforce Services (DWS) policies.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule amendment is not expected to have any fiscal impact on state revenues or expenditures. There are no additional state employees or resources needed to oversee the proposed rule amendment.
B) Local governments:
This rule amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the DWS is amending this rule to reflect an anticipated change in the QEFAF allocation method.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule amendment is not expected to have any fiscal impact on small businesses because the DWS is amending this rule to reflect an anticipated change in the QEFAF allocation method.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule amendment is not expected to have any fiscal impact on non-small businesses because the DWS is amending this rule to reflect an anticipated change in the QEFAF allocation method.

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

There will be no costs or savings to any persons since the DWS is changing this rule to reflect an anticipated change in the QEFAF allocation method.

F) Compliance costs for affected persons:

There are no compliance costs associated with this change. There are no fees associated with this change.

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

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:
After conducting a thorough analysis, it was determined that these rule changes will not result in a fiscal impact to businesses.
B) Name and title of department head commenting on the fiscal impacts:
Jon Pierpont, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):
Section 35A-8-1004

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 5/1/2020

10. This rule change MAY become effective on: 5/8/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title: Jon Pierpont, Executive Director	Date: 03/09/2020
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R990. Workforce Services, Housing and Community Development. R990-101. Qualified Emergency Food Agencies Fund (QEFAF). R990-101-1. Designation as a Qualified Emergency Food Fund Agency.

(1) A qualified emergency food agency [~~hereinafter referred to as~~] (Qualified Agency), is an organization that is: [s]

(a) exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; [s] or

(b) an association of governments or a municipality ~~that~~ ~~which,~~ as part of its activities operates a program ~~with the~~ ~~that has as the program's~~ primary purpose to: [s]

(i) warehouse and distribute food to ~~another agency~~ ~~ies and~~ ~~or~~ organization[s] providing food and food ingredients to low-income persons, or

(ii) provide food and food ingredients directly to low-income persons.

(2) For initial designation as a Qualified Agency [s] an organization must file an application with, and must be approved by, the State Community Services Office (SCSO) before receiving a distribution[s] under [~~Utah Code~~] Section 35A-8-1009. [~~The application form and instructions are available on the SCSO Website at http://housing.utah.gov/seso/qefaf.~~]

(3) (a) After the initial designation as a Qualified Agency, a non-profit 501(c)(3) organization must maintain a current Charitable Solicitations Permit issued by the Utah Department of Commerce, Division of Consumer Protection [~~per~~] pursuant to Title 13, Chapter 22, Charitable Solicitations Act [~~Utah Code Section 13-22-6~~] or be exempt under the same Act [~~Utah Code Section 13-22-8~~].

(b) After the initial designation as a Qualified Agency, an [~~an~~] association of governments or a municipality must continue to operate a program which has, as the program's primary purpose, to warehouse and distribute food to ~~another agency~~ ~~ies and~~ ~~or~~ organization[s] providing food and food ingredients to low-income persons, or provide food and food ingredients directly to low-income persons.

(4) ~~Any~~ [~~an~~] entity [~~ies~~] applying to be designated as a Qualified Agency must submit a list of current members of the entity's ~~board of directors~~ [~~Board of Directors~~] and contact information for the individual primarily responsible for maintaining the organization's financial records. This information ~~shall~~ ~~should~~ be submitted with the Qualified Agency's application for funds [~~signed copies of the Qualified Agency's Memorandum of Understanding~~] each year.

R990-101-2. Use of Funds.

Funds received from the QEFAF program ~~shall only~~ ~~must~~ be expended by the Qualified Agency [~~only~~] for purposes related to warehousing and distributing food and food ingredients to ~~another agency or~~ ~~ies and~~ organization[s] providing food and food ingredients to low-income persons, or providing food and food ingredients directly to low-income persons.

R990-101-3. Allowable Expenditures.

(1) Warehousing, [~~an~~] ~~expenditure~~ [~~Expenditures~~] directly related to:

(a) receiving, sorting, weighing, handling, and storing of food and food ingredients; [~~including~~]

(b) the direct ~~personnel~~ ~~staff~~ cost[s] for a warehousing activity; [~~ies,~~]

(c) warehouse equipment, including:

(i) a scale; [s]

(ii) a fork lift; [s]

(iii) a pallet jack; [s]

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- ~~_____~~ (iv) shelving;~~;~~^[s]
- ~~_____~~ (v) refrigeration equipment;~~;~~^[s] ~~and~~
- ~~_____~~ (vi) supplies for food storage;~~;~~^[s] and
- ~~_____~~ (d) a cost for the space ~~[costs]~~^[costs] associated with or used for the warehousing activity ~~including;~~^[such as]
 - ~~_____~~ (i) utilities;~~;~~^[s]
 - ~~_____~~ (ii) insurance;~~;~~^[s]
 - ~~_____~~ (iii) cleaning supplies;~~;~~^[s]
 - ~~_____~~ (vi) pest control;~~;~~^[s] ~~and~~
 - ~~_____~~ (vii) a minor repair; or ~~[s and]~~
 - ~~_____~~ (viii) maintenance.

(2) Distributing.~~[-]~~ An expenditure~~[Expenditures]~~ directly related to packaging and transporting food and food ingredients to ~~another agency~~^[ies and] or organization~~[s]~~ ~~that~~^[which] provides food and food ingredients to qualified low-income individuals and households, including:

- ~~_____~~ (a) the direct personnel~~[staff]~~ cost for a distributing activity; ~~and~~^{[s];}
- ~~_____~~ (b) a transportation equipment cost~~[s]~~ ~~including;~~^[such as]
 - ~~_____~~ (i) a refrigeration unit;~~;~~^[s]
 - ~~_____~~ (ii) insurance on a vehicle~~[s]~~ used exclusively to pick up and drop off food and food ingredients;~~;~~^[s]
 - ~~_____~~ (iii) fuel;~~;~~^[s]
 - ~~_____~~ (iv) licensing; ~~and~~^[s]
 - ~~_____~~ (v) a minor repair; or ~~[s and]~~
 - ~~_____~~ (vi) maintenance.

(3) Providing.~~[-]~~ An expenditure~~[Expenditures]~~ directly related to providing food and food ingredients directly to low-income individuals and households, including:

- ~~_____~~ (a) the direct personnel~~[staff]~~ cost~~[s]~~ for client intake;~~;~~^[s]
- ~~_____~~ (b) case management;~~;~~^[s]
- ~~_____~~ (c) meal preparation;
- ~~_____~~ (d) ~~and/or~~ delivery of meals to a home-bound client~~[s]~~ or congregate meal site~~[s]~~; ~~and~~
- ~~_____~~ (e) an operational expenditure~~[s]~~, including:
 - ~~_____~~ (i) a telephone;~~;~~^{[s];}
 - ~~_____~~ (ii) a computer system~~[s]~~ used to track client eligibility, food intake and distribution;
 - ~~_____~~ (iii) staff and volunteer training costs such as food safety training;
 - ~~_____~~ (iv) a food handler's permit~~[s]~~; ~~and~~
 - ~~_____~~ (v) any other direct cost~~[s]~~ which ~~is~~^[are] reasonable and necessary.

(4) Direct personnel~~[staff]~~ costs.~~[-]~~

- ~~_____~~ (a) The cost for personnel directly involved in:
 - ~~_____~~ (i) collecting, transporting, receiving, weighing, sorting, handling, or packaging food and food ingredients;
 - ~~_____~~ (ii) dispensing food and food ingredients directly to an eligible client;
 - ~~_____~~ (iii) preparing, serving or delivering meals to an eligible clients and
 - ~~_____~~ (iv) providing case management services directly to an eligible food bank client.

(b) The personnel cost for a staff member who works in both QEFAP and non-QEFAP supported activities is allowable only to the extent the staff member is engaged in the activities described in Subsection R990-101-3(4) and must be supported by a time and activity report.

- ~~_____~~ (c) A personnel cost, including:
 - ~~_____~~ (i) ~~[S]~~^[S] salaries and wages;~~;~~^[s]
 - ~~_____~~ (ii) employer's payroll tax;~~[es,]~~ ~~and~~

~~_____~~ (iii) fringe benefits,~~[-]~~ ~~for staff directly involved in collecting, transporting, receiving, weighing, sorting, handling, and packaging food and food ingredients; dispensing food and food ingredients directly to eligible clients; preparing, serving and/or delivering meals to eligible clients; and providing case management services directly to eligible food bank clients. Personnel costs for staff who also work in non-QEFAP supported activities are allowable only to the extent the staff are engaged in the activities described in this section and must be supported by time and activity reports.~~

(5) Administrative expenditures.~~[-]~~ QEFAP funds expended by a Qualifying Agency for administrative costs shall not exceed 10~~[5]~~% of the total distributions received by that Qualifying Agency under the QEFAP program for any fiscal year.

R990-101-4. Non-Allowable Expenditures.

(1) An expenditure~~[Expenditures]~~ that does not directly pertain to warehousing, distributing, or providing food and food ingredients to low-income persons, other than the maximum 10~~[5]~~% administrative costs as provided in Subsection R990-101-3(5), are not allowed.

~~_____~~ (a) ~~[Specifically, -]~~ An expenditure~~[s]~~ associated with soliciting or promoting a cash or food donation~~[s]~~, recognizing a donor ~~or~~^[s and] volunteer~~[s]~~, and any transportation cost~~[s]~~ other than picking up and delivering food and food ingredients, ~~is~~^[are] not allowed.~~[Expenditures not specifically listed in R990-101-3 are not allowed.]~~

R990-101-5. Submission of Claims.

(1) A Qualified Agency may not submit more than one claim per month. A claim~~[Claims]~~ must be submitted online using the online system identified by the SCSO~~[Web Grants system at the following website address: http://www.webgrants.community.utah.gov]~~

(2) QEFAP funds expended prior to the end of the fiscal year but not reimbursed as of the end of the fiscal year must be submitted by July 15 in accordance with finance policies for state fiscal year end~~[may be submitted as claims within a reasonable time after the fiscal year ends].~~

R990-101-6. Determination of Funding Amounts~~[s]~~ and Needs Assessment~~[s]~~ Discretionary Funds.

