

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.

DIRECTIVE TO THE STATE OF UTAH

The Governor's Coronavirus Directive for Utah
"Stay Safe, Stay Home"

Updated April 10, 2020

I would like to thank all Utahns who continue to do their part to slow the spread of novel coronavirus disease 2019 (COVID-19). Utahns have increased their efforts since I originally issued this Directive on March 27, 2020, and these efforts continue to make a difference. It is important that we maintain these enhanced protective measures for our own safety and the safety of everyone around us.

I expect each Utah resident and business to follow these directives. These directives are necessary to keep Utah residents safe during the worldwide COVID-19 pandemic. These safety requirements will certainly result in disruptions to our lives, and that cannot be avoided. Those disruptions are a critical part of keeping ourselves safe.

Following these directives now will avoid significant hardship later.

These directives establish minimum statewide standards. In consultation with the State, local authorities may impose more stringent directives and orders to address the unique circumstances in different areas of Utah.

These directives are not to be confused with a shelter-in-place order.

The following directives are effective immediately and shall remain in place until 11:59 p.m. on May 1, 2020.

I. Directives for Individuals

Each individual in the state of Utah is hereby directed to engage in the following measures to reduce the spread of COVID-19:

1. **Health orders and guidelines.** Follow orders, guidelines, and standards promulgated by the Utah Department of Health and applicable local health departments.
2. **Self-isolation after exposure to COVID-19.** Self-isolate for 14 days after:
 - a. traveling out of state; or
 - b. being exposed to an individual presenting symptoms of illness consistent with COVID-19.
3. **Social and physical distancing.**
 - a. Stay at home as much as possible.
 - b. Work from home as much as possible.
 - c. Maintain a six-foot distance from individuals who are not members of the same household or residence when outside or in public.
 - d. Socialize remotely by phone or video chat.
 - e. Do not shake hands with other individuals.
 - f. Do not pay in-person social visits to hospitals, nursing homes, or other residential care facilities.

- g. Do not pay in-person social visits to friends or family.
- h. Do not attend any in-person gathering of any number of people who are not of the same household or residence.

4. Hygiene.

- a. Wear a cloth face covering that covers the nose and mouth in any place of public accommodation, including retail establishments and grocery stores, and whenever social distancing is not possible.
- b. Wash hands frequently with soap and water for at least 20 seconds.
- c. Use hand sanitizer frequently.
- d. Avoid touching your face.
- e. Cover coughs or sneezes by coughing or sneezing into the sleeve or elbow, but not into hands.
- f. Clean high-touch surfaces regularly, including buttons, door handles, counters, and light switches.

5. Children.

- a. Do not arrange or allow your child to participate in in-person playdates or similar activities.
- b. Do not allow your child on public playground equipment.

6. Outdoor activities and recreation.

- a. Maintain a six-foot distance from individuals who are not members of the same household or residence when engaging in outdoor activities or recreation, including walking, hiking, running, biking, driving for pleasure, hunting, and fishing.
- b. Avoid high-touch surfaces.
- c. Do not engage in close-contact or team sports.
- d. Do not congregate at trailheads, parks, or other outdoor spaces.

7. Travel.

- a. Limit travel only to essential travel.
- b. "Essential travel" means travel to:
 - i. safely relocate from an unsafe home or residence, including by an individual who has suffered or is at risk of domestic violence or for whom the safety, sanitation, or essential operations of the home or residence cannot be maintained;
 - ii. work if you cannot work remotely;
 - iii. care for a family member or friend in the same household or another household, including transporting family members or friends;
 - iv. transport a child according to existing parenting time schedules or other visitation schedules;
 - v. seek emergency or protective services;
 - vi. obtain the following supplies and services:
 - A. medication and medical services;
 - B. food and other grocery items, including delivery or carry-out services, and alcoholic or non-alcoholic beverages;
 - C. gasoline and other motor-vehicle fuels;
 - D. supplies required to work from home;
 - E. products needed to maintain the safety, sanitation, and essential operation of homes and residences, businesses, and personally owned vehicles, including automobiles and bicycles; and
 - F. laundromat and dry cleaning services;
 - vii. donate blood;
 - viii. care for pets, including travel to a veterinarian;
 - ix. engage in recreational and outdoor activities close to home; and
 - x. return to a home or place of residence.

8. Homeless individuals. Notwithstanding any other provision of this Directive, except as required by the Utah Department of Health or a local health department to maintain public health, a law-abiding individual experiencing homelessness may:

- a. move between emergency shelters, drop-in centers, and encampments; and
- b. remain in an encampment of ten or fewer members without being subject to disbandment by state or local government.

II. Directives for For-Profit and Nonprofit Organizations

Each business, including for-profit and nonprofit organizations, in the state of Utah is hereby directed to engage in the following measures to reduce the spread of COVID-19:

1. Proactive response. Proactively implement policies and best practices to:

- a. reduce disease transmission among employees and volunteers;
- b. maintain a healthy work environment; and
- c. maintain critical operations while complying with state and local orders, directives, and recommendations.

2. Remote work.

- a. Require employees and volunteers to work remotely from home except to perform work that cannot be done from home.
- b. Utilize video conferencing and virtual meeting services.

3. Non-remote work.

- a. Require employees and volunteers who present symptoms of illness consistent with COVID-19 to stay home.

- b. Do not require a positive COVID-19 test result or healthcare provider's note for an employee or a volunteer who stays home due to illness.
 - c. Enhance social distancing in the workplace by grouping employees and volunteers into cohorts of no more than ten individuals that have limited contact with other cohorts.
 - d. Enable employees and volunteers to follow the directives in Part I, Directives for Individuals, including by providing employees with hand soap, hand sanitizer, or sanitizing wipes.
 - e. Minimize face-to-face contact with high-risk employees and high-risk volunteers.
 - f. Implement flexible work hours.
4. **High-risk individuals.** Take measures to accommodate high-risk individuals.

III. Application

Except as otherwise lawfully required, nothing in this Directive should be interpreted to prohibit the following persons from fulfilling their duties and responsibilities:

- 1. healthcare professionals;
- 2. law enforcement officers and other first responders;
- 3. faith leaders and faith workers; and
- 4. charitable and social services organizations.

IN TESTIMONY, WHEREOF I have hereunto set my hand and caused affixed the Great Seal of the State of Utah, this 10th, day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

EXECUTIVE ORDER

Suspending Provisions of the Utah Postretirement Reemployment Restrictions Act

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, 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, it is imperative that healthcare facilities maximize the number of capable healthcare workers to ensure Utahns impacted by COVID-19 have access to medical treatment;

WHEREAS, state and local governmental entities must have staffing sufficient to appropriately address the impacts of COVID-19;

WHEREAS, the following governmental functions are critical because they enable state and local officials to protect their communities and ensure continuity of functions essential to public health and safety: communications, emergency services and first responders, energy, financial services, food and agriculture, government facilities, healthcare and public health facilities, information technology, transportation systems, and water and wastewater systems (the "Critical Government Functions");

WHEREAS, many retirees of the Utah Retirement Systems (URS) in the state are skilled workers willing to be reemployed to meet the Critical Government Functions staffing needs of state and local governmental entities that are URS participating employers to be able to appropriately address the impacts of COVID-19;

WHEREAS, certain provision of Utah Code Title 49, Chapter 11, Part 12, Postretirement Reemployment Restrictions Act, may restrict the ability of URS participating employers to reemploy certain retirees in Utah who may help provide or expedite Critical Government Functions needed for emergency response and recovery;

WHEREAS, Certain provisions of Utah Code §§ 49-11-1201 through 49-11-1208 may limit the ability of URS participating employers to have staffing sufficient to appropriately respond to the COVID-19 disaster and to ensure that Utahans have Critical Government Functions;

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 the following, consistent with applicable federal law:

1. Utah Code § 49-11-1204(2), requiring cancellation of a retirement allowance for reemployment without a one-year break in service;
2. Utah Code § 49-11-1204(4)(b), to the extent it requires the participating employer to pay the amortization rate to URS;
3. Utah Code § 49-11-1206(1)(b), to the extent it requires a participating employer to immediately notify URS of the reemployment;
4. Utah Code § 49-11-1206(3), to the extent it requires a retiree to report the status of the reemployment to URS; and
5. Utah Code § 49-11-1207(1), to the extent it requires URS to take action regarding a violation of Subsection 49-11-1204(2) or (4)(b).

PROVIDED THAT, the suspensions in this Order apply only as to an individual who:

1. retired prior to March 30, 2020; and
2. becomes temporarily reemployed to ensure adequate staffing of Critical Government Functions for a URS participating employer during the state of emergency.

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 30th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/009/EO

EXECUTIVE ORDER

Suspending the Enforcement of a Statute Related to the Industrial Assistance Account

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, on March 27, 2020, I issued the Stay Safe, Stay Home directive, further emphasizing the critical need to limit in-person contact;

WHEREAS, recognizing the need to mitigate the significant economic impact of COVID-19 infections and associated public health measures, I created the Economic Response Task Force composed of leaders from Utah's private and public sectors;

WHEREAS, on March 24, 2020, the Economic Response Task Force presented Utah Leads Together, a plan for Utah's health and economic recovery, which plan anticipates an increase in COVID-19 infections and a decline in jobs;

WHEREAS, the Utah Leads Together plan calls for repurposing economic development tools to support the most significantly impacted businesses;

WHEREAS, small businesses throughout Utah are particularly important to Utah's economy and are suffering significant economic losses due to the COVID-19 pandemic;

WHEREAS, though Congress is taking measures to assist businesses and individuals to weather the economic effects of COVID-19, such measures may take weeks or months before they reach Utah's citizens;

WHEREAS, Utah is well-positioned to respond quickly to the particular economic needs of its local communities and businesses, particularly the need for short-term working capital;

WHEREAS, the Governor's Office of Economic Development (GOED) is responsible for economic development in Utah and is tasked with, among other things, administering grant and loan programs to enhance the economic health and vitality of Utah and its business community;

WHEREAS, GOED oversees the Industrial Assistance Account, which has the authority to provide loans to address unique economic opportunities and circumstances;

EXECUTIVE DOCUMENTS

WHEREAS, on March 24, 2020, GOED announced the establishment of the Utah Leads Together Small Business Bridge Loan Program to provide zero interest loans from the Industrial Assistance Account under the authority of Utah Code § 63N-3-109;

WHEREAS, Utah Code § 63N-3-103(1)(b) places a limit on the amount of funds that may be accessed in support of the Utah Leads Together Small Business Bridge Loan Program, which limit provides insufficient funding to meaningfully support Utah's small business community;

WHEREAS, lifting the limit will allow GOED to access up to 100% of the available unencumbered funds, thereby allowing GOED to appropriately respond to the critical economic circumstances created by the COVID-19 pandemic;

WHEREAS, suspending the enforcement of Utah Code § 63N-3-103(1)(b) 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-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 Utah Code § 63N-3-103(1)(b). Accordingly, GOED may access up to 100% of the available, unencumbered funds of the Industrial Assistance Account to support the Utah Leads Together Small Business Bridge Loan Program.

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 30th day of March, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/010/EO

EXECUTIVE ORDER

Suspending Certain Statutes Governing Eviction Proceedings

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 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 COVID-19 pandemic;

WHEREAS, on March 27, 2020, I issued the Governor's "Stay Safe, Stay Home" Directive, to help protect Utahns during the COVID-19 pandemic;

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

WHEREAS, some Utah residents have lost income as a direct result of the COVID-19 pandemic;

WHEREAS, some Utah residents are unable to meet basic needs, including payment of rent, as a direct result of COVID-19;

WHEREAS, residents being evicted from their homes for failure to pay rent will increase the risk of spread of COVID-19;

WHEREAS, Utah Code Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, governs eviction proceedings relating to unlawful detainer by a tenant;

WHEREAS, suspending the enforcement of Utah Code Title 78B, Chapter 6, Part 8, is directly related to and necessary to address and cope with the COVID-19 pandemic;

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 Utah Code Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer as the part relates to a residential tenant who:

1. is described in Utah Code § 78B-6-802(c);
2. was current on rent payments as of March 31, 2020; and
3. meets one of the following criteria:
 - a. has suffered a loss of wages or job loss as a result of COVID-19;
 - b. has undergone self isolation or quarantine in compliance with an order issued by the Utah Department of Health or a local health department in response to COVID-19; or
 - c. has tested positive for COVID-19.

I further order the Department of Workforce Services to offer free mediation assistance to landlords and tenants when there is a dispute whether the tenant meets the criteria above.

This Order does not:

1. suspend enforcement of Utah Code Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, as the part relates to a commercial tenant;
 2. prohibit evictions for any reason other than evictions for non-payment of rent by a tenant who meets the criteria above;
- or
3. create, require, or imply rent forgiveness.

Accordingly, a tenant remains responsible for all rent pursuant to the tenant's rental agreement.

This Order is effective immediately and expires at 11:59 p.m. on May 15, 2020, unless 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 1st day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/011/EO

EXECUTIVE ORDER

Suspending Certain Provisions of the Utah Election Code Regarding Signature Gathering for Local Referenda

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, the number of COVID-19-related deaths and diagnosed 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, on March 27, 2020, I issued the Governor's "Stay Safe, Stay Home" directive, further emphasizing the critical need to limit in-person contact;

WHEREAS, consistent with the President's Coronavirus Guidelines for America and the Governor's "Stay Safe, Stay Home" Directive, state and local authorities have issued guidelines and orders encouraging individuals and businesses to limit in-person contact to prevent the continued spread of COVID-19;

WHEREAS, Utah Code Title 20A, Chapter 7, Part 6, Local Referenda, governs the administration of local referenda;

WHEREAS, certain provisions of Utah Code Title 20A, Chapter 7, Part 6, require or imply a requirement that a referendum packet, including any signature sheets and a verification page, be attached or bound physically;

WHEREAS, certain provisions of Utah Code Title 20A, Chapter 7, Part 6, require or imply a requirement that a signature sheet be signed in the presence of and verified by an individual as provided in Utah Code § 20A-7-605(2);

WHEREAS, enforcing provisions of Utah Code Title 20A, Chapter 7, Part 6, that require a referendum packet, including any signature sheets and a verification page, to be attached or bound physically, or that require a signature sheet to be signed in the presence of and verified by an individual as provided in Utah Code § 20A-7-605(2), would necessitate a referendum sponsor to deliver referendum packets to the public for signatures in person or by physical mail;

WHEREAS, requiring a referendum sponsor to deliver referendum packets to the public for signatures in person or by physical mail conflicts with recommendations by state and local authorities to limit in-person contact to prevent the continued spread of COVID-19, and limits the ability of a referendum sponsor to gather and submit signatures during the state of emergency;

WHEREAS, suspending the enforcement of the aforementioned provisions of Utah Code Title 20A, Chapter 7, Part 6, as specified below, is directly related to and necessary to address the COVID-19 pandemic;

WHEREAS, the State maintains a compelling interest in preserving the integrity of the local referenda 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-7-603(1)(b), to the extent it requires a referendum sponsor to attach physically a copy of the law that is the subject of the referendum to each referendum petition;

2. Utah Code § 20A-7-603(2)(b), to the extent it requires a signature sheet to be bound physically;

3. Utah Code § 20A-7-603(3), requiring the final page of each referendum packet to contain a verification statement to be completed and signed by a person in whose presence the signature sheet is signed;

4. Utah Code § 20A-7-604(4)(b), to the extent it requires a referendum packet to be bound physically; and

5. Utah Code § 20A-7-604(4)(c), to the extent it requires a signature sheet to be attached physically to a referendum packet;

6. Utah Code § 20A-7-605(2), requiring a referendum sponsor 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 referendum packet;

7. Utah Code § 20A-7-606(2), which requires the county clerk to check the verification page of each referendum packet and prohibits the county clerk certifying a signature on a referendum packet that is not verified in accordance with Utah Code § 20A-7-605(2); and

8. the following statutory provisions to the extent that each requires or implies a requirement that a signature sheet in a referendum packet be verified as required by Utah Code § 20A-7-605(2):

a. Utah Code § 20A-7-606(1)(a);

b. Utah Code § 20A-7-606(3)(c);

c. Utah Code § 20A-7-613(3); and

d. Utah Code § 20A-7-613(4).

Accordingly, a referendum sponsor may distribute and gather referendum packets and physically signed signature sheets electronically, including by fax or e-mail.

This Order is declared and effective immediately and 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 1st day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/012/EO

(NOTE: This order supersedes Executive Order No. 2020/011/EO.)

EXECUTIVE ORDER

Temporarily Suspending Residential Evictions of Individuals Experiencing Wage or Job Loss as a Result of COVID-19

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, on March 13, 2020, the President of the United States declared a national emergency due to 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 16, 2020, the President of the United States and the White House Coronavirus Task Force issued the President's Coronavirus Guidelines for America to protect public health by, among other things, encouraging individuals to stay home to slow the spread of COVID-19;

WHEREAS, the state of Utah has experienced community spread of COVID-19, and the number of COVID-19-related deaths and diagnosed cases in Utah continues to rise;

WHEREAS, on March 27, 2020, I issued the Governor's "Stay Safe, Stay Home" Directive to protect public health by, among other things, further encouraging individuals to stay home to slow the spread of COVID-19;

WHEREAS, the Centers for Disease Control and Prevention has recommended that individuals self-isolate if they have been exposed to COVID-19 or if they have a condition that puts them at risk of serious harm by the disease, in order to protect public health and slow the spread of COVID-19;

WHEREAS, some Utah residents have lost income as a direct result of the COVID-19 pandemic;

WHEREAS, some Utah residents are unable to meet basic needs, including payment of rent, as a direct result of COVID-19;

WHEREAS, the eviction of residents from their homes for failure to pay rent will increase the risk of spread of COVID-19;

WHEREAS, Utah Code Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, governs eviction proceedings relating to unlawful detainer by a tenant;

WHEREAS, suspending the enforcement of Utah Code Title 78B, Chapter 6, Part 8, is directly related to and necessary to address and cope with the COVID-19 pandemic;

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 Utah Code Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer as the part relates to a residential tenant who:

1. is described in Utah Code § 78B-6-802(c);
2. was current on rent payments as of March 31, 2020; and
3. has suffered a loss of income or job loss as a result of COVID-19.

I further order the Department of Workforce Services to offer free mediation assistance to landlords and tenants when there is a dispute whether the tenant meets the criteria above.

This Order does not:

1. suspend enforcement of Utah Code Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, as the part relates to a commercial tenant;
2. prohibit evictions for any reason other than evictions for non-payment of rent by a tenant who meets the criteria above;
3. create, require, or imply rent forgiveness; or
4. excuse or otherwise relieve an individual's obligation to pay rent.

Accordingly, a tenant remains responsible to pay all rent pursuant to the tenant's rental agreement, including rent that is due during the time this Order is effective.

This Order rescinds and supersedes Executive Order 2020-11, issued on April 1, 2020.

This Order is effective immediately and expires at 11:59 p.m. on May 15, 2020, unless 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 2nd day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/013/EO

(NOTE: This order supersedes Executive Order No. 2020/012/EO.)

EXECUTIVE ORDER

Suspending Certain Provisions of the Utah Election Code Regarding Signature Gathering for Local Referenda

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, the number of COVID-19-related deaths and diagnosed 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, on March 27, 2020, I issued the Governor's "Stay Safe, Stay Home" Directive, further emphasizing the critical need to limit in-person contact;

WHEREAS, consistent with the President's Coronavirus Guidelines for America and the Governor's "Stay Safe, Stay Home" Directive, state and local authorities have issued guidelines and orders encouraging individuals and businesses to limit in-person contact to prevent the continued spread of COVID-19;

WHEREAS, Utah Code Title 20A, Chapter 7, Part 6, Local Referenda, governs the administration of local referenda;

WHEREAS, certain provisions of Utah Code Title 20A, Chapter 7, Part 6, require or imply a requirement that a referendum packet, including any signature sheets and a verification page, be attached or bound physically;

WHEREAS, certain provisions of Utah Code Title 20A, Chapter 7, Part 6, require or imply a requirement that a signature sheet be signed in the presence of and verified by an individual as provided in Utah Code § 20A-7-605(2);

WHEREAS, enforcing provisions of Utah Code Title 20A, Chapter 7, Part 6, that require a referendum packet, including any signature sheets and a verification page, to be attached or bound physically, or that require a signature sheet to be signed in the presence of and verified by an individual as provided in Utah Code § 20A-7-605(2), would necessitate a referendum sponsor to deliver referendum packets to the public for signatures in person or by physical mail;

WHEREAS, requiring a referendum sponsor to deliver referendum packets to the public for signatures in person or by physical mail conflicts with recommendations by state and local authorities to limit in-person contact to prevent the continued spread of COVID-19, and limits the ability of a referendum sponsor to gather and submit signatures during the state of emergency;

WHEREAS, suspending the enforcement of the aforementioned provisions of Utah Code Title 20A, Chapter 7, Part 6, as specified below, is directly related to and necessary to address the COVID-19 pandemic;

WHEREAS, the State maintains a compelling interest in preserving the integrity of the local referenda 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 as follows:

1. Subject to the conditions set forth in Subsection (2) of this Order, the following statutory provisions are suspended:
 - a. Utah Code § 20A-7-603(1)(b), to the extent it requires a referendum sponsor to attach physically a copy of the law that is the subject of the referendum to each referendum petition;
 - b. Utah Code § 20A-7-603(2)(b), to the extent it requires a signature sheet to be bound physically;
 - c. Utah Code § 20A-7-603(3), requiring the final page of each referendum packet to contain a verification statement to be completed and signed by a person in whose presence the signature sheet is signed;
 - d. Utah Code § 20A-7-604(4)(b), to the extent it requires a referendum packet to be bound physically; and
 - e. Utah Code § 20A-7-604(4)(c), to the extent it requires a signature sheet to be attached physically to a referendum packet;
 - f. Utah Code § 20A-7-605(2), requiring a referendum sponsor 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 referendum packet;

- g. Utah Code § 20A-7-606(2), requiring the county clerk to check the verification page of each referendum packet and prohibits the county clerk from
- h. certifying a signature on a referendum packet that is not verified in accordance with Utah Code § 20A-7-605(2); and
- i. the following statutory provisions to the extent that each requires or implies a requirement that a signature sheet in a referendum packet be verified as required by Utah Code § 20A-7-605(2):
 - i. Utah Code § 20A-7-606(1)(a);
 - ii. Utah Code § 20A-7-606(3)(c);
 - iii. Utah Code § 20A-7-613(3); and
 - iv. Utah Code § 20A-7-613(4).

2. The statutory suspensions described in Subsection (1) of this Order apply only if the referendum sponsor ensures that the circulated referendum packet includes a copy of the law that is the subject of the referendum and a copy of the proposition information pamphlet described in and required by Utah Code § 20A-7-604(4)(d).

I further direct the Utah Director of Elections to issue a memorandum explaining the effect of this Order.

This Order modifies, amends, and supersedes Executive Order 2020-12, issued on April 1, 2020, suspending certain provisions of the Utah Election Code regarding signature gathering for local referenda.