~~[-]~~ (1) For purposes of this section, the following definitions apply:

~~_____~~ (a) "Available appropriation amount" means eighty percent (80%) of the total QEFAP funds appropriated to SCSO for a given fiscal year.

~~_____~~ (b) "Designated amount" means the amount of QEFAP funds designated to be available for a Qualified Agency in a given fiscal year, without taking into account the award of any discretionary funds. Designated amounts shall be calculated as follows:

~~_____~~ (i) For existing Qualified Agencies:

~~_____~~ (A) For fiscal years 2018, 2019, and 2020, by calculating the yearly average of the amount of QEFAP funds allowed to the Qualified Agency over the preceding four (4) fiscal years, or if the Qualified Agency has been designated as a Qualified Agency for a shorter period of time, by calculating the yearly average of the amount of QEFAP funds allowed to the Qualified Agency during the period since it was designated as a Qualified Agency;

~~_____~~ (B) For all subsequent fiscal years, as determined by SCSO in its discretion and in consultation with a needs assessment as described in Subsection (3);

~~_____~~ (ii) For new Qualified Agencies, as determined by SCSO in its discretion and in consultation with a needs assessment as described in Subsection (3), or if no needs assessment has been completed, as determined by SCSO in its discretion after taking into account:

- ~~(A) The needs of the Qualified Agency;~~
 - ~~(B) SCSO's available funding;~~
 - ~~(C) The Qualified Agency's other sources of funding;~~
 - ~~(D) The needs of the community being served by the Qualified Agency;~~
 - ~~(E) Any other relevant factors.~~
- ~~(c) "Discretionary funds" means any QEFAP funds which are not included in the available appropriation amount, or which are returned or recouped from a Qualified Agency under Section R990-101-9.~~

~~(2) Each Qualified Agency may submit claims under Section R990-101-5 up to the Qualified Agency's designated amount in each fiscal year. The sum total of all claims submitted by all Qualified Agencies shall not exceed the available appropriation amount. If the available appropriation amount is insufficient to fund all the Qualified Agencies in their designated amounts, the funding for each Qualified Agency shall be reduced on a pro rata basis relative to the available appropriation amount.]~~

~~(1) SCSO shall allocate funding based on a competitive grant application process. SCSO will publicly post a request for proposals.~~

~~(2) Each application is reviewed and scored by committee.~~

~~(a) Scoring priorities may be identified by SCSO and, if identified, will be included in the publicly posted request for proposals.~~

~~(3) At its discretion SCSO shall conduct, or cause to be conducted, a needs assessment for use in identifying the level of need across the state and in identifying possible funding priorities. [determining the designated amounts for existing and new Qualified Agencies as described in Subsection (2) above. Following the initial needs assessment, SCSO may conduct, or cause to be conducted, updated needs assessments at its discretion.]~~

~~(4) Each Qualified Agency shall cooperate with any request[s] for information, inspection, or other review of the Qualified Agency's activities made in conjunction with developing a statewide needs assessment. [The results of each needs assessment shall be made available to the Qualified Agencies.~~

~~(5) A Qualified Agency may submit a request for discretionary funds through the process described in Section R990-109-5. Discretionary funds are limited, and no Qualified Agency has any entitlement to receive discretionary funds for any purpose.~~

~~(6) SCSO shall evaluate requests for discretionary funds based on the factors described in Subsection (1)(b)(ii).]~~

R990-101-7. Recordkeeping Requirements.

~~(1) Each Qualified Agency must maintain:[;]~~

~~(a)[1]) any receipt[s] or[and] other original record[s] for a donation[s] of food and food ingredients, including any schedule[s] or[and] work paper[s] supporting a claim[s] made under the OEFAF program for a period of five years following the date of the claim:[;]~~

~~(b)[2]) a financial management system that provides accurate, current, and complete disclosure of the receipt and disbursement[s] of any[all] QEFAP funds, including accounting records that are supported by source documentation sufficient to determine that QEFAP funds were expended only for the purposes as stated in [Utah Code]Section 35A-8-1009 and Section R990-101-2:[;]~~ and

~~(c)[3]) effective control and accountability for any[all] QEFAP funds and any[all] property, equipment, and other assets acquired with QEFAP funds.~~

~~(2) A Qualified Agency shall[agrees to] adequately safeguard any asset[all such assets] purchased with QEFAP funds and assure that asset is[they are] used solely for an authorized purpose[s].~~

~~(3) [Such r]Records must be maintained by Qualified Agency for a period of five years following the date of the claim.~~

R990-101-8. Monitoring.

~~(1) SCSO will monitor Qualified Agency claims and may conduct one or more site visits to inspect any record[s] supporting the claim[s] being made. SCSO may also review financial records to determine that distributions received are expended in accordance with [Utah Code]Section 35A-8-1009(8) and Section[rule] R990-101-3.~~

~~(2) [The]A Qualified Agency shall[agrees to] provide all information requested by SCSO [in performing this monitoring responsibility] and shall[will] make any[such] record[s] available, upon reasonable notice, for [said]monitoring.~~

R990-101-9. Return of Unused Funds[s] and Overpayment Recoupment.

~~(1) If a Qualified Agency does not use all the QEFAP funds it receives in the same fiscal year in which those funds are awarded, the unused funds shall be returned to SCSO at the conclusion of the fiscal year.~~

~~(2) Expenditures of QEFAP funds determined by audit to be unallowable because the funds were used for a purpose[s] not allowed pursuant to Section[specified above under] R990-101-2 or an expenditure[s] that is[which are] not supported by adequate source documentation shall be:[;]~~

~~(a) immediately returned to SCSO:[;]~~ or

~~(b) properly segregated in the Qualified Agency's accounting records and identified as temporarily restricted until such time as those funds are used for the purposes specified in Section R990-101-2[and R990-101-3].~~

R990-101-10. Training and Technical Assistance.

~~SCSO will[agrees to] provide training and technical assistance to a Qualified Agency for help in accessing and submitting a claim online[using the Web Grants system]. The Qualified Agency is responsible for ensuring that its staff receives SCSO[such] training and assistance.~~

KEY: Qualified Emergency Food Agencies Fund, QEFAP[, antipoverty programs, community action programs]

Date of Enactment or Last Substantive Amendment: 2020[July 10, 2017]

Notice of Continuation: July 6, 2017

Authorizing, and Implemented or Interpreted Law: 35A-8-1004

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R68-26	Filing No. 52613

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	Ambermbrown@utah.gov
Cody James	385-515-1485	Codyjames@utah.gov
Andrew Rigby	801-870-1160	adrigby@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Industrial Hemp Product Registration and Labeling
3. Effective Date:
03/16/2020
4. Purpose of the new rule or reason for the change:
This rule change provides clarification to industrial hemp processors and retailers regarding regulation of their products and department requirements. Also, this change makes state rules and federal regulations regarding labeling more consistent.
5. Summary of the new rule or change:
These rule changes provide guidance to industrial hemp processors and retailers regarding definitions, product registration, product testing, and labeling requirements that will make it easier for them to register and sell compliant and safe products to the public. The change is necessary because current labeling requirements put manufacturers in violation of federal law.
6. Regular rulemaking would:
cause an imminent peril to the public health, safety, or welfare;

	cause an imminent budget reduction because of budget restraints or federal requirements; or
X	place the agency in violation of federal or state law.
Specific reason and justification:	
The changes and clarification to labeling requirements are necessary so that product manufacturers may label their products in accordance with federal law and regulations.	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
The Department of Agriculture and Food (Department) does not anticipate that these changes will lead to any additional cost or savings to the state budget because the changes do not add any additional inspection requirements for the Department, nor should the changes lead to additional products being registered.
B) Local governments:
The Department does not anticipate any costs or savings to local governments because governments do not regulate or operate as industrial hemp processors or retailers.
C) Small businesses ("small business" means a business employing 1-49 persons):
The Department does not anticipate any costs or savings to small businesses as there are no fee or violation changes included in this rule.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
No persons other than small businesses, non-small businesses, or local governments will be affected by this rule because they do not produce or regulate product of industrial hemp.
8. Compliance costs for affected persons:
These changes do not include any changes in compliance costs for affected persons.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
These rule changes should not have a fiscal impact on businesses but will provide important guidance to businesses that produce industrial hemp products and allow them to label their products in accordance with both state rule and federal law.
B) Name and title of department head commenting on the fiscal impacts:

Kelly Pehrson, Interim Commissioner

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):	
Section 4-41-103-4	Subsection 4-41-403(1)

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	03/16/2020
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**R68. Agriculture and Food, Plant Industry.
R68-26. Industrial Hemp Product Registration and Labeling.
R68-26-1. Authority and Purpose.**

1) Pursuant to Section 4-41-103(4) and 4-41-403(1), this rule establishes the requirements for labeling and registration of products made from and containing industrial hemp.

R68-26-2. Definitions.

- 1) "CBD" means cannabidiol.
- 2) "Certificate of Analysis" ~~[means a certificate from a third party laboratory describing the results of the laboratory's testing of a sample.]~~ (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.
- 3) "Department" means the Utah Department of Agriculture and Food
- 4) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.
- 5) "Industrial hemp product" means products derived from, or made by processing industrial hemp plants or plant parts.
- 6) "Label" means the display of all written, printed, or graphic matter upon the immediate container or statement accompanying an industrial hemp product.
- 7) "Manufacturer" means a person who makes any industrial hemp products.
- 8) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.
- 9) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol and tetrahydrocannabinolic acid.
- 10) "Third- party laboratory" means a laboratory which has no direct interest in a grower or processor of industrial hemp or industrial hemp products that is capable of performing mandated testing utilizing validated methods.

R68-26-3. Product Registration.

- 1) All industrial hemp products distributed or available for distribution in Utah shall be officially registered annually with the department.
- 2) Application for registration shall be made to the department on a form provided by the department including the following information:

a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

b) the name of the product;

c) the type and use of the product; ~~and~~

d) a complete copy of the label ~~which~~ as it will appear on the product provided in a PDF format; and

e) if the product has been assigned a National Drug Code pursuant to 21 CFR 207.33, the applicant shall provide the National Drug Code number.