This Order is declared and effective immediately and 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 3rd day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/014/EO

EXECUTIVE ORDER

Establishing a Requirement for Individuals Entering Utah to Complete a Travel Declaration Form

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

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, both travel-related cases and community contact transmission of COVID-19 have been documented in the state of Utah and are expected to continue;

WHEREAS, COVID-19 can be spread by individuals who become infected with the virus in one state or country and travel to another state or country;

WHEREAS, individuals entering Utah present a risk of spreading COVID-19;

WHEREAS, certain information about individuals entering Utah is critical to the State's effort to track, trace, and mitigate the spread of COVID-19, and to locate and isolate individuals who have been infected with COVID-19;

WHEREAS, Utah Code § 53-2a-204(1)(f) authorizes the governor to control ingress and egress to and from a disaster area;

WHEREAS, the disaster area comprises the entire state of Utah;

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

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 for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the state of Utah, hereby order the following:

1. As used in this Order:
 - a. "travel declaration form" means an electronic form created by the Utah Department of Transportation used to collect the following information about the individual completing the form:
 - i. full name;
 - ii. date of birth;
 - iii. point of entry into Utah;
 - iv. COVID-19 related health information;
 - v. whether the individual is a Utah resident or a non-resident visitor or worker;
 - vi. home address;
 - vii. phone number;
 - viii. email address;
 - ix. final destination in Utah if the individual is a non-resident visitor or worker;
 - x. places the individual has traveled to or from in the previous 14 days;
 - xi. names of individuals traveling with the individual completing the form who are younger than 18 years old; and
 - b. "highway entry point" means a highway entry point identified by the Utah Department of Transportation pursuant to Subsection (4)(a).
2. Each individual 18 years of age or older who enters Utah as the final destination through the Salt Lake City International Airport shall complete a travel declaration form within three hours of entering Utah.
3. Each individual 18 years of age or older who enters Utah by means of a motor vehicle through a highway entry point shall complete a travel declaration form within three hours of entering Utah.
4. The Utah Department of Transportation shall coordinate with other state agencies and political subdivisions as necessary to:
 - a. identify highway entry points and ensure that each highway entry point is identified on a map made available to the public on coronavirus.utah.gov;
 - b. develop the travel declaration form; and
 - c. ensure that each individual identified in Section (2) receives instructions explaining how to access the travel declaration form.
5. The Utah Department of Public Safety shall send a Wireless Emergency Alert through the Integrated Public Alert and Warning System to each individual identified in Section (3) who is capable of receiving the alert, notifying the individual of the requirement to complete a travel declaration form.
6. The Utah Department of Technology Services shall:
 - a. provide for the encryption of all data collected and transmitted pursuant to this order;
 - b. ensure the system involving the collection, transmission, and storage of data collected pursuant to this Order meets national privacy and security standards;
 - c. provide for the secure storage of all data collected pursuant to this Order;
 - d. ensure that no personally identifiable information or personal health information is shared with the public or with any unauthorized individual;
 - e. ensure that only aggregated de-identified data is used to track and trace the spread of COVID-19; and
 - f. delete the original data when the need to track and trace the spread of COVID-19 ends.

This Order is declared and effective at 8:00 a.m. on April 10, 2020 and shall remain in effect until 11:59 p.m. on May 1, 2020, or until otherwise extended, 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 8th day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/015/EO

(NOTE: This order supersedes Executive Order No. 2020/015/EO.)

EXECUTIVE ORDER

Establishing a Requirement for Individuals Entering Utah to Complete a Travel Declaration Form with Certain Exceptions

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

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, both travel-related cases and community contact transmission of COVID-19 have been documented in the state of Utah and are expected to continue;

WHEREAS, COVID-19 can be spread by individuals who become infected with the virus in one state or country and travel to another state or country;

WHEREAS, individuals entering Utah present a risk of spreading COVID-19;

WHEREAS, certain information about individuals entering Utah is critical to the State's effort to track, trace, and mitigate the spread of COVID-19, and to locate and isolate individuals who have been infected with COVID-19;

WHEREAS, Utah Code § 53-2a-204(1)(f) authorizes the governor to control ingress and egress to and from a disaster area;

WHEREAS, the disaster area comprises the entire state of Utah;

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

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 for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

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

1. As used in this order:
 - a. "travel declaration form" means an electronic form created by the Utah Department of Transportation used to collect the following information about the individual completing the form:
 - i. full name;
 - ii. date of birth;
 - iii. point of entry into Utah;
 - iv. COVID-19 related health information;
 - v. whether the individual is a Utah resident or a non-resident visitor or worker;
 - vi. home address;
 - vii. phone number;
 - viii. email address;
 - ix. final destination in Utah if the individual is a non-resident visitor or worker;
 - x. places the individual has traveled to or from in the previous 14 days;
 - xi. names of individuals traveling with the individual completing the form who are younger than 18 years old; and
 - b. "highway entry point" means a highway entry point identified by the Utah Department of Transportation pursuant to Subsection (4)(a).
2. Each individual 18 years of age or older who enters Utah as the final destination through the Salt Lake City International Airport shall complete a travel declaration form within three hours of entering Utah.
3. Each individual 18 years of age or older who enters Utah by means of a motor vehicle through a highway entry point shall complete a travel declaration form within three hours of entering Utah.
4. The Utah Department of Transportation shall coordinate with other state agencies and political subdivisions as necessary to:
 - a. identify highway entry points and ensure that each highway entry point is identified on a map made available to the public at coronavirus.utah.gov;
 - b. develop the travel declaration form; and
 - c. ensure that each individual identified in Section (2) receives instructions explaining how to access the travel declaration form.
5. The Utah Department of Public Safety shall send a Wireless Emergency Alert through the Integrated Public Alert and Warning System to each individual identified in Section (3) who is capable of receiving the alert, notifying the individual of the requirement to complete a travel declaration form.
6. The Utah Department of Technology Services shall:
 - a. provide for the encryption of any data collected and transmitted pursuant to this Order;
 - b. ensure the system involving the collection, transmission, and storage of data collected pursuant to this Order meets national privacy and security standards;
 - c. provide for the secure storage of any data collected pursuant to this Order;
 - d. ensure that no personally identifiable information or personal health information is shared with the public or with any unauthorized individual;
 - e. ensure that only aggregated de-identified data is used to track and trace the spread of COVID-19; and
 - f. delete the original data when the need to track and trace the spread of COVID-19 ends.
7. Exceptions.
 - a. This Order shall not apply to:
 - i. an individual who enters Utah in the individual's capacity as an employee of a commercial airline;
 - ii. a commercial motor carrier driver; and
 - iii. an individual on a highway working in the individual's capacity as:
 - A. a law enforcement officer;
 - B. a firefighter;
 - C. a paramedic;
 - D. an emergency medical technician;
 - E. a member of the United States Armed Forces; or
 - F. a healthcare provider.
 - b. An individual who enters Utah solely for the purpose of the individual's employment is required to complete the travel declaration form no more than once in a seven-day period.

This Order repeals and supersedes Executive Order 2020-15, issued on April 8, 2020.

This Order is declared and effective immediately and shall remain in effect until 11:59 p.m. on May 1, 2020, or until otherwise extended, 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 10th day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/016/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 17, 2020, 12:00 a.m., and April 01, 2020, 11:59 p.m. are included in this, the April 15, 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 15, 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 August 13, 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.):	R65-13	Filing No. 52631	

Agency Information

1. Department:	Agriculture and Food		
Agency:	Marketing and Development		
Street address:	350 North Redwood Road		
City, state:	Salt Lake City, Utah 84115		
Mailing address:	PO Box 146500		
City, state, zip:	Salt Lake City, UT 84114-6500		
Contact person(s):			
Name:	Phone:	Email:	
Amber Brown	801-538-6023	ambermbrown@utah.gov	
Linda Clark-Gillmor	801-538-7070	lgillmor@utah.gov	
Kelly Pehrson	385-538-7102	kwpehrson@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R65-13. Utah's Own
3. Purpose of the new rule or reason for the change:
Subsection 4-8-104(5) allows the Department of Agriculture and Food (Department) to write rules governing the Utah's Own marketing program. The proposed changes to this rule would expand the membership eligibility for the program to include manufacturers of non-food products made with locally produced agricultural products and make this rule more consistent internally and with the Utah Rulemaking Manual.
4. Summary of the new rule or change:
The rule changes expand the definition of member company to include manufacturers of non-food products made using agricultural products grown or raised in Utah. They also make the definition of member company consistent with the remaining rule text, remove extraneous material, and correct grammar and punctuation issues consistent with the requirements of the Utah Rulemaking Manual.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
While it is difficult to estimate how many additional Utah's Own members will be added as a result of this rule change, the Department has reviewed the number of companies in prior years when companies that produced products other than food were granted membership and estimates that 40 additional companies will join. The Department estimates that each member company will cost approximately \$50 in department resources for a total cost of \$2,000. As far as revenue or savings are concerned, 40 additional companies will bring in \$1,000 in year one (\$25 membership fee) and \$2,000 in year two and three.
B) Local governments:
There is no anticipated impact on local governments because they do not participate in or administer the Utah's Own program.
C) Small businesses ("small business" means a business employing 1-49 persons):
Newly eligible member companies will need to pay a \$25 membership fee to participate in the program their first year and \$50 to participate in subsequent years. With 40 additional members this cost would total \$1,000 in the first year and \$2,000 in years two and three.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Utah's Own program targets small business so there is no anticipated impact on non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
There is no anticipated impact on other persons because they are not members of the Utah's Own program.
F) Compliance costs for affected persons:
Newly eligible member companies will pay a \$25 membership fee their first year and \$50 for subsequent years if they choose to participate in the Utah's Own program.
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	\$2,000	\$2,000	\$2,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$1,000	\$2,000	\$2,000
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$3,000	\$3,000	\$3,000
Fiscal Benefits			
State Government	\$1,000	\$2,000	\$2,000
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	\$(2,000)	\$(1,000)	\$(1,000)

H) Department head approval of regulatory impact analysis:

The Deputy Commissioner of the Department of Agriculture and Food, Kelly Pehrson, has reviewed and approved this fiscal analysis.

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

It is expected that this rule will allow for additional small businesses to participate in and benefit from the Utah's Own program, including producers of non-food products that use locally produced agricultural products. This is more consistent with the purpose of the program, to promote Utah agricultural products.

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

Kelly Pehrson, 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):

Subsection 4-8-104(5)		
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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: 05/15/2020

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:	Kelly Pehrson, Interim Commissioner	Date:	03/27/2020
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R65. Agriculture and Food, Marketing and Development.

R65-13. Utah's Own.

R65-13-1. Authority and Purpose.

Pursuant to Subsection 4-8-104(5) ~~of the Utah Code,~~ this rule provides the application procedures, standards, and requirements for membership in the Utah's Own program.

R65-13-2. Definitions.

(1) "Agricultural Product" means any product that is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(~~1~~)2) "Department" means the Utah Department of Agriculture and Food.

(3) "Locally Produced Agricultural Products" means agricultural products that are grown, raised, or harvested in Utah.

(~~2~~)4) "Member Company" means a farm or other company headquartered or incorporated in Utah that:

(a) grows, raises, produces, prepares, or manufactures food ~~for human consumption~~ in Utah; ~~or~~

(b) manufactures a body care product[s] in Utah ~~using agricultural products grown or raised in Utah, and~~;

(c) produces or manufactures a dietary supplement in Utah; ~~or~~

(d) manufactures other products in Utah using locally produced agricultural products.

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~~_____~~ (c) is headquartered in Utah.
~~_____~~ (2) "Processed" means any significant change in the form or identity of a raw product.
~~_____~~ (3) "Processor" means any person engaged within this state in the operation of receiving, grading, packaging, canning, extracting, preserving, grinding, crushing, milling, or changing the form of an agricultural product for the purpose of preparing for market or marketing such product or engaged in any other activities performed for the purposes of preparing for market or marketing such product.
 (4) (5) "Program" means the Utah's Own program.
 (5) (6) "Program Mark" means the Utah's Own logo, which is trademarked by the department.
~~_____~~ (6) "Promotion" means any written, printed, verbal or graphic representation, or combination thereof, of any product or company with the purpose of influencing consumer opinion as to the characteristics, qualities or image of the commodity, food, feed or fiber except labeling information as required by any government.]

R68-13-3. Membership Eligibility and Application.

(1) A program [A] applicant[s] [seeking membership in the program] shall submit [the following] to the department:
 (a) a completed application form [~~as provided by the department~~];
 (b) a copy [copies of required] of the company's business license [~~s~~] from the applicable local municipality; and
 (c) [payment of the] a membership fee, as outlined in the fee schedule approved by the legislature.
 (2) To be eligible for membership in the program, an applicant[s] shall be headquartered or incorporated in Utah and shall [meet the following qualifications]:
 (a) grow, raise, [~~or~~] produce, prepare or manufacture food [or food products intended for human consumption] in Utah [the state];
~~_____~~ (b) produce, prepare, or manufacture food intended for human consumption in Utah;
 (b) (e) produce or manufacture a dietary supplement[s] intended for human consumption in Utah; [~~or~~]
 (d) (c) [produce] manufacture a body care product[s] intended for human use in Utah; or [using products produced in Utah; and]
 (d) manufacture other products in Utah using locally produced agricultural products.
~~_____~~ (e) be headquartered or incorporated in the state of Utah.
 (3) The department may deny membership if:
 (a) the applicant provides false information on the application;
 (b) membership status has previously been revoked; or
 (c) the applicant does not comply with [all] applicable laws and regulations [~~;~~]; or
~~_____~~ (d) the applicant has acted in a manner that may damage the reputation of the program.
 (4) Membership shall be valid for [~~for~~ valid] one year from the date of acceptance.
 (5) Renewal shall be submitted on forms provided by the department.
 (6) Program membership is nontransferable. The company must notify the department within 30 days of any change of ownership.

R65-13-4. Use of the Program Mark.

(1) Each member company [Program members] shall be given a limited right to use the program mark as prescribed by the department.

(2) Upon acceptance of the program application, the department shall provide a confirmation of membership and copies of the program mark suitable for reproduction to each member company.
 (3) Prior to using the program mark, the member company [Program members shall provide the department] shall provide design concepts to the department, so that the department may [prior to use of the program mark, design concepts for approval to] validate compliance with [the] usage guidelines.
 (4) The limited right to use the program mark terminates if the member company does not [upon failure to] renew membership yearly, or if membership is revoked or terminated.

R65-13-5 Marketing Support.

(1) The department may provide marketing support to a member company at department discretion.
 (2) Additional marketing support may be given to a member company that uses locally produced agricultural products in their saleable product.

R65-13-5]6. Membership Revocation and Termination.

(1) Program membership may be revoked[;] if the member company:
 (a) no longer meets the qualifications for membership;
 (b) violates any applicable statute or rule;
 (c) violates [the] any agreement[s] made between the department and the member company; [~~or~~]
 (d) acts in a manner that may damage the reputation of the program.

KEY: Utah's Own program, membership in Utah's Own program
Date of Enactment or Last Substantive Amendment: 2020 [November 2, 2017]
Authorizing, and Implemented or Interpreted Law: 4-8-104(5)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R68-33	Filing No. 52625	

Agency Information

1. Department:	Agriculture and Food		
Agency:	Plant Industry		
Street address:	350 N Redwood Road		
City, state:	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	

Kelly Pehrson	801-538-7102	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-33. Industrial Hemp Retailer Permit
3. Purpose of the new rule or reason for the change:
Pursuant to Subsection 4-41-103.3, this new rule requires industrial hemp retailers to obtain a permit from the Department of Agriculture and Food (Department).
4. Summary of the new rule or change:
This new rule provides requirements for industrial hemp retailers to obtain a permit to sell industrial hemp products. It includes guidelines regarding application requirements, inspection and testing, and retailer responsibilities with regard to the sale of industrial hemp products, as well as provides for violations.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule creates a permit for industrial hemp retailers. The proposed permitting fee is \$200. The Department estimates that approximately 6,000 retailers will apply for a permit. This would bring in \$1,200,000 which should equal the cost of administering the retail permit program, including verifying product registration and consumer safety inspections.
B) Local governments:
The Department does not anticipate that there would be costs or savings to local governments because they do not regulate or act as industrial hemp retailers.
C) Small businesses ("small business" means a business employing 1-49 persons):

The cost to small businesses that operate as industrial hemp retailers would equal the permit cost of \$200 per small businesses. The Department anticipates that approximately 6,000 retailers will apply for a permit. It is difficult to determine how many of these will be small businesses and how many will be non-small businesses because a variety of different types of businesses act as industrial hemp retailers. For the purposes of the regulatory impact summary table, the Department has estimated that 75% of retailers will be small businesses and 25% will be non-small businesses. The benefit to the businesses is difficult to quantify but would be that they are able to sell products that are safe and compliant with the law that consumers will be more willing to purchase.

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

The cost to non-small businesses that operate as industrial hemp retailers would equal the permit cost of \$200 per businesses. The Department anticipates that approximately 6,000 retailers will apply for a permit. It is difficult to determine how many of these will be small businesses and how many will be non-small businesses because a variety of different types of businesses act as industrial hemp retailers. For the purposes of the regulatory impact summary table, the Department has estimated that 75% of retailers will be small businesses and 25% will be non-small businesses. The benefit to the businesses is difficult to quantify but would be that they are able to sell products that are safe and compliant with the law that consumers will be more willing to purchase.

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

The Department does not anticipate quantifiable costs or savings to other persons who do not operate as industrial hemp retailers.

F) Compliance costs for affected persons:

The compliance costs for affected persons would be the cost of an industrial hemp retailer permit, which is proposed to be \$200 per permit.

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	\$1,200,000	\$1,200,000	\$1,200,000
Local Governments	\$0	\$0	\$0

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Small Businesses	\$900,000	\$900,000	\$900,000
Non-Small Businesses	\$300,000	\$300,000	\$300,000
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$2,400,000	\$2,400,000	\$2,400,000
Fiscal Benefits			
State Government	\$1,200,000	\$1,200,000	\$1,200,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$1,200,000	\$1,200,000	\$0
Net Fiscal Benefits	\$(1,200,000)	\$(1,200,000)	\$(1,200,000)
H) Department head approval of regulatory impact analysis:			
This rule allows for the Department to permit industrial hemp retailers and ensure that products that are sold to consumers are safe and compliant with state law.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
While industrial hemp retailers will need to pay a fee to obtain a permit, the permitting fee will cover the cost required for the Department to employ inspectors and manage the retail permit program.			
B) Name and title of department head commenting on the fiscal impacts:			
Kelly Pehrson, 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):			
Subsection 4-41-103.3	Subsection 4-2-103(1)(i)		

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:	05/15/2020

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:	Kelly Pehrson, Interim Commissioner	Date:	03/20/2020
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R68. Agriculture and Food, Plant Industry.

R68-33. Industrial Hemp Retailer Permit.

R68-33-1. Authority and Purpose.

1) Pursuant to Subsections 4-41-103.3 and 4-2-103(1)(i), this rule establishes the requirements for a person seeking an industrial hemp retailer permit.

R68-33-2. Definitions.

1) "Department" means the Utah Department of Agriculture and Food.

2) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

3) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells or markets any industrial hemp product.

4) "Industrial hemp product" means product derived from or made by processing industrial hemp plants or plant parts.

5) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.

6) "Premises" means a place where an industrial hemp product is sold, offered for sale, exposed for sale, stored, or marketed.

R68-33-3. Industrial Hemp Retailer Permit.

1) A person who sells, offers for sale, exposes for sale, or markets an industrial hemp product in the state shall secure an industrial hemp retailer permit from the department.

2) A permit shall be obtained before an industrial hemp product is offered for sale in Utah.

3) A person seeking an industrial hemp retailer permit shall provide to the department:

a) the name of the person who sells, offers for sale, or markets an industrial hemp product;

b) the address of each location where the industrial hemp product is sold, offer for sale, or marketed; and

c) written consent allowing a representative of the department to enter all premises where the person is selling industrial hemp product.

4) A retailer shall ensure that any location is registered under the permit application. One permit for multiple locations or outlets of stores falling under the same LLC will be accepted, provided each location or outlet is identified.

5) A permit fee, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of the application.

6) The department may deny a permit for an incomplete application.

7) A permit is renewable for up to a one-year period with an annual renewal fee that shall be paid on or before December 31st of each year.

8) A late fee shall be assessed for a renewal of an industrial hemp retailer permit submitted after December 31st and shall be paid before the renewal is issued.

R68-33-4. Inspection and Testing.

1) The department shall randomly inspect a retailer permittee to ensure industrial hemp product distributed or available for distribution in Utah is in compliance with this rule and Rule R68-26.

2) The department shall periodically sample, analyze, and test industrial hemp product distributed within the state for compliance with registration and labeling requirements, and the certificate of analysis, if applicable.

3) The department may inspect industrial hemp product distributed or available for distribution for any other reason the department deems necessary.

4) The sample taken by the department shall be the official sample.

5) Pursuant to Section 4-1-105, the department may take samples at no charge to the department.

R68-33-5. Retailer Permittee Responsibilities.

1) A retailer shall:

a) ensure that an advertisement for industrial hemp product sold or marketed in Utah does not contain any medical claim unless the product has been issued a National Drug Code by the FDA; and

b) ensure that an industrial hemp product sold is properly registered with the department.

2) A retailer shall provide the identity of the manufacturer of an industrial hemp product sold upon request of the department.

3) A retailer may register the product in lieu of the manufacturer if the product is not registered.

4) A retailer shall ensure that each location is permitted.

R68-33-6. Violation.

1) Industrial hemp product shall be considered falsely advertised if the permittee makes a claim about a product that is not on the label.

2) It is a violation to:

a) market or sell industrial hemp product in the state of Utah without an industrial hemp retail permit;

b) distribute, market, or sell industrial hemp product that is not registered with the department;

c) distribute or market a product that contains greater than 0.3% THC;

d) distribute or market an industrial hemp product containing a cannabinoid that is not in a medicinal dosage form;

e) market or sell industrial hemp products without a valid retailer permit; or

f) refuse inspection of a retail establishment, product for sale, or a product storage area.

KEY: industrial hemp, retailer permit

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41-103.3

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R277-419	Filing No.	52635

Agency Information

1. Department:	Education		
Agency:	Administration		
Building:	Board of Education		
Street address:	250 E 500 S		
City, state:	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state, zip:	Salt Lake City, UT 84114-4200		
Contact person(s):			
Name:	Phone:	Email:	
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov	

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

General Information

2. Rule or section catchline:
R277-419. Pupil Accounting
3. Purpose of the new rule or reason for the change:
This rule has been amended to reflect updated definitions and terminology in support of competency-based education.
4. Summary of the new rule or change:
There are definitions that have been added and removed that are used throughout the rule to support the move towards competency-based education standards.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have material fiscal impact on state government revenues or expenditures. It updates and modernizes definitions and language to better reflect current practice in the fields of blended, competency-based and personalized learning. The changes do not impact the calculations or distributions of funds to local education agencies (LEAs).

B) Local governments:

This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. It updates and modernizes definitions and language to better reflect current practice in the fields of blended, competency-based, and personalized learning. The changes do not impact the calculations or distributions of funds to LEAs.