3) If the industrial hemp product being registered contains ~~CBD~~ a cannabinoid, the application shall include a certificate of analysis from a third-party laboratory for the product in compliance with R68-26-4.

4) A registration fee per product, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of the application.

5) The department may deny registration for incomplete applications.

6) The department may exempt an industrial hemp product that is determined to be adequately regulated by a federal agency.

7) A new registration is required for any of the following:

a) changes in the industrial hemp product ingredients;

b) changes to the directions for use; and

c) a change of name for the product.

8) Other changes shall not require a new registration but the registrant shall submit copies of all label changes to the department as soon as they are effective.

9) The person registering the industrial hemp product is responsible for the accuracy and completeness of all information submitted.

10) A registration is renewable for up to a one[-]-year period with an annual renewal fee per product, which shall be paid on or before June 30th of each year.

11) An industrial hemp product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

12) A late fee shall be assessed for a renewal of an industrial hemp product registration submitted after June 30th and shall be paid before the registration renewal is issued.

13 The department shall not register an industrial hemp product containing a cannabinoid if the product:

a) is in an unapproved medicinal dosage form;

b) uses the cannabinoid as a food additive; or

c) is represented for use as a conventional food.

R68-26-4. Certificate of Analysis.

1) The certificate of analysis for industrial hemp products containing ~~CBD~~ a cannabinoid shall be tested for ~~include the following test results:~~

a) the cannabinoid profile by percentage of dry weight;

b) solvents;

c) pesticides;

d) microbials; and

e) heavy metals.

2) The test results required in R68-26-4(1) shall be reported in accordance with the requirements for a cannabinoid product in Utah Admin. Code R68-29 including the specified units of measure.

~~2~~3) The certificate of analysis shall include the following information:

a) the batch identification number;

b) the date received;

c) the date of completion; ~~and~~

d) the method of analysis for each test conducted[-]; and

e) a picture of the product in its final form.

4) All testing shall be conducted on the product in its final form.

R68-26-5. Label Requirements.

1) Industrial hemp products containing ~~CBD~~ a cannabinoid produced for oral human consumption shall be labeled in accordance with 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.9(j)(13), 21 CFR 101.9(j)(17), 21 CFR 101.15, and 21 CFR 101.36[-];

a) a label may contain the term "product facts" in place of "supplement facts" provided the information required in 21 CFR 101.36 is on the label; and

b) the label shall include the following text, prominently displayed: This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

2) A cannabinoid product intended to be vaporized for inhalation shall:

a) be labeled in accordance with R68-26-5(1); or

b) be labeled in accordance with 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.5, 101.15, and contain the following text, prominently displayed: This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

~~2~~3) Industrial hemp products containing a cannabinoid produced for absorption by humans shall be labeled;

a) in accordance with 21 CFR 701, Cosmetic Labeling; and ~~[21 CFR 740, Cosmetic Product Warning Statements.]~~

b) contain the following text, prominently displayed: Warning - The safety of this product has not been determined.

4) Notwithstanding R68-26-5(1) or (3), an industrial hemp product containing a cannabinoid produced for human use that has a National Drug Code issued shall be labeled in accordance with 21 CFR 201.66.

~~3~~5) In addition to the requirements of R68-26-5(1) ~~and~~ (2), and (3) an industrial hemp product containing ~~CBD~~ a cannabinoid shall have on the label a scannable bar code, QR code, or web address linked to a document containing the following information:

a) the batch identification number;

b) the product name;

c) the batch date;

d) an expiration date;

e) the batch size;

f) the total quantity produced; and

g) a downloadable link for a certificate of analysis for the batch identified.

~~4~~6) Industrial hemp products shall not contain medical claims on the label unless the product has been registered with the FDA and is labeled in accordance with R68-26-5(4).

~~5~~7) Industrial hemp products which do not contain ~~CBD~~ a cannabinoid intended for human consumption shall be labeled in accordance with 21 CFR 101, Food Labeling.

~~6~~8) Industrial hemp products which do not contain ~~CBD~~ a cannabinoid intended for human absorption shall be labeled in accordance with 21 CFR 701, Cosmetic Labeling and 21 CFR 740, Cosmetic Product Warnings Statements.

NOTICES OF 120-DAY (EMERGENCY) RULES

[7]9) Industrial hemp products meant for animal consumption shall be labeled and comply with all applicable federal laws and regulations and all other applicable state laws and regulations.

[8]10) Industrial hemp seed products intended for cultivation shall be labeled in accordance with the Utah Seed Act.

[9]11) All industrial hemp products shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9 and other applicable federal laws and regulations and all applicable state laws and regulations relating to the labeling of food, cosmetics, and fiber.

R68-26-6. Inspection and Testing.

1) The department shall conduct randomized inspection of industrial hemp products distributed or available for distribution in the state for compliance with this rule.

2) The department shall periodically sample, analyze, and test industrial hemp products distributed within the state for compliance with registration and labeling requirements and the certificate of analysis, if applicable.

3) The department may conduct inspection of industrial hemp products distributed or available for distribution for any reason the department deems necessary.

4) The sample taken by the department shall be the official sample.

R68-26-7. Retailer Responsibilities.

1) A retailer shall:

a) ensure that any industrial hemp product is labeled correctly; and

b) ensure that all industrial hemp products sold are properly registered with the department.

2) Retailers shall provide the identity of the manufacturer of industrial hemp products sold upon request of the department.

3) A retailer may register the product in lieu of the manufacturer if the product is not registered.

R68-26-8. Violation.

1) Each improperly labeled industrial hemp product shall be a separate violation of this rule.

2) Industrial hemp products not meeting the ~~label~~ labeling requirements shall be deemed to be misbranded.

3) Industrial hemp products shall be considered falsely advertised if it does not meet the labeling requirements of this rule.

4) It is a violation to distribute or market ~~an~~ an industrial hemp product that is not registered with the department.

5) It is a violation to distribute or market an industrial hemp product that contains greater than 0.3% THC.

6) It is a violation to distribute or market an industrial hemp product containing ~~CBD~~ a cannabinoid which is not in a medical dosage form.

7) It is a violation to distribute or market an industrial hemp product containing a cannabinoid as a conventional food product.

8) It is a violation to distribute or market a product claiming a cannabinoid derived from industrial hemp as a food additive.

9) The Department shall use a penalty matrix to develop appropriate penalties.

KEY: CBD labeling, CBD products, hemp product registration
Date of Enactment or Last Substantive Amendment: March 16, 2020
Authorizing, and Implemented or Interpreted Law: 4-41-403(1); 4-41-402(2); 4-41-103(4)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R68-27	Filing No. 52605

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Andrew Rigby	801-870-1160	adrigby@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	Cannabis Cultivation
3. Effective Date:	03/11/2020
4. Purpose of the new rule or reason for the change:	This change allows cannabis cultivators to grow cannabis through a combination of indoor and outdoor cultivation.
5. Summary of the new rule or change:	As required by statute, this rule provides guidelines under which cannabis cultivators may grow cannabis through a combination of indoor and outdoor cultivation.
6. Regular rulemaking would:	<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare; <input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or <input checked="" type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:	

An emergency rule is necessary because Subsection 4-41a-204(2)(e) requires that the Department of Agriculture and Food (Department) establish a formula for indoor and outdoor cultivation. Additionally, the expeditious filing will allow for indoor cultivators to add outdoor grows as soon as possible for the 2020 growing season.

Kelly Pehrson, Interim Commissioner

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 4-41a-204(2)(e)		
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Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

This rule change could increase the costs to the Department by requiring additional workload for cannabis inspectors. The Department anticipates inspection costs will increase by 15-20%.

B) Local governments:

This rule change does not affect local governments because they do not regulate cannabis cultivators or operate as cannabis cultivators.

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

This rule change should reduce the operating costs for indoor cannabis cultivators by allowing them to also grow cannabis outdoors because outdoor growing is typically cheaper than indoor growing. It is difficult to quantify the savings given that this is a new program.

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

Persons other than cannabis cultivators or the Department are not directly impacted by this change because they do not operate as or regulate cannabis cultivation facilities.

8. Compliance costs for affected persons:

There are no additional compliance costs for affected persons as a result of this change because cannabis cultivators will be able to grow both indoors and outdoors using their existing cannabis cultivation license.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rule change will allow for cannabis cultivators to expand their business by growing both indoors and outdoors. It should have a positive fiscal impact on small businesses in this state.

B) Name and title of department head commenting on the fiscal impacts:

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	03/11/2020
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R68. Agriculture and Food, Plant Industry.

R68-27. Cannabis Cultivation.

R68-27-1. Authority and Purpose.

1) Pursuant to sections 4-41a-103(5), ~~4-41a-204(2)(e)~~, 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications and requirements to obtain and maintain a cannabis cultivation license.

R68-27-2. Definitions.

As used in this rule:

- 1) "Applicant" means any person or business entity who applies for a cannabis cultivation facility license.
- 2a) "Cannabis" means any part of a marijuana plant;
- b) "Cannabis" does not mean, for purposes of this rule, industrial hemp.
- 3) "Cannabis cultivation facility" means a person that:
 - a) possesses cannabis;
 - b) grows or intends to grow cannabis; and
 - c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.
- 4) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
 - a) authorizes an individual to act as a cannabis production establishment agent; and
 - b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- 5) "Department" means the Utah Department of Agriculture and Food
- 6) "Indoor cannabis cultivation" means cultivation of cannabis within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.
- 7) "Lot" means the quantity of:
 - a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
 - b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- 8) "Outdoor cannabis cultivation" means an open or cleared ground fully enclosed at the perimeter by a securable, sight obscure wall or fence at least eight feet high.

R68-27-3. Cannabis Cultivation Facility License.

1) A cannabis cultivation license allows the licensee to propagate, cultivate, harvest, trim, dry, cure, and package cannabis into lots for sale or transfer to a cannabis production facility.

2) A cannabis cultivation facility may produce and sell cannabis plants, seed, and plant tissue culture to other licensed cannabis cultivation facilities.

3) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

4) Prior to approving an application, the department may contact any applicant and request additional supporting documentation or information.

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

6) The department may conduct face-to-face interviews with an applicant if needed to determine the best qualified applicant for the number of licenses that will be issued.

7) The license shall expire on December 31st.

8) A license may not be sold or transferred.

R68-27-4. Cannabis Cultivation Facility Requirements.

1) A cannabis cultivation facility operating plan shall contain a blue print or diagrams of the facility containing the following information:

a) for indoor cannabis cultivation, the square footage of the areas where cannabis is to be propagated;

b) for indoor cannabis cultivation, the square footage of the areas where cannabis is to be grown;

c) the square footage of the areas where cannabis is to be harvested;

d) the areas where cannabis is to be dried, trimmed and cured;

e) the square footage of the areas where cannabis is to be packaged for wholesale;

f) the total square footage of the cultivation facility;

g) the square footage and location of areas to be used as storerooms;

h) the location of the toilet facilities and hand washing facilities;

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

j) the location of the areas to be used for loading and unloading of cannabis products for transportation.

2) For outdoor cannabis cultivation, the operating plan shall contain a detailed aerial photograph of the area on which the following information is shown:

a) the area where cannabis to be propagated; and

b) the area where cannabis is to be grown.

3) A cannabis cultivation facility operating plan shall detail the drying and curing methods to be used by the cannabis cultivation facility.

4) An outdoor cannabis cultivation facility shall outline the measures to be taken to ensure that product is kept from deterioration and contamination.

5) A cannabis cultivation facility shall have written emergency procedures to be followed in case of:

a) fire;

b) chemical spill; or

c) other emergencies at the facility

6) A cannabis cultivation facility operating plan shall include:

a) a pest management plan;

b) when and how fertilizers are to be applied during the production process;

c) water usage and waste water disposal; and

d) a waste disposal plan.

7) A cannabis cultivation facility shall have a written plan to handle potential recall and destruction of cannabis because of contamination.

8) A cannabis cultivation facility shall use a standardized scale which is registered with the department when cannabis is:

a) packaged for sale by weight;

b) bought and sold by weight;

c) weighed for entry into the inventory control system.

9) A cannabis cultivation facility shall ensure that sanitary conditions are maintained on the premises including proper and timely removal of all litter and waste.

10) The cannabis cultivation facility shall compartmentalize all areas in the facility based on function.

11) A cannabis cultivation facility shall limit access to the compartments to appropriate agents.

R68-27-5 Indoor and Outdoor Cannabis Cultivation Limitations.

1) A cannabis cultivation facility that cultivates cannabis only indoors may use no more than 100,000 square feet for cultivation.

2) A cannabis cultivation facility that cultivates cannabis only outdoors may use no more than four acres for cultivation.

3) Pursuant to Subsection 4-41a-204(2)(e), a cannabis cultivation facility that uses a combination of indoor and outdoor cultivation shall be subject to the following formula:

a) the cannabis cultivation facility may use no more than a total of two acres outdoors and 50,000 square feet indoors for cultivation;

b) the cannabis cultivation facility may use less than two acres outdoors or 50,000 square feet indoors for cultivation, but may not exceed the indoor or outdoor limit.

R68-27-[5]6. Security Requirements.

1) At a minimum, each cannabis cultivation facility shall have a security alarm system on all perimeter entry points and perimeter windows.

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

a) with a minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog; and

b) that retains footage for at least 45 days.

3) All cameras at a cannabis cultivation facility shall:

a) be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas; and

b) record continuously.

4) Controlled areas include:

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

b) all areas within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;

c) all areas where cannabis is stored; or

d) all areas where cannabis waste is being moved, processed, stored, or destroyed.

5) If a cannabis cultivation facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

6) If a cannabis cultivation facility stores footage on a remote server, access shall be restricted to protect from employee tampering.

7) Any gate or entry point must be lighted in low-light conditions.

8) All visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility at all times while on the premises of the facility.

9) All cannabis cultivation facility visitors shall be escorted by a facility agent at all times while in the facility.

10) A cannabis cultivation facility shall keep and maintain a log showing:

- a) the full name of each visitor entering the facility;
- b) the badge number issued;
- c) the time of arrival;
- d) the time of departure, and
- e) the purpose of the visit.

11) The visitor log shall be maintained by the cannabis cultivation facility for a minimum of one year.

12) The cannabis cultivation facility shall make visitor log available to the department upon request.

R68-27-[6]7. Inventory Control.

1) Every cannabis plant that reaches eight inches in height with a root ball shall be issued a unique identification number in the inventory control system, which follows the plant through all phases of production.

2) Every cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, test lot, and harvest lot shall be issued a unique identification number in the inventory control system.

3) Unique identification numbers cannot be reused.

4) Each cannabis plant, lots of usable cannabis trim, leaves, and other plant matter cannabis products, test lots, harvest lots, and process lot that has been issued a unique identification number shall have a physical tag with the unique identification number.

5) The tag shall be legible and placed in a position that can be clearly read and kept free from dirt and debris.

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

- a) movement of seedling or clone to the vegetation production area;
- b) when plants are partially or fully harvested or destroyed;
- c) when cannabis is being transported to other facilities;
- d) all samples used for testing and the testing results;
- e) a complete inventory of all cannabis, cannabis seeds, plant tissue, seedlings, clones, plants, trim or other plant material;
- f) the weight of all harvested cannabis plants immediately after harvest;
- g) the weight and disposal of post-harvest waste materials;
- h) the identity of who disposed of the waste and the location of waste receptacle; and
- i) theft or loss, or suspected theft or loss, of cannabis.

7) A receiving cannabis cultivation facility shall document in the inventory tracking system any cannabis received, and any differences between the quantity specified in the transport manifest and the quantities received.

8) For plants under eight inches, the cultivation facility shall keep record of:

- a) the number of cannabis seeds or cuttings planted;
- b) the date on which they were planted;
- c) the date the plants were moved into the vegetation area and tagged;
- d) the strain of the seeds or cuttings;

e) the number of plants grown to maturity;

f) the number of plants disposed of; and

g) the date of disposal.

R68-27-[7]8. Cannabis Cultivation Facility Agents.

1) A cannabis cultivation facility shall apply to the department for a cannabis cultivation facility agent registration card on a form provided by the department.

2) An application is not considered complete until the background check has been completed and the facility has paid the fee.

3) The cannabis production establishment agent registration card shall contain:

- a) the agent's full name;
- b) the name of the cannabis cultivation establishment;
- c) the type of cannabis production establishment;
- d) the job title or position of the agent; and
- e) a photograph of the agent.

4) A cannabis cultivation facility is responsible to ensure that all agents have received the department approved training as specified in Utah Code 4-41a-301.

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

6) All cannabis facility agents shall have their state issued identification in their possession to certify the information on their badge is correct.

7) An agent's identification badge shall be returned to the department immediately upon termination of their employment with the cannabis cultivation facility.

R68-27-[8]9. Pesticide and Fertilizer Use.

1) A cannabis cultivation facility shall maintain:

a) the material safety data sheet for all pesticides, fertilizers, or other agricultural chemicals used in the production of cannabis which shall be accessible to all agents;

b) the original label or a copy thereof for all pesticides, fertilizers, or other agricultural chemicals used in the production of cannabis; and

c) a log of all pesticides, fertilizers, or other agricultural chemicals used in the production of cannabis.

2) Pesticides approved by the department may be used in the production, processing, and handling of cannabis.

3) Pesticides, fertilizers, and other agricultural chemicals are to be stored in a separate location apart from cannabis.

4) Pesticides shall be used consistent with the label requirements.

5) Commercial fertilizers registered with the department under the Utah Fertilizer Act may be used in the production and handling of cannabis

6) Cannabis exposed to unauthorized pesticides, soil amendments, or fertilizers is subject to destruction at the cost of the cannabis cultivation facility.

R68-27-[9]10. Transportation.

1) A printed transport manifest shall accompany every transport of cannabis.

2) The manifest shall contain the following information:

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

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

NOTICES OF 120-DAY (EMERGENCY) RULES

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

d) date and time of departure;

e) estimated date and time of arrival; and

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

3) The transport manifest may not be voided or changed after departing from the original cannabis cultivation facility.

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

5) The receiving cannabis establishment shall ensure that the cannabis material received is as described in the transport manifest and shall record the amounts received for each strain into the inventory control system.

6) The receiving cannabis establishment shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

7) During transport a cannabis cultivation facility shall ensure the cannabis is:

- a) shielded from the public view;
- b) secured; and
- c) temperature controlled if perishable.

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

9) Only the registered agents of the cannabis cultivation facility may occupy a transporting vehicle.

R68-27-[40]11. Recall Protocol.

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

- a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis products;
- b) evidence exists that residual solvents are present on or in cannabis or cannabis products;
- c) evidence exists that harmful contaminants are present on or in cannabis or cannabis products; or
- d) the department believes or has reason to believe the cannabis or cannabis products are unfit for human consumption.

2) A cannabis cultivation facility's recall plan shall include, at a minimum:

- a) designation of at least one member of the staff who serves as the recall coordinator;
- b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
- c) procedures to retrieve and destroy product; and
- d) a communications plan to notify those affected by the recall.

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

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

5) The department shall periodically check on the progress of the recall until the department declares an end to the recall.

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

R68-27-[41]12. Minimum Requirements for the Storage and Handling of Cannabis.

1) All storage areas shall provide adequate lighting, sanitation, temperature, humidity, space, equipment, and security conditions for the storage of cannabis.

2) All stored cannabis shall be at least six inches off the ground.

3) All cannabis shall be stored away from all other chemicals, lubricants, pesticides, fertilizers, or other potential contaminants.

4) Cannabis that is outdated, damaged, deteriorated, misbranded, adulterated shall be stored separately until it is destroyed.

R68-27-[42]13. Cannabis Waste Disposal.

1) Solid and liquid wastes generated during cannabis cultivation shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state laws and regulations.