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

This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. It updates and modernizes definitions and language to better reflect current practice in the fields of blended, competency-based, and personalized learning. The changes do not impact the calculations or distributions of funds to LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue 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 **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It updates and modernizes definitions and language to better reflect current practice in the fields of blended, competency-based, and personalized learning. The changes do not impact the calculations or distributions of funds to LEAs.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. It updates and modernizes definitions and language to better reflect current practice in the fields of blended, competency-based, and personalized learning. The changes do not impact the calculations or distributions of funds to LEAs.

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 Superintendent of the State Board of Education, Sydnee Dickson, 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 are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:
 Sydnee Dickson, State Superintendent

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):

Article X, Section 3	Subsection 53E-3-602(2)	Subsection 53E-3-401(4)
Subsection 53E-3-501(1)(e)	Subsection 53E-3-301(3)(d)	Section 53G-4-404

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: 5/15/2020

10. This rule change MAY become effective on: 5/22/2020

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:	Angie Stallings, Deputy Superintendent	Date:	03/30/2020
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R277. Education, Administration.

R277-419. Pupil Accounting.

R277-419-1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules and standards regarding:
 - (i) cost-effectiveness;
 - (ii) school budget formats; and
 - (iii) financial, statistical, and student accounting requirements;
 - (d) Subsection 53E-3-602(2), which requires a local school board's auditing standards to include financial accounting and student accounting;
 - (e) Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs; and
 - (f) Section 53G-4-404, which requires annual financial reports from all school districts.
- (2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

R277-419-2. Definitions.

- (1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.
- (2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathway[~~s~~^{s-in} the eight] areas of study.
- (3) "Attendance validated program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.
- ~~[(3)]~~^[(4)] "Blended learning program" means a ~~[program under the direction of an LEA:~~
 - ~~(a) where a student learns at least in part:~~
 - ~~(i) at a supervised brick and mortar location away from a student's home; and~~
 - ~~(ii) through an online delivery; and~~
 - ~~(b) that may include some element of student control over time, place, or path, or pace.]~~formal education program under the direction of an LEA in which a student learns through an integrated experience that is in part:
 - ~~(a) through online learning, with some element of student control over time, place, path, or pace; and~~
 - ~~(b) in a supervised brick-and-mortar school away from home.~~
 - ~~[(4)]~~^[(5)] "Brick and mortar school" means a ~~[traditional school or traditional]~~school where classes are conducted in a physical school building.
 - ~~[(5)]~~^[(6)] "Competency based learning program" means an education program that ~~[requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a~~

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~~student is allowed to master and demonstrate competencies as fast as the student is able.]provides instruction through competency-based education as defined in Section 53F-5-501.~~

~~[(6)](7) "Continuing enrollment measurement" means a methodology used to establish a student's continuing membership or enrollment status for purposes of generating membership days.~~

~~[(7)](8) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.[]~~

~~(8) "Distance learning program" means a program, under the direction of an LEA, in which students receive educational services in a location other than a brick and mortar school, and may include educational services delivered over the internet.[]~~

(9) "Early graduation student" means a student who has an early graduation student education plan as described in [Rule]Section R277-703-4.

(10) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-5.

(11) "Enrollment verification data" includes:

- (a) a student's birth certificate or other verification of age;
- (b) verification of immunization or exemption from immunization form;
- (c) proof of Utah public school residency;
- (d) family income verification; or
- (e) special education program information, including:
 - (i) an individualized education program;
 - (ii) a Section 504 accommodation plan; or
 - (iii) an English learner plan.[]

~~[(12)](12) "Face-to-face learning program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.[]~~

~~[(13)](12)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.~~

(b) The differences between a home school student and an online student include:

- (i) an online student may receive instruction at home, but the student is enrolled in a public school that follows state Core Standards;
- (ii) an online student is:
 - (A) subject to laws and rules governing state and federal mandated tests; and
 - (B) included in accountability measures;
- (iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of R277-502 and fingerprint and background checks consistent with R277-516 and R277-520;
- (iv) instruction delivered in a home school course is not eligible to be claimed in membership of an LEA and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

~~[(14)](13) "Home school course" means instruction:~~

- (a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and
- (b) not supervised or directed by an LEA.

~~[(15)](14)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.~~

(b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

~~[(16)](15) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.~~

~~[(17)](16) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.~~

(17) "Learner validated program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through:

- (a) an online learning program;
- (b) a blended learning program; or
- (c) a competency based learning program.

(18)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.

(b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

(19) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.[]

~~[(20)](20) "Nontraditional Program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through a:~~

- ~~(a) distance learning program;~~
- ~~(b) online learning program;~~
- ~~(c) blended learning program; or~~
- ~~(d) competency based learning program.[]~~

~~[(21)](20) "Online learning program" means a program:~~

- (a) that is under the direction of an LEA; and
- (b) in which students receive educational services primarily over the internet.

~~[(22)](21) "Private school" means an educational institution that:~~

- (a) is not an LEA;
- (b) is owned or operated by a private person, firm, association, organization, or corporation; and
- (c) is not subject to governance by the Board consistent with the Utah Constitution.

~~[(23)](22) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.~~

~~[(24)](23) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.~~

~~[(25)](24) "Qualifying school age" means:~~

- (a) a person who is at least five years old and no more than 18 years old on or before September 1;
- (b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July 1;
- (c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

~~[(26)](25) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the year(s) after the student's cohort has graduated due to:~~

- (a) sickness;
- (b) hospitalization;
- (c) pending court investigation or action; or

(d) other extenuating circumstances beyond the control of the student.

~~[(27)](26)~~ "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

~~[(28)](27)~~ "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.

~~[(29)](28)~~ "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

~~[(30)](29)~~ "School" means an educational entity governed by an LEA that:

- (a) is supported with public funds;
- (b) includes enrolled or prospectively enrolled full-time students;
- (c) employs licensed educators as instructors that provide instruction consistent with Section R277-502;
- (d) has one or more assigned administrators;
- (e) is accredited consistent with Section R277-410-3; and
- (f) administers required statewide assessments to the school's students.

~~[(31)](30)~~ "School day" means a minimum of two hours per day per session in kindergarten and a minimum of four hours per day in grades one through twelve, subject to the requirements described in Section R277-419-4.

~~[(32)](31)~~ "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

~~[(33)](32)~~ "School of enrollment" means:

- (a) a student's school of record; and
- (b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

~~[(34)](33)~~ "School year" means the 12 month period from July 1 through June 30.

~~[(35)](34)~~ "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

~~[(36)](35)~~ "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

~~[(37)](36)~~ "SSID" means Statewide Student Identifier.

~~[(38)](37)~~ "Unexcused absence" means an absence charged to a student when:

- (a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-6(3); and
- (b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.

~~[(39)](38)~~ "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

~~[(40)](39)~~ "Youth in custody (YIC)" means a person under the age of 21 who is:

- (a) in the custody of the Department of Human Services;
- (b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(c) being held in a juvenile detention facility.

R277-419-3. Schools and Programs.

(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other state-mandated reports for the school type and grade range.

(b) All schools shall submit a Clearinghouse report to the Superintendent.

(c) All schools shall employ at least one licensed educator and one administrator.

(2)(a) A student who is enrolled in a program is considered a member of a public school.

(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.

(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.

(d) A course taught at a program shall be credited to the appropriate school of enrollment.

(3) A private school or program may not be required to submit data to the Superintendent.

(4) A private school or program may not receive annual accountability reports.

R277-419-4. Minimum School Days.

(1)(a) Except as provided in Subsection (1)(b) and Subsection 53F-2-102(4), an LEA shall conduct school for at least 990 instructional hours over a minimum of 180 school days each school year.

(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):

- (i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in R277-121;
- (ii) for a school closure due to snow, inclement weather, or other emergency as described in R277-419-12; or
- (iii) for an individual student as described in Section R277-419-11.

(2)(a) An LEA may offer the required school days and hours described in Subsection (1)(a) at any time during the school year, consistent with the law.

(b) All school day calculations shall:

- (i) exclude lunch periods and pass time between classes;
- (ii) include recess periods; and
- (iii) include alternative breakfast models where breakfast is consumed in class.

(c) Each school day that satisfies the minimum hourly instruction time described in Subsection R277-419-2(31), shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.

(3)(a) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(b) If school is closed for any reason, the school shall make up the instructional time missed under the emergency or activity time as part of the minimum required time to qualify for full Minimum School Program funding.

(4) Minimum standards apply to all public schools in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board shall provide adequate contingency school days and hours in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.

(6)(a) In addition to the allowance to use up to 32 instructional hours or four school days for professional learning

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described in Subsection 53F-2-102(6), to provide planning and professional development time for staff, an LEA may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in this R277-419-4 and Subsection R277-419-2(32), are satisfied.

(b) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

(c) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year.

(d) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(e) An LEA may designate no more than a total of 12 instructional days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

(f) If instruction days are designated for kindergarten assessment:

- (i) an LEA shall designate the days in an open meeting;
- (ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;
- (iii) qualified school employees shall conduct the assessment consistent with Section 53F-4-205; and
- (iv) assessment time per student shall be adequate to justify the forfeited instruction time.

(g) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with an LEA, consistent with Utah law and Board administrative rules.

(h) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

R277-419-5. Student Membership Eligibility and Continuing Enrollment Measurements.

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) In order to generate membership for funding through the Minimum School Program for any clock hour of instruction on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

- (a) has not previously earned a basic high school diploma or certificate of completion;
- (b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;
- (c) does not have unexcused absences, which are determined using one of the continuing enrollment measurements described in Subsection (4);
- (d) is a resident of Utah as defined under Section 53G-6-302;
- (e) is of qualifying school age or is a retained senior;
- (f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in ~~[a face-to-face learning]~~an attendance validated program;
- (ii) has direct instructional contact with a licensed educator provided by an LEA at:
 - (A) an LEA-sponsored center for tutorial assistance; or
 - (B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:
 - (i) injury;

- (II) illness;
- (III) surgery;
- (IV) suspension;
- (V) pregnancy;
- (VI) pending court investigation or action; or
- (VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course(s) on the campus of another state funded institution where such a course is:

- (A) not offered at the student's school of membership;
- (B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(14); and
- (C) a course consistent with the student's SEOP/Plan for College and Career Readiness; or

(iv) is enrolled in a ~~nontraditional~~learner validated program under the direction of an LEA that:

- (A) is consistent with the student's SEOP/Plan for College and Career Readiness;
- (B) has been approved by the student's counselor; and
- (C) includes regular instruction or facilitation by a designated employee of an LEA.

(4) An LEA shall use one of the following continuing enrollment measures:

(a) For a student primarily enrolled in ~~[a face-to-face learning]~~an attendance validated program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during all of the prior ten consecutive school days.

(b) For a student enrolled in a ~~nontraditional~~learner validated program, an LEA shall:

(i) adopt a written policy that designates a continuing enrollment measurement to document the continuing membership or enrollment status for each student enrolled in the ~~nontraditional~~learner validated program consistent with Subsection (3)(c);

(ii) document each student's continued enrollment status in compliance with the continuing enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the continuing enrollment measurement, consistent with Subsection (3)(c).

(5) The continuing enrollment measurement described in Subsection (4)(b) may include some or all of the following components, in addition to other components, as determined by an LEA:

- (a) a minimum student login or teacher contact requirement;
- (b) required periodic contact with a licensed educator;
- (c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress toward academic goals.

(6) For a student enrolled in both ~~[face-to-face]~~attendance validated and ~~nontraditional~~learner validated programs, an LEA shall measure a student's continuing enrollment status using the methodology for the program in which the student earns the majority of their membership days.

(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement(s) in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

R277-419-6. Student Membership Calculations.