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

4) All cannabis waste shall be rendered unusable prior to leaving the cannabis cultivation facility.

5) Cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis plant waste with other ground materials so the resulting mixture is at least fifty percent non-cannabis waste by volume or other methods approved by the department before implementation.

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

- a) compostable; or
- b) non-compostable.

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

- a) food waste;
- b) yard waste; or
- c) vegetable-based grease or oils.

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

- a) paper waste;
- b) cardboard waste;
- c) plastic waste; or
- d) soil.

9) Cannabis waste includes:

- a) cannabis plant waste including roots, stalks, leaves, and stems;
- b) excess cannabis or cannabis products from any quality assurance testing;
- c) cannabis or cannabis products that fail to meet testing requirements; and
- d) cannabis or cannabis products subject to a recall.

R68-27-[43]14. Change in Operation Plans.

1) A cannabis cultivation facility shall submit a notice, on a form provided by the department, prior to making any changes to:

- a) ownership or financial backing of the facility;
- b) the facility's name;
- c) a change in location;

d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
 e) change in square footage or acreage of cannabis intended to be cultivated.

2) A cultivation facility may not implement changes to the approved operation plan without department approval.

3) The department shall respond to the request for changes within 15 business days.

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

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

R68-27-[44]15. Renewals.

1) A cannabis cultivation facility shall submit a notice of intent to renew and the licensing fee to the department by December 1st.

2) If the licensing fee and intent to renew are not submitted by December 31st the licensee may not continue to operate.

3) The department renew a license unless renewal would lead to a violation of the applicable laws and rules of the state.

R68-27-[45]16. Violations Categories.

1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including, but not limited to:

- a) use of unapproved pesticides or unapproved agricultural soil amendments;
- b) cannabis sold to an unlicensed source;
- c) cannabis purchased from an unlicensed source;
- d) refusal to allow inspection;
- e) failure to comply with testing requirements;
- f) a test result for high pesticide residue in the cannabis produced or cannabis product ;
- g) unauthorized personnel on the premises;
- h) permitting criminal conduct on the premises; or
- i) engaging in or permitting a violation of the Utah Code 4-

41a.

2) Regulatory Violations: \$1,000 - \$5,000 per violation. This category is for violations involving this rule and other applicable state rules including, but not limited to:

- a) failure to maintain alarm and security systems;
- b) failure to keep and maintain records;
- c) failure to maintain traceability;
- d) failure to follow transportation requirements;
- e) failure to follow the waste and disposal requirements;
- f) engaging in or permitting a violation of Utah Code 4-41a or this rule; or
- g) failure to maintain standardized scales.

3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including, but not limited to:

- a) an unauthorized change to the operating plan;
- b) failure to notify the department of changes to the operating plan;
- c) failure to notify the department of changes to financial or voting interests of greater than 2%;
- d) failure to follow the operating plan as approved by the department;
- e) engaging in or permitting a violation of this rule or Utah Code 4-41a; or
- f) failure to respond to violations.

4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

5) The department may consider enhancing or reducing the penalty based on the seriousness of the violation.

KEY: marijuana, cannabis cultivation facility

Date of Enactment or Last Substantive Amendment: March 11, 2020

Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-204(2)(e); 4-41a-302(3)(b)(ii); 4-41a-701(2); 4-41a-405(2)(b)(iv); 4-2-103(1)(i); 4-41a-801(1)

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://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.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R68-10	Filing No. 50139

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Robert Hougaard	801-538-7180	rhougaard@utah.gov
Kelly Pehrson	801-538-7102	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Quarantine Pertaining to the European Corn Borer
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 4-2-103 provides authority for the Department of

Agriculture and Food to adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules for the effective administration of agriculture laws of the state.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

It is still a concern that European corn borers can come into the state from other sources so it helps protect the corn growing industry. Corn Borer can decimate corn crops and reduce the salability of Utah corn if they enter the state. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	03/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R68-22	Filing No. 50161

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Street address:	350 N Redwood Road
City, state, zip:	Salt Lake City, UT 84115
Mailing address:	PO Box 146500

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-602-4248	ambermbrown@utah.gov
Andrew Rigby	801-870-1160	adrigby@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Industrial Hemp Research
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Pursuant to Section 4-41-103, this rule establishes the standards, practices, and procedures of the Industrial Hemp Certificate.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it prescribes guidelines for academic research of industrial hemp, including certification and inspection requirements. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	03/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R70-101	Filing No. 52249

Agency Information

1. Department:	Agriculture and Food
Agency:	Regulatory Services

Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Travis Waller	801-538-7150	Twaller@utah.gov
Michelle Jack	801-538-7151	mjack@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Bedding, Upholstered Furniture, and Quilted Clothing
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is required pursuant to Section 4-10-103 that requires the department establish standards regarding the manufacture, sale, repair, and distribution of bedding, upholstered furniture, quilted clothing products, and filling material.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule prescribes guidelines to ensure that bedding, upholstered furniture, quilted clothing, and filling material is manufactured, sold, distributed, and repaired in such a way as to ensure quality and protect consumers. It includes standards on sterilization, sanitation, licensing, and labeling. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-16	Filing No. 50232

Agency Information

1. Department:	Capitol Preservation Board (State)	
Agency:	Administration	
Building:	Utah State Capitol Building	
Street address:	350 North State Street	
City, state, zip:	Salt Lake City, UT 84107	
Contact person(s):		
Name:	Phone:	Email:
Allyson Gamble	801-537-9156	agamble@utah.gov
Dana Jones	801-538-3074	danajones@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Electronic Meetings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received during the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule R131-16 establishes procedures for conducting Capital Preservation Board (hereinafter "Board") meetings by electronic means. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Allyson Gamble, Executive Director	Date:	01/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-20b	Filing No. 50260

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state, zip:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Allyson Pettley	801-530-6179	apettley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Environmental Health Scientist Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 20b, provides for the licensure and regulation of environmental health scientists and environmental health scientists-in-training. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Environmental Health Scientists Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 20b, with respect to environmental health scientists and environmental health scientists-in-training.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
Since this rule was last reviewed in April 2015, the rule has

been amended two times. The Division received the following written comments: a June 17, 2015 letter/email from Noel Jay Schvaneveldt with respect to Section 302a proposed amendments and recommending additional college degrees that should be considered to qualify for licensure as an environmental health scientist. The Division also received a July 1, 2015, written comment from LuAnn Adams/Utah Department of Agriculture and Food suggesting additional college degrees which would qualify for licensure as an environmental health scientist. With respect to the Division's proposed rule amendments filed in 2015 and the two written comments received, no additional changes were made in the proposed rule filing in 2015. However, both Mr. Schvaneveldt's and Ms. Adams' comments were considered by the Division and Board in the Division's 2018 rule filing which affected Section R156-20b-302a, licensure qualifications/ education requirements.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 20b. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark Steinagel, Director	Date:	01/23/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-83	Filing No. 50315

Agency Information

1. Department:	Commerce		
Agency:	Occupational and Professional Licensing		
Building:	Heber M. Wells Building		
Street address:	160 East 300 South		
City, state, zip:	Salt Lake City UT 84111-2316		
Mailing address:	PO Box 146741		
City, state, zip:	Salt Lake City UT 84114-6741		
Contact person(s):			
Name:	Phone:	Email:	

Jennifer Zaelit	801-530-7632	jzaelit@utah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Online Prescribing, Dispensing, and Facilitation Licensing Act Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 83, provides for the licensure and regulation of online prescribers, online contract pharmacies, and Internet facilitators. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Online Prescribing, Dispensing, and Facilitation Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 83, with respect to online prescribers, online contract pharmacies, and Internet facilitators.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division has received no written comments with respect to this rule since the last five year review conducted in 2015.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 83. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark Steinagel, Division Director	Date:	01/23/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
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Utah Admin. Code Ref (R no.):	R305-5	Filing No. 50565
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Utah Admin. Code Ref (R no.):	R307-302	Filing No. 50604
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Agency Information

1. Department:	Environmental Quality	
Agency:	Administration	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 144810	
City, state, zip:	Salt Lake City, UT 84114-4810	
Contact person(s):		
Name:	Phone:	Email:
Kim Shelley	801-536-4403	kshelley@utah.gov
Please address questions regarding information on this notice to the agency.		

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116-3085	
Mailing address:	PO BOX 144820	
City, state, zip:	Salt Lake City, UT 84114-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Health Reform – Health Insurance Coverage in DEQ State Contracts -- Implementation
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is established under Utah Code Annotated (UCA) Subsection 19-1-206(6) which authorizes the Department of Environmental Quality to make rules governing health insurance in certain design and construction contracts.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to comply with the provisions of UCA Section 19-1-206. Therefore, this rule should be continued.