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) An early graduation student may be counted for more than 180 days of regular membership in accordance with the student's early graduation student education plan.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-4(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between all LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled. For example:

(a) If the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days.

(b) If the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(5) For students in grades 2 through 12, an LEA shall calculate the days in membership using a method equivalent to the following: total clock hours of instruction for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day. For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be $(900/990)*180$, and the LEA would report 164 days.

(6) For students in grade 1, an LEA shall adjust the first term of the formula to use 810 hours as the denominator.

(7) For students in kindergarten, an LEA shall adjust the first term of the formula to use 450 hours as the denominator.

(8) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(9) The sum of regular and resource special education membership days may not exceed 360 days.

(10) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(11) An LEA may also count a student in membership for the equivalent in hours of up to:

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more extracurricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state-funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

(c) all periods each school day, if the student is enrolled in:

(i) a concurrent enrollment program that satisfies all the criteria of Rule R277-713;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under Subsection 53G-6-707(7); or

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

R277-419-7. Calculations for a First Year Charter School.

(1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.

(2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

R277-419-8. Reporting Requirements, LEA Records, and Audits.

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused;

(e) disability status (resource or self-contained, if applicable);

and

(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).

(4) An LEA shall ensure that:

(a) computerized or manually produced records for CTE programs are kept by teacher, class, and classification of instructional program (CIP) code; and

(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:

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- (i) entry date;
 - (ii) exit date; and
 - (iii) excused or unexcused status of absence.
- (5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.
- (6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:
- (a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;
 - (b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and
 - (c) schools shall continue instructional activities throughout required calendared instruction days.
- (7) An LEA shall employ an independent auditor, under contract, to:
- (a) annually audit student accounting records; and
 - (b) report the findings of the audit to:
 - (i) the LEA board; and
 - (ii) the Financial Operations Section of the Board.
- (8) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the Superintendent in cooperation with the State Auditor's Office.
- (9) The Superintendent:
- (a) shall review each LEA's student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in Sections R277-484-7 and 8; and
 - (b) may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

R277-419-9. High School Completion Status.

- (1) An LEA shall account for the final status of all students who enter high school (grades 9-12) whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:
- (a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Subsection R277-705-4(2) or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with R277-733;
 - (b) completers are students who have not satisfied Utah's requirements for graduation but who:
 - (i) are in membership in twelfth grade on the last day of the school year; and
 - (ii)(A) meet any additional criteria established by an LEA consistent with its authority under Section R277-705-4;
 - (B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: <http://www.schools.utah.gov/sars/Laws.aspx> and the Utah State Board of Education;
 - (C) meet any criteria established for special education students under Subsection R277-700-8(5); or
 - (D) pass a General Educational Development (GED) test with a designated score;
 - (c) continuing students are students who:
 - (i) transfer to higher education, without first obtaining a diploma;

- (ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or
 - (iii) age out of special education;
 - (d) dropouts are students who:
 - (i) leave school with no legitimate reason for departure or absence;
 - (ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-5(3)(f)(ii);
 - (iii) are expelled and do not re-enroll in another public education institution; or
 - (iv) transfer to adult education;
 - (e) an LEA shall exclude a student from the cohort calculation if the student:
 - (i) transfers out of state, out of the country, to a private school, or to home schooling;
 - (ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;
 - (iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in which case the student shall be identified by resident status (J for those with a J-1 visa, F for all others), not by an exit code;
 - (iv) dies; or
 - (v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.
- (2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.
- (b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for processing and auditing.
 - (c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Section R277-484-3.
 - (d) An LEA with an alternative school year schedule where all of the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Section R277-484-3.
 - (3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.
 - (b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.
 - (c) The Superintendent shall include a student in a school's graduation rate if:
 - (i) the school was the last school the student attended before the student's expected graduation date; and
 - (ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).
 - (d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.
 - (e) A student's graduation status will be attributed to the school attended in their final cohort year.
 - (f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:
 - (i) school with an attached graduation status for the final cohort year;
 - (ii) school with the latest exit date;
 - (iii) school with the earliest entry date;
 - (iv) school with the highest total membership;

- (v) school of choice;
 - (vi) school with highest attendance; or
 - (vii) school with highest cumulative GPA.
- (g) The Superintendent shall report the four-year cohort rate on the annual state reports.

R277-419-10. Student Identification and Tracking.

- (1)(a) Pursuant to Section 53E-4-308, an LEA shall:
- (i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and
 - (ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.
- (b) The unique student identifier:
- (i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;
 - (ii) may not be the student's social security number or contain any personally identifiable information about the student.
- (2) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.
- (a) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;
- (b) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and
 - (c) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.
- (3) The Superintendent and LEAs shall track students and maintain data using students' legal names.
- (4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.
- (5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.
- (6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

R277-419-11. Exceptions.

- (1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.
- (b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.
- (2) A school using a modified 45-day/15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if the school's schedule includes a minimum of 990 hours of instruction time in a minimum of 172 days. [

~~**R277-419-12. Snow, Inclement Weather, or Other Emergency School Closure Days.**~~

- ~~(1) An LEA may seek a waiver directly from the Superintendent from the 180 day requirement described in Subsection R277-419-4(1) if:~~
- ~~(a) the LEA closes a school for one school day due to excessive snow, inclement weather, or an other emergency; and~~
 - ~~(b) the school closure will result in the LEA not meeting the 180 day requirement described in Section R277-419-4.~~
- ~~(2) The Superintendent may grant up to one waiver, per school year, per school, for the school to close due to excessive snow, inclement weather, or other emergency without Board approval if the LEA has provided adequate contingency school days and hours into the LEA's calendar to avoid the necessity of requesting a waiver as required in Subsection R277-419-4(5).~~
- ~~(3) If the Superintendent denies an LEA's request described in Subsection (1), the LEA may appeal the Superintendent's decision by making the request of the full Board.~~
- ~~(4) If an LEA seeks a waiver for two or more school days due to excessive snow, inclement weather, or other emergency, the LEA shall seek the waiver pursuant to the procedures described in R277-121.~~
- ~~(5)(a) An LEA may request the Board to waive the school day and hour requirement pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency:~~
- ~~(b) A waiver described in this Subsection (5) may be for a designated time period, for a specific area, or for a specific LEA in the state, as determined by the health department directive.~~
 - ~~(c) A waiver may allow an LEA to continue to receive state funds for pupil services and reimbursements.~~
 - ~~(d) A waiver granted by the Board or Superintendent as described in this Subsection (5) shall direct an LEA to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.~~
 - ~~(e) A waiver granted shall direct an LEA to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.~~
 - ~~(f) The Board may encourage an LEA to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.]~~

KEY: education finance, school enrollment, pupil accounting
Date of Enactment or Last Substantive Amendment: ~~[March 12,] 2020~~
Notice of Continuation: August 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-102(7); 53E-3-501(1)(e); 53E-3-602(2); 53E-3-301(3)(d); 53G-4-404

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R277-477	Filing 52637	No.

Agency Information

1. Department:	Education
Agency:	Administration

Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program
3. Purpose of the new rule or reason for the change:
The Trust Advisory Committee (TAC) has recommended changes to rule provision governing use of trust funds by school community councils. The Board has received feedback from different groups in favor of providing greater flexibility to community councils in use of trust funds.
4. Summary of the new rule or change:
The amendments provide flexibility to school community councils in use of funds for expenditures consistent with the core standards. The rule amendments also establish procedures for a school to borrow against future trust fund allotments under limited circumstances. Finally, the rule amendments local education agency (LEA) boards to provide greater scrutiny to the results of school level trust fund expenditures.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. It clarifies allowable uses of School LAND Trust funds, provides LEAs with greater flexibility with the program's funding and increases transparency and accountability with spending within the School LAND Trust program. These changes should only impact activities at the local levels.

B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. It clarifies allowable uses of School LAND Trust funds, provides LEAs with greater flexibility with the program's funding and increases transparency and accountability with spending within the School LAND Trust program. This rule change may impact the use of the program's funding, but LEAs continue to have broad authority on how these funds are spent.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. It clarifies allowable uses of School LAND Trust funds, provides LEAs with greater flexibility with the program's funding and increases transparency and accountability with spending within the School LAND Trust program. All impacts to small businesses working with LEAs using these funds are up to local discretion and decision-making.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue 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 agency):
This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It clarifies allowable uses of School LAND Trust funds, provides LEAs with greater flexibility with the program's funding and increases transparency and accountability with spending within the School LAND Trust program. All impacts to these types of entities working with LEAs using these funds are up to local discretion and decision-making.
F) Compliance costs for affected persons:

There are no direct compliance costs for affected persons. This rule change may impact the use of the School LAND Trust program's funding, but LEAs continue to have broad authority on how these funds are spent.

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 Superintendent of the State Board of Education, Sydnee Dickson, 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 are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased

revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either.

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

Sydnee Dickson, State Superintendent

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):

Article X, Section 3	Section 53D-2-202	Subsection 53F-2-404(2)(d)
Subsection 53E-3-401(4)	Subsection 53G-7-1206(2)	

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: 5/15/2020

10. This rule change MAY become effective on: 5/22/2020

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:	Angie Stallings, Deputy Superintendent	Date:	03/30/2020
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R277. Education, Administration.
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program.

R277-477-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53F-2-404(2)(d), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and
 - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of:
 - (a) the Common School Trust;
 - (b) the School for the Deaf Trust; and
 - (c) the School for the Blind Trust.
- (3) The Board implements the School LAND Trust Program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Subsection 53G-7-1206(2), Rule R277-491, and this Rule R277-477.
- (4) The purpose of this rule is to:
 - (a) provide financial resources to a public school to implement a component of a school's Teacher and Student Success Plan in order to enhance and improve student academic achievement;
 - (b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust Program funds allocated to the school;
 - (c) provide direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404;
 - (d) provide for appropriate and adequate oversight of the expenditure and use of funds by a designated local board of education, an approving entity, and the Board;
 - (e) provide for proper allocation of funds as stated in Section 53F-2-404, and the appropriate and timely distribution of the funds;
 - (f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and
 - (g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust.

R277-477-2. Definitions.

- (1) "Approving entity" means an LEA governing board, university, or other legally authorized entity that may approve or reject a plan for a district or charter school.
- (2)(a) "Charter trust land council" means a council comprised of a two person majority of elected parents of students attending the charter school convened to act in lieu of the school community council for the charter school.
- (b) "Charter trust land council" includes a charter school governing board if:
 - (i) the charter governing board meets the two-parent majority requirement; and
 - (ii) the charter school governing board chooses to serve as the charter trust land council.
- (3) "Council" means a school community council or a charter trust land council.
- (4) "Digital citizenship" means the same as that term is defined in Section 53G-7-1202.

- (5) "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.
- (6) "Funds" means School LAND Trust program funding as defined in Section 53F-2-404.
- (7) "Most critical academic need" means an academic need, consistent with the core standards in Rule R277-700, identified by a council [in a school's Teacher and Student Success Plan] through the annual review of schoolwide assessment data and other relevant indicators.
- (8) "Parent," for a charter school, includes a grandparent of a student currently enrolled at the school.
- (9)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.
- (b) "Principal" includes the director of a charter school.
- (10) "Satellite charter school" has the same meaning as that term is defined in Section R277-~~482~~550-2.
- (11) "School safety principles" has the same meaning as described in Section 53G-7-1202.
- (12) "Student" means a child in public school grades kindergarten through 12 counted on the fall enrollment report of an LEA.
- (13) "Teacher and Student Success Plan" or "TSSP" means the plan required of each school under Section 53G-7-1305.
- (1~~3~~4) "Trust Distribution Account" means the restricted account within the Uniform School Fund created under Subsection 53F-9-201(2).

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

- (1) A public school receiving School LAND Trust Program funds shall have:
 - (a) a school community council as required by Section 53G-7-1202 and Rule R277-491;
 - (b) a charter school trust land council as required by Section 53G-7-1205; or
 - (c) an approved exemption under this rule.
- (2) A public school receiving School LAND Trust Program funds shall submit a principal assurance form, as described in Section R277-491-4 and Subsection 53G-7-1206(3)(c), prior to the public school receiving a distribution of School LAND Trust Program funds.
- (3) A charter school that elects to receive School LAND Trust funds shall:
 - (a) have a charter trust land council;
 - (b) be subject to Section 53G-7-1203 if the charter trust land council is not a charter school governing board; and
 - (c) receive training about Section 53G-7-1206.
- (4) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Subsection 53G-7-1205(9) upon application to the school's authorizer if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.
- (5) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan, approved by the school's governing board, to the School Children's Trust Section on the School LAND Trust website:
 - (a) no later than April 1; or
 - (b) for a newly opening charter school, no later than November 1 in the school's first year in order to receive funding in the year the newly opening charter school opens.

(6)(a) An approving entity:

- (i) shall consider a plan annually; and
- (ii) may approve or disapprove a school plan.

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

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

(ii) request that the school revise the plan, consistent with Subsection 53G-7-1206(4)(d).

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

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

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

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

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

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

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

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

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

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

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

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

(i) academic goals;

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

(iii) measurements to assess improvement; and

(iv) specific expenditures focused on student academic improvement needed to implement plan goals.

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

(c) Prior to approving a School LAND Trust plan, the president or chair of the approving entity shall provide training annually on the requirements of Section 53G-7-1206 to the members of the approving entity.

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

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

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

(13) If an approving entity fails to comply with Subsection (12)(c), the Superintendent may report the failure to the Audit Committee of the Board as described in Section R277-477-9.

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

(1) Parents, teachers, and the principal, in collaboration with an approving entity, shall review school-wide assessment data annually and use School LAND Trust Program funds in data-driven and evidence-based ways to improve educational outcomes, consistent with the academic goals of the school's teacher and student success plan framework under Subsection 53G-7-1304(1)(a) and the priorities of the LEA governing board, including:

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

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

(2) A school's School LAND Trust Program expenditures [are required to] shall have a direct impact on the instruction of students in the particular school's areas of most critical academic need and consistent with the academic priorities of the LEA's governing board[-]:

(a) to increase achievement in:

(i) English;

(ii) language arts;

(iii) mathematics; and

(iv) science; and

(b) for high schools to:

(i) increase graduation rates; and

(ii) promote college and career readiness.

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

(a) [to cover the fixed costs of doing business] costs related to district or school administration, including accreditation;

(b) expenses for[-]:

(i) construction[-];

(ii) maintenance[-];

(iii) facilities[-];

(iv) overhead[-];

(v) furniture;

(vi) security[-]; or

(vii) athletics; or

(c) [to pay] expenses for non-academic in-school, co-curricular, or extracurricular activities.

(4) A school that demonstrates appropriate progress and achievement consistent with the academic priorities of the LEA governing board outlined in Subsection (2) may request local board approval of a plan to address other academic goals if the plan includes:

(a) how the goal is in accordance with the core standards established in Rule R277-700;

(b) how the action plan for the goal is:

(i) data driven;

(ii) evidence based; and

(iii) has a direct impact on the instruction of students consistent with Subsections (1) and (2);

(c) the data driving the decision to spend School LAND Trust funds for academic needs outlined in this Subsection (4); and

(d) the anticipated data source the school will use to measure progress.

(5) A council may budget and spend no more than \$7,000 for an academic goal or component of an academic goal than incorporates any combination of the following:

(a) digital citizenship training under Subsection 53G-7-1202(3)(a)(iii); or

(b) safety principles consistent with Subsection 53G-7-1202(1)(d).

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

~~[(5)(a) A council may budget and spend no more than \$7,000 for in-school civic and character education, including student leadership skills training, digital citizenship training, and implementing school safety principles.~~

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

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

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

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

~~(1)(a) An [local school board or charter school governing board] LEA shall report the prior year expenditure of distributions for each school.~~

~~(b)2) The total expenditures each year described in Subsection (1)(a) may not be greater than the total available funds for an [y school or school district] LEA.~~

(3)(a) In an unanticipated circumstance, a school within an LEA may be allowed a small advance from a school's allocation for the next fiscal year when:

(i) the LEA has unspent School LAND Trust funds to cover the advance; and

(ii) the LEA governing board approves the advance.

(b) If a school receives an advance under Subsection (3)(a):

(i) the LEA shall decrease the beginning allocation to the school for the next fiscal year in the same amount as the advance; and

(ii) restore the same advance amount to the unspent School LAND Trust funds of the LEA.

(c) A school's beginning School LAND Trust funds balance for a new school year shall be:

(i) the school's allocation for the new school year;

(ii) minus any advance approved under Subsection (3)(a);

(iii) plus any carry-over from the prior year.

~~(e)4) A school district shall adjust the current year distribution of funds received from the School LAND Trust Program as described in Section 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on:~~

(a) school openings and closings[7];

(b) boundary changes[7]; and

(c) other enrollment changes occurring after the fall enrollment report.

~~(2)5) A charter school and each of the charter school's satellite charter schools are a single LEA for purposes of public school funding.~~

~~(3)6(a) For purposes of this S[ubs]ection ([3]5)[-and Subsection (4)], "qualifying charter school" means a charter school that:~~

~~(i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection ([3]6)(c); and~~

~~(ii) is not a newly opening charter school as described in Subsection ([4]7).~~

~~(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection ([3]6).~~

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

~~(i) an amount equal to the total funds available for all charter schools; and~~

~~(ii) at least 0.4%.~~

~~(d) After the Superintendent distributes the amount described in Subsection ([3]6)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.~~

~~(4)7(a) The Superintendent shall distribute an amount of funds to a newly opening charter school that is equal to the greater of:~~

~~(i) the base payment described in Subsection ([2]6)(c); or~~

~~(ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.~~

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

~~(5)8) If a school chooses not to apply for funds or does not meet the requirements for receiving funds, the Superintendent shall deposit the unused balance in the Trust Distribution Account.~~

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

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

(2)(a) The principal shall submit a plan amendment authorized by Subsection 53G-7-1206(4)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) The approving entity shall:

(i) consider the amendment for approval; and

(ii) approve an amendment before the school uses funds according to the amendment.

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

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

(b) The Superintendent shall recommend a district or school with a consistently large carryover balance over multiple years for corrective action for not making adequate and appropriate progress on an approved plan.

(c) The Superintendent may take corrective action to remedy excessive carryover balances consistent with Rule R277-114.

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

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

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

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Subsection 53G-7-1206(5)(b).

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

(7) An LEA shall provide an annual report to its governing board on the implementation of each school's prior year School LAND Trust plans by January 31 annually.

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

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

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

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

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

(3)(a) The Superintendent shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, allowable expenses, and the law.

(b) The Superintendent shall report annually to the Board Audit Committee on compliance review findings and other compliance issues.

R277-477-8. Superintendent Responsibilities.

The Superintendent shall:

(1) represent the Board on the Land Trusts Protection and Advocacy Committee in accordance with Section 53D-2-202;

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

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

(4) review and approve a plan submitted by the USDB school community council as necessary;

(5) prepare the annual distribution of funds to implement the School LAND Trust Program pursuant to Section 53F-2-404;

(6) report the total distribution amount for the following fiscal year to the Legislative Fiscal Analyst before December 31 annually;

(7) provide training to entities involved with the School LAND Trust Program consistent with Subsection 53G-7-1206(8); and

(8) implement corrective action, if appropriate, consistent with Rule R277-114 if an LEA or its council fails to comply with the provisions of this rule.

KEY: schools, trust lands funds, school community councils
Date of Enactment or Last Substantive Amendment:
2020[August 19, 2019]
Notice of Continuation: August 13, 2015
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; [53A-16-101.5(4)]; 53A-1-401; 53F-2-404

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R277-553	Filing No. 52570	

Agency Information

1. Department:	Education		
Agency:	Administration		
Street address:	250 E 500 S		
City, state:	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state, zip:	Salt Lake City, UT 84114-4200		
Contact person(s):			
Name:	Phone:	Email:	
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov	

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

General Information

2. Rule or section catchline:
R277-553. Charter School Oversight, Monitoring and Appeals
3. Purpose of the new rule or reason for the change:
This rule is being amended to clarify actions the State Board of Education (Board) may take in relation to charter schools with oversight actions pending.
4. Summary of the new rule or change:
The amendments allow the Board to monitor a charter school and place restrictions on a charter school's funding if the school is facing termination, or other action, which puts the school's charter at risk.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

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

This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue 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 **agency**):

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

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	\$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 Superintendent of the State Board of Education, Sydnee Dickson, 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 are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

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

Sydnee Dickson, State Superintendent

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):		
Article X, Section 3	Subsection 53G-5-501(5)	Subsection 53E-3-401(4)
Subsection 53G-5-205(5)		

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:	05/15/2020

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:	Angie Stallings, Deputy Superintendent	Date:	02/13/2020
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R277. Education, Administration.

R277-553. Charter School Oversight, Monitoring and Appeals.

R277-553-1. Authority and Purpose.

- (1) This rule is authorized under:
 - (a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;
 - (c) Subsection 53G-5-205(5), which requires the Board to establish minimum standards that a charter school authorizer is required to apply when evaluating a charter school application and monitoring charter school compliance; and
 - (d) Subsection 53G-5-501(5), which directs the Board to adopt rules specifying the timeline for remedying deficiencies and ensuring the compliance of a charter school with its charter.
- (2) The purpose of this rule is to establish minimum standards that an authorizer is required to apply when monitoring charter school compliance.

R277-553-2. Authorizer Review of Charter Schools.

- (1) An authorizer shall review and evaluate annually the performance of charter schools for which it is the authorizer, including requiring all charter schools to:
 - (a) comply with their charter agreements; and
 - (b) comply with statute and board rule.
- (2) An authorizer shall:
 - (a) visit a charter school at least once during its first year of operation in order to ensure adherence to an implementation of the approved charter and to finalize a review process;
 - (b) visit a charter school as determined in the review process;
 - (c) provide written reports to a charter school after the visits that set forth:
 - (i) strengths;
 - (ii) deficiencies; and
 - (iii) proposed corrective actions;
 - (d) notify the Superintendent of a claim of fraud or misuse of public assets or funds by a charter school; and
 - (e) coordinate the investigation of claims identified in Subsection (d) with the Superintendent.
- (3) An authorizer shall annually review, and document matters specific to effective charter school operations, including:
 - (a) financial performance;
 - (b) academic performance;
 - (c) enrollment; and
 - (d) governing board performance.
- (4) An authorizer shall conduct and document a comprehensive review of governing board performance and review the charter agreement at least once every five years.
- (5) An authorizer shall coordinate with the Superintendent to regularly review its charter schools as described in Subsection 53G-5-205(2).

R277-553-3. Remediation and Probation.

- (1)(a) An authorizer shall develop a written policy documenting the process and for remediation of any deficiencies identified through the processes outlined in Section R277-553-2.
- (b) An authorizer shall submit a copy of their remediation policy to the Board for approval along with their policy for approving new charters under Section R277-552-3.
- (c) Notwithstanding Subsection (b), each authorizer shall submit a remediation policy to the Board for approval by January 1, 2020.
- (2) If a school fails to remedy deficiencies through the remediation process, an authorizer may place the school on probation for no longer than one calendar year.
- (3) Upon placing a school on probation, an authorizer shall set forth a written plan outlining those provisions in the charter agreement, applicable laws, rules, and regulations with which the school is not in compliance.
- (4) The written plan required by Subsection (3) shall:
 - (a) set forth the terms, conditions, and timeline that the school shall follow in order to be removed from probation; and
 - (b) a plan for further remedial action if the school fails to comply with probationary terms.
- (5) If a school complies with the terms of the written plan within the timeline prescribed, the authorizer shall remove the school from probation.
- (6) A school may request a single extension of no more than six months from an authorizer to comply with the terms of the written plan.