General Information

2. Rule catchline:
Solid Fuel Burning Devices
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Rule R307-302 identifies no-burn periods for solid fuel burning devices in areas that sometimes exceed the health standards for fine particulate and carbon monoxide. Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
Since the last five-year review, there has been one rulemaking activity. With amendments in Filing No. 40773, submitted to EPA on February 27, 2017, there were multiple comments made by one commenter. None of the comments were directly in support or opposition of the rule, but were posed as questions.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The provisions to regulate solid fuel burning are part of the requirements to reduce particulates and carbon monoxide that are included in Utah's state implementation plans for

Agency Authorization Information

Agency head or designee, and title:	Kim Shelley, Deputy Director	Date:	03/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

particulate matter and carbon monoxide. Because the provisions in this rule are needed to reduce pollution during winter temperature inversions when pollutants build up in the air, and because the rule is part of Utah's state implementation plan, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Division Director	Date:	02/11/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R309-100	Filing No. 50668
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Administration: Drinking Water Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-4-104 establishes the drinking water program, including the standards, construction, variances, operator certification, and orders.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that the drinking water program administration is firmly established in the . It defines a public water system, which are the systems that the Division of Drinking Water can and does regulate. It sets forth the requirements and conditions of sanitary surveys, gives a rating system to public water systems, and establishes the variances and exemptions.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R309-105	Filing No. 50675
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Administration: General Responsibilities of Public Water Systems
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-4-104 gives the Drinking Water Board the authority to establish the general responsibilities of public

drinking water systems in Utah. These responsibilities include variances or exemptions from monitoring, construction standards, operator certification, cross connection control, reporting, record maintenance, and emergencies.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that public drinking water systems in Utah are adhering to the basic responsibilities of maintaining a safe drinking water system. This rule sets the foundation for the details in rules that follow, such as Rule R309-600, which details the specifics of a source water protection program. This effort will greatly assist in the protection and the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

Administration: Definitions

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 19-4-104 authorizes the Drinking Water Board to make rules in accordance with Title 63G, Chapter 3, which includes the definitions of terms and expressions used throughout all rules under the Safe Drinking Water Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that public drinking water systems in Utah understand the definitions of the terms and expressions used throughout Title R309. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R309-110	Filing No. 50664
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R309-115	Filing No. 50669
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Administration: Procedures
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(b) authorizes the Drinking Water Board to enforce order by appropriate administrative and judicial proceedings.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that public drinking water systems in Utah have direction for administrative procedures and adjudicative proceedings. This rule allows the Division of Drinking Water to enforce and follow through with rule requirements. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-200	Filing No. 50666

Agency Information

1. Department:	Environmental Quality
Agency:	Drinking Water
Room no.:	Third Floor
Street address:	195 N 1950 W

City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Monitoring and Water Quality: Drinking Water Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that public drinking water systems in Utah have primary and secondary standards for their water quality. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-205	Filing No. 50672

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Monitoring and Water Quality: Source Monitoring Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards and provide for monitoring and reporting of water quality related matters.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that public drinking water systems in Utah are monitoring their sources of water for the required constituents at the correct times. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-210	Filing No. 50676

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Monitoring and Water Quality: Distribution System Monitoring Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that public drinking water systems in Utah are sampling for the correct contaminants at the correct places and times in their distribution systems. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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The continuation of this rule will ensure that public drinking water systems in Utah are sampling for total coliform at the correct places and times in their distribution systems. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-211	Filing No. 50667

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-215	Filing No. 50688

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Monitoring and Water Quality: Distribution System – Total Coliform Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

General Information

2. Rule catchline:
Monitoring and Water Quality: Treatment Plant Monitoring Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that public drinking water systems in Utah that treat the water do so appropriately and according to the standards set forth in this rule. This rule not only addresses surface water treatment and cryptosporidium treatment but also the protection of ground water. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-220	Filing No. 50674

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Monitoring and Water Quality: Public Notification Requirements

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-4-104(1) authorizes the Drinking Water Board to establish standards that provide for monitoring, record-keeping, and reporting of water quality-related matters.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that public drinking water systems in Utah are notifying the public as required when a violation has occurred. It is necessary to inform the public when measures must be taken to protect their health such as boil their water. This effort will greatly assist in keeping the consumers notified about the quality of their water.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-225	Filing No. 50671

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Monitoring and Water Quality: Consumer Confidence Reports

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards prescribe the maximum contaminant levels in any public water system and provide for monitoring and reporting of water quality-related matters.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that public drinking water systems in Utah are providing correct and accurate yearly reports to their consumers. It outlines the contents required in the reports, when they are due, how to make them available, and how to contact the water system management with questions or concerns. This effort will greatly assist in providing good communications between water purveyors and their consumers.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-300	Filing No. 50670

Agency Information

1. Department:	Environmental Quality
Agency:	Drinking Water
Room no.:	Third Floor
Building:	MASOB
Street address:	195 North 1950 West
City, state, zip:	Salt Lake City, Utah 84116

Mailing address: PO Box 144830

City, state, zip: Salt Lake City, UT 84114

Contact person(s):

Name:	Phone:	Email:
Michael Grange	801-536-0069	mgrange@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Certification Rules for Water Supply Operators

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-4-104(2) authorizes the Drinking Water Board to adopt and enforce standards and establish fees for certification of operators of any public water system.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that public drinking water systems in Utah are employing trained and competent personnel to run their water systems. This rule sets the foundations for the training of the water operators, testing, and continuation of their certifications. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-305	Filing No. 50673

Agency Information

1. Department:	Environmental Quality
Agency:	Drinking Water

Room no.:	Third Floor	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Michael Grange	801-536-0069	mgrange@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Cross Connection Control and Backflow Prevention Certification
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(4)(a) authorizes the Drinking Water Board to adopt and enforce standards and establish fees for certification of persons engaged in administering cross connection control programs of backflow prevention assembly training, repair, and maintenance testing.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that the individuals involved in testing backflow valves, training testers, and those administering cross connection control programs are and remain competent to do so. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-400	Filing No. 50682

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Improvement Priority System and Public Water System Ratings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(a) authorizes the Drinking Water Board to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that provide for monitoring, record-keeping and reporting of water quality; and Section 19-4-105 authorizes the Drinking Water Board to make rules more stringent than the corresponding federal regulations. Rule R309-400 prioritizes the rules made with authorization of Subsection 19-4-104(1)(a) and the priorities are set as more stringent than current federal regulations, as per Section 19-4-105.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

The continuation of this rule will ensure that public drinking water systems in Utah are prioritizing each issue that they must address and it shows the Division of Drinking Water which systems to prioritize for compliance. It is used to evaluate the water system's standard of operation and service delivered in compliance with other rules encompassed in Rules R309-100 through R309-705. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-405	Filing No. 50685

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, Utah 84116-3085	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Rachael Cassady	801-536-4467	rcassady@utah.gov
Jennifer Yee	801-536-4216	jyee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Compliance and Enforcement: Administrative Penalty
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-4-109 authorizes the Drinking Water Board to assess and make a demand for payment of a penalty.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received either in support or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that the Division of Drinking Water has the authority to assess penalty amounts for water system violations. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-500	Filing No. 50678

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Plan Review, Operation and Maintenance Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received in support or opposition of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that plan review, operation, and maintenance requirements will be in place to ensure public water system facilities will provide safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R309-505	Filing No. 50677
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Minimum Treatment Requirements

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received in support or opposition of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that various types of water sources found in the will receive the type and degree of treatment necessary to provide safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R309-510	Filing No. 50679
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:		
Facility Design and Operation: Minimum Sizing Requirements		
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:		
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.		
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:		
There have been no other comments received in support or opposition of this rule.		
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:		
The continuation of this rule will ensure that new water sources, storage facilities, and distribution systems for public water systems will be sized to reliably provide an adequate supply of drinking water to the people of the state of Utah.		

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-511	Filing No. 50680

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov

Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:		
Hydraulic Modeling Requirements		
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:		
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.		
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:		
There have been no comments received in support or opposition of this rule.		
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:		
The continuation of this rule will ensure that the increased water demand created by new construction will not adversely affect existing or new water users by requiring public water systems to complete hydraulic modeling to demonstrate that water system designs meet minimum flow and pressure requirements.		

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-515	Filing No. 50681

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	

Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Source Development
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that new surface water sources, ground water wells, and ground water springs will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/11/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-520	Filing No. 50684

Agency Information

1. Department:	Environmental Quality
Agency:	Drinking Water

Building:	MASOB
Street address:	195 North 1950 West
City, state, zip:	Salt Lake City, UT 84114
Contact person(s):	
Name:	Phone:
Nathan Lunstad	385-239-5974
Ying-Ying Macauley	801-674-2553
Email:	nlunstad@utah.gov
Email:	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.	

General Information

2. Rule catchline:
Facility Design and Operation: Disinfection
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that new disinfection facilities will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-525	Filing No. 50683

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Conventional Surface Water Treatment
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that new conventional surface water treatment plants will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-530	Filing No. 50690

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Alternate Surface Water Treatment Methods
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that new surface water treatment plants using alternative treatment methods, such as direct filtration, slow sand filtration, or membrane filtration, will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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manganese control, and point-of-use and point-of-entry treatment devices, will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-535	Filing No. 50694

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-540	Filing No. 50686

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Miscellaneous Treatment Methods
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that new treatment systems, such as fluoridation, taste and odor control, stabilization, deionization, aeration, softening, iron and

General Information

2. Rule catchline:
Facility Design and Operation: Pump Stations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments received in support or opposition of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that new pumping facilities and hydropneumatic systems for public water systems will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	02/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-545	Filing No. 50687

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Drinking Water Storage Tanks
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, operation, and maintenance of public water systems.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received in support or opposition of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that new drinking water storage tanks for public water systems will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-550	Filing No. 50689

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Facility Design and Operation: Transmission and Distribution Pipelines
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules

governing the design, operation, and maintenance of public water systems.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received in support or opposition of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that new transmission and distribution pipelines for public water systems will be constructed to reliably provide an adequate supply of safe drinking water to the people of the state of Utah.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-600	Filing No. 50696

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Source Protection: Drinking Water Source Protection for Ground-Water Sources

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(iv) of the Utah Code. The Drinking Water Board may make rules protecting watersheds and water sources used for public water systems.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received in support or opposition of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The continuation of this rule will ensure that minimum requirements are in place to establish a uniform, statewide program for implementation by public water systems to protect groundwater sources of drinking water.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-605	Filing No. 50691

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nathan Lunstad	385-239-5974	nlunstad@utah.gov
Ying-Ying Macauley	801-674-2553	ymacauley@utah.gov
Please address questions regarding information on this notice to the agency.		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

General Information

2. Rule catchline:
Source Protection: Drinking Water Source Protection for Surface Water Sources
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated by the Drinking Water Board as authorized by Subsection 19-4-104(1)(a)(iv) of the Utah Code. The Drinking Water Board may make rules protecting watersheds and water sources used for public water systems.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The continuation of this rule will ensure that minimum requirements are in place to establish a uniform, statewide program for implementation by public water systems to protect surface water sources of drinking water.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-700	Filing No. 50695

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:

Michael Grange	801-536-0069	mgrange@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Financial Assistance: State Drinking Water State Revolving Fund (SRF) Loan Program.
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 73, Chapter 10c, of the Utah Code authorizes the Department of Environmental Quality acting through the Drinking Water Board to issue loans to political subdivisions to finance all or part of drinking water project costs and to enter into "credit enhancements," "interest buy-down agreements", and "hardship grants."
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Through this rule the Drinking Water Board is able to provide grants and low-interest loans to communities for construction of drinking water system infrastructure projects. Without this financial assistance many communities could not afford to construct the improvements necessary to protect public health and safety. This program also provides matching funds for the annual federal Environmental Protection Agency (EPA) Capitalization Grants which provide millions of dollars to the Drinking Water State Revolving Fund (DWSRF) program and continued administration of the federal and Utah State Safe Drinking Water Acts. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R309-705	Filing No. 50693

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Michael Grange	801-536-0069	mgrange@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Financial Assistance: Federal Drinking Water State Revolving Fund (SRF) Loan Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Federal Safe Drinking Water Act, 42 USC 300j et seq., and Title 73, Chapter 10c, of the Utah Code authorize the Department of Environmental Quality acting through the Drinking Water Board to issue financial assistance to public drinking water systems for drinking water projects from a federal capitalization grant.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Through this rule the Drinking Water Board is able to provide millions of dollars in low interest loans and principal forgiveness (grants) to communities for construction of drinking water system infrastructure projects. Without this financial assistance, many communities could not afford to construct drinking water system improvements that are necessary to protect public health and safety and the Drinking Water Board would not be able to continue administering the federal and Utah Safe Drinking Water Acts. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R309-800	Filing No. 50692
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Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Room no.:	Third Floor	
Building:	MASOB	
Street address:	195 North 1950 West	
City, state, zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144830	
City, state, zip:	Salt Lake City, UT 84114-4830	
Contact person(s):		
Name:	Phone:	Email:
Michael Grange	801-536-0069	mgrange@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Capacity Development Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-4-104(1)(a)(v) authorizes the Drinking Water Board to implement the Capacity Development Program and to govern the allotment of federal funds to public water systems to assist their compliance with federal 1996 Reauthorization of the Safe Drinking Water Act (SDWA).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received either in support or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The 1996 Safe Drinking Water Act (SDWA) amendments outlined the requirements of the Capacity Development

Program. The Program mandates that states ensure that all new Community Water Systems and Non-Transient Non-Community Water Systems demonstrate adequate technical, managerial, and financial capacity (capability) to comply with SDWA and the National Primary Drinking Water Regulations (NPDWR). In addition, states must ensure that existing drinking water systems demonstrate these capabilities before they can be awarded federal drinking water financial assistance from the federal Drinking Water State Revolving Fund (DWSRF) Program. Each year states receive a capitalization grant from Congress through the United States Environmental Protection Agency (USEPA) to finance their individual DWSRF program. If a state does not demonstrate an acceptable Capacity Development Program 20 % of those grant funds may be withheld (SDWA 1452(a)(1)(G)(I)). The receives annual capitalization grants of as much as \$9 million for the DWSRF Program. Losing 20% (up to \$1,800,000) of this annual funding would seriously impair the Drinking Water Board's ability to provide financial assistance to communities for drinking water system infrastructure projects and could leave the public vulnerable to health and safety risks. These funds are also vital to the State's ability to administer the federal and Utah SDWA. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Marie E. Owens, Division Director	Date:	03/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R398-30	Filing No. 50940

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Children with Special Health Care Needs	
Room no.:	334	
Building:	Highland Building	
Street address:	3760 S Highland Drive	
City, state, zip:	Salt Lake City, Utah 84106-4260	
Mailing address:	PO Box 144610	
City, state, zip:	Salt Lake City, UT 84114-4610	
Contact person(s):		
Name:	Phone:	Email:
Joyce McStotts	801-273-2956	jmcstotts@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:	Children's Organ Transplant Fund
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	Title 26, Chapter 18a, is the statute that grants Utah Department of Health (UDOH) authority for the transplant fund program. The authority to make rules for this program is found in Subsection 26-1-5-(1)(a).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	No written comments were received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	Title 26, Chapter 18a, is still in effect. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	03/02/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R515-1	Filing No.51259

Agency Information

1. Department:	Human Services	
Agency:	Child Protection Ombudsman (Office of)	
Room no.:	4th Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Paul Schaaf	801-538-8293	pschaaf@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Processing Complaints Regarding the Utah Division of Child and Family Services

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 62-4a-208 directs the Office of Child Protection Ombudsman (OCPO) to receive and investigate complaints regarding Utah Division of Child and Family Services and write rules related to OCPO procedures.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received during and since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should remain because the underlying statute continues to require it. The benefit of this rule is that it guides the OCPO through personnel changes and provides an effective process to address complaints. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Ann Williamson, Executive Director	Date:	03/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-164	Filing No. 51376
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Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	3110
Building:	State Office Building
Street address:	450 N State St
City, state, zip:	Salt Lake City, UT 84114
Mailing address:	PO Box 146901
City, state, zip:	Salt Lake City, UT 84114-6901
Contact person(s):	

Name:	Phone:	Email:
Steve Gooch	801-538-3803	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Uniform Health Billing Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-22-614.5 requires all insurers that offer health insurance to use a uniform claim form and uniform billing and claim codes adopted by the Insurance Commissioner in accordance with the Utah Administrative Rulemaking Act. Section R590-164-4 sets the electronic claim forms that are to be used uniformly, and Section R590-164-6 sets the standards for electronic data interchange transactions between providers of health services and health insurers.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Insurance Department has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule eliminates the need for each insurer to create its own billing form for health providers to complete and file with the insurer to be reimbursed for their services. Uniformity in health billing forms reduces confusion, processing time, and cost. It should be noted that the organization that sets the standards has representation from major insurance carriers and health care providers. Before adopting standards, they are exposed to the insurance industry and medical organizations for their input. As many as 700 responses have been received regarding a change in standards. Ninety percent of medical billings in Utah are sent electronically, exceeding the national average. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	03/06/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R708-32	Filing No. 51878

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room no.:	3rd Floor	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W	
City, state, zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 144501	
City, state, zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Uninsured Motorist Identification Database
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Section 41-12a-803, which states that the Department of Public Safety shall make rules and develop procedures in cooperation with the Motor Vehicle Division to use the Uninsured Motorist Identification Database for the purpose of administering and enforcing Title 41, Chapter 12a, Part 8.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments regarding this rule since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required under Section 41-12a-803 and is necessary to identify individuals authorized to obtain information from Uninsured Motorist Identification Database, and the process by which information is

obtained from the database. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Chris Caras, Division Director	Date:	03/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R708-36	Filing No. 51888

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room no.:	3rd Floor	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W	
City, state, zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 144501	
City, state, zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Disclosure of Personal Identifying Information in MVRs
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Section 53-3-109, which states that the Driver License Division may make rules to designate what information shall be included on a motor vehicle record (MVR), the format of the MVR, signature requirements to obtain an MVR, and the procedures necessary to obtain an MVR.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments regarding this rule during and since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is authorized under Section 53-3-109, and is necessary to outline the data that can be displayed on an MVR in accordance with the Driver Privacy Protection Act. Additionally, this rule outlines the necessary procedures for authorized individuals to request an MVR and the procedures to disclose an MVR to authorized individuals upon request. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Chris Caras, Division Director	Date:	03/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-37	Filing No. 51880
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Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room no.:	3rd Floor	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W	
City, state, zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 144501	
City, state, zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Test
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized under Section 53-3-510, which states that the Driver License Division shall make rules that establish standards and procedures to certify licensed instructors of driver training courses to administer skills tests authorized under Section 53-3-510 for a class D operator's license.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division has not received any written comments regarding this rule since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required under Section 53-3-510 and is necessary to outline the requirements to license and certify commercial driver education instructors to provide driving skills tests for a class D operator's license on behalf of the division. The driving skills tests provided by certified testers meet the same minimum standards required to obtain a class D operator's license under Title 53, Chapter 3. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Chris Caras, Division Director	Date:	03/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R708-40	Filing No. 51886
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Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room no.:	3rd Floor	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W	
City, state, zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 144501	
City, state, zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Tara Zamora	801-964-4483	tarazamora@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Driving Simulators
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Section 53-3-505, which states that the Department of Public Safety shall make rules to establish minimum standards for driving simulation devices that are fully interactive under Subsection 53-3-505.5(2)(b), and driving simulation devices that are not fully interactive under Subsection 53-3-505.5(2)(c).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments regarding this rule during and since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required under Section 53-3-505 and outlines the minimum standards for driving simulators used in connection with driver education courses to apply towards the behind the wheel training requirements for completion of the course. The rule outlines the different types of simulators and visual and physical details that simulators must include in order to provide driver education students with simulated driving experience. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Chris Caras, Division Director	Date:	03/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R708-41	Filing No. 51887

Agency Information

1. Department:	Public Safety
Agency:	Driver License

Room no.:	3rd Floor	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W	
City, state, zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 144501	
City, state, zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Requirements of Acceptable Documentation, storage and Maintenance
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Section 53-3-104, which states the Driver License Division shall make rules to identify acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under Title 53, Chapter 3.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments regarding this rule during and since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required under Section 53-3-104 and is necessary to identify acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required in order to apply for a driver license or identification card. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Chris Caras, Division Director	Date:	03/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R746-312	Filing No. 51955
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Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state, zip:	Salt Lake City, Utah 84111	
Mailing address:	PO Box 4558	
City, state, zip:	Salt Lake City, UT 84114-4558	
Contact person(s):		
Name:	Phone:	Email:
Michael Hammer	801-530-6729	michaelhammer@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Electrical Interconnection
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Electrical Interconnection rule has been enacted to ensure a safe and transparent process for connecting electrical generating facilities to an electrical grid. This rule is enacted under the provisions of Sections 54-3-2, 54-4-7, 54-4-14, 54-12-2, and 54-15-106.
Section 54-3-2 enables the Public Service Commission (PSC) to modify its regulations with respect to matters addressed in Title 54. Section 54-4-7 enables the PSC to determine just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service, or methods to be observed. Section 54-4-14 enables the PSC to, among other things, require a public utility to construct, maintain, and operate its line, plant, system, and equipment in a manner that promotes and safeguards the health and safety of its employees, customers, and the public. Section 54-12-2 states the commission "shall either establish a procedure under which qualifying power producers offer competitive bids for the sale of power to purchasing utilities or devise an alternative method which considers the purchasing

utility's avoided costs." The Electrical Interconnection rule is important to ensure these power producers connect to the grid safely. Section 54-15-106 (Subsection of Net Metering Statute) states the "governing authority may by rule adopt additional reasonable safety, power quality, and interconnection requirements." In recent years, interconnections under the Net Metering Statute have increased dramatically and the Electrical Interconnection Rules ensure these facilities are safely interconnected. In general, the Electrical Interconnection Rules are required to ensure: 1) new generating facilities are evaluated consistently and properly prior to connection to the grid; 2) the safety and power quality requirements of the electric grid are met; 3) transparency of interconnection requirements; and 4) fulfill statutory requirements.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of Public Utilities (DPU) commented on the specific reporting requirements in the Electrical Interconnection rule (Section R746-312-16) stating that all electrical utilities should be subject to the reporting requirements listed in this rule. DPU added "[w]ith the increase in renewable energy resources and the corresponding increase in net metering customers, reporting from the utilities will become increasingly important" and will enable the PSC and DPU to review and evaluate the impact of these renewable energy resources.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Interconnection at all levels defined in the Electrical Interconnection rule (i.e., Levels 1, 2, and 3) continues to occur in Utah and the overall number of interconnections, particularly Level 1, have increased significantly in recent years. This rule provides the guidelines/requirements needed to manage the interconnection process transparently and to ensure electrical interconnections are safe. The electrical interconnection reporting requirements provide information on the number, type, and location of interconnections to the PSC and other interested parties for their review and evaluation. This information has been used in several proceedings at the PSC related to evaluating net metering. Therefore, this rule should be continued.

No comments in opposition to the Electrical Interconnection rule have been filed.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, Chair	Date:	03/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R895-1	Filing No. 52077

Agency Information

1. Department:	Technology Services	
Agency:	Administration	
Room no.:	6000	
Street address:	450 N State Street	
City, state, zip:	Salt Lake City, UT 84114	
Mailing address:	1 State Office Building, 6th Floor	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Stephanie Weteling	801-538-3284	stephanie@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Access to Records
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under authority of Sections 63G-2-204 and 63A-12-104, and Title 63G, Chapter 3, this rule provides procedures for access and denial of access to government records.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The rule provides specific procedures for access and denial of access to government records, which is needed in order to define department and non-department records. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Michael Hussey, Executive Director and CIO	Date:	03/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R895-14	Filing No. 52091

Agency Information

1. Department:	Technology Services	
Agency:	Administration	
Room no.:	6000	
Street address:	450 N State Street, 6th Floor	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Stephanie Weteling	801-538-3284	stephanie@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Access to Information Technology for Users with Disabilities
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 63F-1-210 requires the Department of Technology Services to establish a rule for minimum standards for accessibility of executive branch agency information technology by an individual with a disability.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received during and since the last five-year review of this rule from interested persons supporting or opposing the rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Section 63F-1-210 requires this rule to continue, and it is imperative that all executive branch state agencies follow the same guidelines when providing technology to individuals with a disability. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Michael Hussey, Executive Director and CIO	Date:	03/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R994-204	Filing No. 52227

Agency Information

1. Department:	Workforce Services	
Agency:	Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 East 300 South	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state, zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Covered Employment
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Department of Workforce Services (Department) has authority under Subsections 35A-1-104(1) and (4) and 35A-4-502(1)(b) to adopt rules and establish eligibility standards. Section 35A-4-204 defines employment in broad terms. This rule is needed to specify what standards are used for determining the employment status of specific types of workers. This rule draws from case law, Utah statutory law, and federal regulations to establish standards the Department follows in making those determinations.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the last five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to explain to employers and claimants which types of employment are covered by and may be eligible for unemployment insurance benefits. It also provides rules for determining when an individual is an independent contractor and when an employer can seek safe haven. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	03/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R994-205	Filing No. 52223

Agency Information

1. Department:	Workforce Services	
Agency:	Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 East 300 South	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state, zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Exempt Employment
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Department of Workforce Services has authority under Subsections 35A-1-104(1) and (4) and 35A-4-502(1)(b) to adopt rules and establish eligibility standards. Section 35A-4-205 lists types of work that are exempt under the Employment Security Act. This rule is necessary to describe how to determine if an employee is exempt.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the last five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to provide guidance to employers and claimants in determining when certain types of employment are exempt such as agricultural workers,

outside sales, real estate agents, and family members. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	03/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R994-206	Filing No. 52224
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Agency Information

1. Department:	Workforce Services	
Agency:	Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 East 300 South	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state, zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Agricultural Labor
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Department of Workforce Services has authority under Subsections 35A-1-104(1) and (4) and 35A-4-502(1)(b) to adopt rules and establish eligibility standards. Section 35A-4-206 defines when agricultural labor is covered labor under the Employment Security Act. This rule is necessary to define terms used in Section 35A-4-206.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to explain to employers and claimants when unemployment insurance benefits may be paid to agricultural workers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	03/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R994-304	Filing No. 52242
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Agency Information

1. Department:	Workforce Services	
Agency:	Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 East 300 South	
City, state, zip:	Salt Lake City, UT	
Mailing address:	PO Box 45244	
City, state, zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Department of Workforce Services has authority under Subsections 35A-1-104(1) and (4) and 35A-4-502(1)(b) to adopt rules and establish eligibility standards. Section 35A-4-304 seeks to enforce federal regulations requiring successor employers pay the rates that applied to the predecessor employer. This rule is necessary to define terms used in Section 35A-4-304.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received in the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

When an employer sells or transfers its business to a different entity, especially when the transfer is made to avoid higher unemployment insurance rates, the rate of the old business is transferred to the new entity. This rule

is necessary to explain when the rates will be charged to the new employer so as to avoid State Unemployment Tax Act (SUTA) "dumping" which is a scheme to avoid higher experience ratings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	03/09/2020
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Administrative Services

Finance

No. 52480 (Amendment): R25-7. Travel-Related Reimbursements for State Employees
Published: 02/01/2020
Effective: 03/10/2020

No. 52503 (New Rule): R25-21. Medical Cannabis Payment Provider Standard
Published: 02/01/2020
Effective: 03/10/2020

Agriculture and Food

Plant Industry

No. 52613 (Emergency): R68-26. Industrial Hemp Product Registration and Labeling
Published: 04/01/2020
Effective: 03/16/2020

No. 52605 (Emergency): R68-27. Cannabis Cultivation
Published: 04/01/2020
Effective: 03/11/2020

Commerce

Occupational and Professional Licensing

No. 52481 (Amendment): R156-11a. Cosmetology and Associated Professions Licensing Act Rule
Published: 02/15/2020
Effective: 03/24/2020

No. 52505 (Amendment): R156-69. Dentist and Dental Hygienist Practice Act Rule
Published: 02/01/2020
Effective: 03/10/2020

Education

Administration

No. 52493 (Amendment): R277-100. Definitions for Utah State Board of Education (Board) Rules
Published: 02/01/2020
Effective: 03/12/2020

No. 52494 (Amendment): R277-114. Corrective Action and Withdrawal or Reduction of Program Funds
Published: 02/01/2020
Effective: 03/12/2020

No. 52495 (New Rule): R277-309. Appropriate Licensing and Assignment of Teachers
Published: 02/01/2020
Effective: 03/12/2020

No. 52502 (Amendment): R277-419. Pupil Accounting
Published: 02/01/2020
Effective: 03/12/2020

No. 52496 (Amendment): R277-445. Classifying Small Schools as Necessarily Existent
Published: 02/01/2020
Effective: 03/12/2020

No. 52497 (Amendment): R277-601. Standards for Utah School Buses and Operations
Published: 02/01/2020
Effective: 03/12/2020

No. 52498 (Amendment): R277-726. Statewide Online Education Program
Published: 02/01/2020
Effective: 03/12/2020

No. 52499 (New Rule): R277-929. State Council on Military Children.
Published: 02/01/2020
Effective: 03/12/2020

NOTICES OF RULE EFFECTIVE DATES

Environmental Quality

Air Quality

No. 52414 (Amendment): R307-110. General Requirements: State Implementation Plan
Published: 01/01/2020
Effective: 03/05/2020

No. 52415 (Amendment): R307-110. General Requirements: State Implementation Plan
Published: 01/01/2020
Effective: 03/05/2020

No. 52316 (Amendment): R307-401. Permit: New and Modified Sources
Published: 12/15/2019
Effective: 03/05/2020

Governor

Economic Development

No. 52343 (New Rule): R357-16b. Utah Children's Outdoor Recreation and Education Grant Program Rule
Published: 02/01/2020
Effective: 03/11/2020

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 52389 (Amendment): R414-49. Dental, Oral and Maxillofacial Surgeons and Orthodontia
Published: 12/15/2019
Effective: 03/01/2020

Family Health and Preparedness, Licensing

No. 52375 (Amendment): R432-35. Background Screening -- Health Facilities
Published: 12/15/2019
Effective: 03/01/2020

Insurance

Administration

No. 52500 (Amendment): R590-102. Insurance Department Fee Payment Rule
Published: 02/01/2020
Effective: 03/10/2020

No. 52490 (Amendment): R590-160. Adjudicative Proceedings
Published: 02/01/2020
Effective: 03/10/2020

No. 52489 (New Rule): R590-284. Corporate Governance Annual Disclosure Rule
Published: 02/01/2020
Effective: 03/10/2020

Natural Resources

Wildlife Resources

No. 52522 (Amendment): R657-10. Taking Cougar
Published: 02/15/2020
Effective: 03/24/2020

No. 52523 (Amendment): R657-33. Taking Bear
Published: 02/15/2020
Effective: 03/24/2020

Transportation

Operations, Construction

No. 52484 (New Rule): R916-5. R916-5. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation.
Published: 02/01/2020
Effective: 03/10/2020

End of the Notices of Rule Effective Dates Section