NOTICES OF PROPOSED RULES

(7) If a school fails to satisfy the terms of the written plan within the established timeline, the authorizer shall propose to terminate the school's charter.

(8) While a school is on probation, the school may seek technical assistance from the authorizer to remedy any deficiencies.

(9) An authorizer may, for good cause, or if the health, safety, or welfare of the students at the school is threatened at any time during the probationary period, terminate the charter immediately.

(10) An authorizer shall notify the Superintendent in writing within 30 days of any probationary terms imposed under this Section R277-553-3.

(11) An authorizer shall comply with the notification requirements in Section 53G-5-504 if the authorizer approves a motion to terminate a charter.

R277-553-4. Charter School Governing Board Compliance with Law.

(1) A charter school governing board may amend the charter school's charter agreement by receiving approval from its authorizer consistent with Section 53G-5-303.

(2) A charter school governing board shall comply with the charter school's authorizer's processes and timelines for all reviews, amendments, expansion requests, and satellite applications.

(3) A charter school shall notify the Superintendent and charter school's authorizer of lawsuits filed against the charter school within 30 days of the school being served with the complaint.

R277-553-5. Charter School Financial Practices and Training.

(1)(a) A charter school shall hire or contract with a business administrator to perform the duties described in Section 53G-4-303.

(b) A charter school business administrator shall attend business meetings required by the Superintendent or the school's authorizer.

(2) A charter school board shall:

(a) regularly monitor the charter school's business administrator described under Subsection (1); and

(b) ensure the business administrator fulfills the duties outlined in Section 53G-4-303.

(3) The Board may impose corrective action against a charter school for failure to provide financial and statistical information required by law or Board rules in accordance with Rule R277-114.

~~(3)4~~ A charter school shall comply with the Utah State Procurement Code, Title 63G, Chapter 6a.

~~(4)5~~ A charter school may not receive necessarily existent small schools funding under Subsection 53F-2-304(2) and Rule R277-445.

R277-553-6. Remediating Charter School Deficiencies.

(1) Upon receiving credible information of charter school financial mismanagement or fraud, or a threat to the health, safety, or welfare of students, in coordination with the Superintendent an authorizer shall direct an independent review or monitoring, as appropriate.

(2) An authorizer may direct a charter school governing board or the charter school administration to take reasonable action to protect students or state or federal funds consistent with Section 53G-5-503.

(3) Upon receipt of findings documenting a threat to the health, welfare, or safety of a school under Subsection (1), an authorizer may:

(a) recommend that the Superintendent impose corrective action against the school in accordance with Rule R277-114;

(b) take immediate or subsequent corrective action with charter school governing board members or employees who are responsible for deficiencies consistent with Section 53G-5-501;

(c) identify a remediation team to work with the school; or

(d) immediately terminate the school's charter in accordance with Subsection 53G-5-503(5).

(4) Upon receipt of findings documenting financial mismanagement or fraud by a charter school, an authorizer shall coordinate appropriate corrective action with the Superintendent.

(5) An authorizer may exercise flexibility for good cause in making a recommendation regarding an identified deficiency.

(6) The Superintendent may impose the following corrective action against a charter school with an identified deficiency:

(a) place state appropriations in a reimbursable status pending the outcome of an appeal;

(b) suspend state appropriations pending the outcome of an appeal;

(c) direct fiscal monitoring visits for both state and federal programs ahead of other scheduled visits to the charter school; or

(d) take other action at the direction of the Board consistent with state and federal law.

R277-553-7. Appeals to the Board.

(1) An operating charter school may appeal an authorizer's decision to terminate the school's charter to the Board.

(2) Upon terminating a charter, an authorizer shall:

(a) provide written notice to the charter school;

(b) provide written notice of appeal rights and timelines to the charter school governing board chair or authorized agent; and

(c) post information about the appeals process on its website and provide training to charter school governing board members and authorized agents regarding the appeals procedure.

(3) If a charter school appeals an authorizer's decision to terminate a charter, the charter school governing board chair shall submit a written appeal to the Superintendent within 14 calendar days of the authorizer's action.

(4)(a) Upon receipt of an appeal under this section, Board leadership may:

(i) set a hearing before a standing committee to make a recommendation to the Board for consideration at its next regularly scheduled meeting;

(ii) designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel to conduct a hearing and provide a recommendation to the Board for consideration at its next regularly scheduled meeting; or

(iii) set a hearing before the full Board.

(b) A hearing under Subsection (4)(a) shall be held no more than 45 days following receipt of the written appeal.

(5) The Board shall:

(a) uphold the authorizer's decision; or

(b) remand the matter to the authorizer with identified deficiencies in the authorizer's decision and suggested remedies.

(6) The recommendation of the chartering entity shall be in place pending the conclusion of the appeals process, unless the Superintendent in the Superintendent's sole discretion, determines that the authorizer's decision or failure to act presents a serious threat to students or an imminent threat to public property or resources.

(7) The Board's acceptance or rejection of the hearing report is the final administrative action on the issue.

KEY: charter schools, oversight, monitoring, appeals
Date of Enactment or Last Substantive Amendment:
 2020[January 9, 2019]
Notice of Continuation:
Authorizing, and Implemented or Interpreted Law: Art X Sec 3;
 53E-3-401(4); 53G-5-205(5); 53G-5-501(5)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R277-604	Filing No.	52638

Agency Information

1. Department:	Education		
Agency:	Administration		
Building:	Board of Education		
Street address:	250 E 500 S		
City, state:	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state, zip:	Salt Lake City, UT 84114-4200		
Contact person(s):			
Name:	Phone:	Email:	
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R277-604. Private School, Home School, and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests
3. Purpose of the new rule or reason for the change:
This rule has been amended to update terminology and to clarify this rule for private school students and home school students who wish to participate in statewide assessments through the public schools.
4. Summary of the new rule or change:
The rule has amended terminology such as deleting "U-PASS" and replacing with "statewide assessments", plus "statewide assessments and Utah's accountability system", deleting the word "district" and replacing with "LEA".

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. Most of the rule changes are technical and clarifying in nature. Private and home school students already can participate in statewide assessments. Therefore, this rule change does not increase services and will therefore, not have material fiscal impacts.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. Most of the rule changes are technical and clarifying in nature. Private and home school students already can participate in statewide assessments. Therefore, this rule change does not increase services and will therefore, not have material fiscal impacts.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. Most of the rule changes are technical and clarifying in nature. Private and home school students already can participate in statewide assessments. Therefore, this rule change does not increase services and will therefore, not have material fiscal impacts.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue 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 rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. Most of the rule changes are technical and clarifying in nature. Private and home school students already can participate in statewide assessments. Therefore, this rule change does not increase services and will therefore, not have material fiscal impacts.

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	\$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 Superintendent of the State Board of Education, Sydnee Dickson, 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 are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased

revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

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

Sydnee Dickson, State Superintendent

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):

Article X, Section 3	Section 53E-1-401	Section 53E-4-302
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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: 5/15/2020

10. This rule change MAY become effective on: 5/22/2020

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:	Angie Stallings, Deputy Superintendent	Date:	03/30/2020
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R277. Education, Administration.

R277-604. Private School, Home School, and Bureau of Indian Education (BIE) Student Participation in Public School Achievement Tests.

R277-604-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Section 53E-4-302, which directs the Board to require ~~[school districts and charter schools]~~ LEAs to administer ~~[the U-PASS]~~ statewide assessments ~~[—system]~~ to uniformly measure ~~[statewide]~~ student performance.

(2) The purpose of this rule is:

(a) to provide opportunities for Utah private school students and home school students who are Utah residents, and Utah students attending Bureau of Indian Education ~~[(BIE)]~~ or "BIE" schools to participate in ~~[U-PASS]~~ statewide assessments;

(b) to maintain the integrity and security of ~~[U-PASS]~~ statewide assessments and Utah's accountability system;

(c) to provide an orderly and manageable administrative process for public schools to include Utah private school students and home school students who are Utah residents, and Utah students attending BIE schools to participate in ~~[U-PASS]~~ statewide assessments if they so desire; and

(d) to protect the public investment in ~~[U-PASS]~~ statewide assessments and Utah's accountability system by making assessments available to students who are not funded by the public education system through fair, reasonable, and consistent practices.

R277-604-2. Definitions.

(1) "Home school student" means a student who has been excused from compulsory education and for whom documentation has been completed under Section 53G-6-204.

(2) "Private school" means a school that is not a public school but:

(a) has a current business license through the Utah Department of Commerce;

(b) is accredited as described in R277-410; and

(c) has and makes available a written policy for maintaining and securing student records.

(3) ~~["Utah Performance Assessment System for Students" or "U-PASS"]~~ "Statewide assessment" means:

(a) the summative adaptive assessment of a student in grades 3 through 8 in basic skills courses;

(b) the online writing assessment in grades 5 and 8;

(c) ~~[a]~~ the summative high school assessment in grades 9 and 10;

(d) ~~[a]~~ the statewide English Language proficiency assessment;

(e) the college readiness assessment; and

(f) the ~~[summative]~~ benchmark assessment of a student in grades ~~1 through 3~~ to measure ~~[reading grade level using the end of year benchmark reading assessment]~~ competency.

R277-604-3. Private Schools.

(1) Private school students who are Utah residents, as defined under 53G-6-302, may participate in ~~[U-PASS]~~ statewide assessments.

(2) Private school students who are not Utah residents may participate in ~~[U-PASS]~~ statewide assessments only by payment in advance of the full cost of administering individual assessments to the LEA as determined by local school board policy.

(3)(a) ~~If a [P] private school[s that are]~~ is interested in participating in ~~[U-PASS]~~ statewide assessments ~~[may, at the public school district's discretion, do so only in the public school district in~~

~~which the private school is located]~~, an LEA may allow the private school to participate with the LEA's students.

(b) ~~[School districts shall]~~ An LEA may determine at which public schools within the ~~[district]~~ LEA private school students may take ~~[achievement tests]~~ statewide assessments.

(c) A private school may request the following from the ~~[school district]~~ LEA ~~[in which the private school is located]~~ with whom the private school is testing its students:

(i) an annual schedule of ~~[U-PASS]~~ statewide assessment dates;

(ii) the locations at which private school ~~[s]~~ students may be tested; and

(iii) written policies for private school student participation.

(4) ~~[A school district]~~ An LEA shall develop a policy regarding private school student participation in ~~[U-PASS]~~ statewide assessments, which shall include:

(a) reasonable costs for the participation of Utah private school students in ~~[U-PASS]~~ statewide assessments to be paid in advance by either the student or the student's private school;

(b) an explanation of reasonable costs including costs for administration materials, scoring, and reporting of assessment results;

(c) notice to private school administrators of any required private school administrator participation in monitoring or proctoring of tests; and

(d) reasonable time lines for private school requests for participation and ~~[school district or school]~~ LEA response.

R277-604-4. Home School Students.

(1) A home school student who is a Utah resident, as defined under Section 53G-6-302, may participate in ~~[U-PASS]~~ statewide assessments as provided in this rule.

(2) A home school student may participate in ~~[U-PASS]~~ statewide assessments only if the student has satisfied the home schooling requirements of Section 53G-6-204.

(3) A home school student who desires to participate in ~~[U-PASS]~~ statewide assessments may participate in an LEA convenient to the student's circumstances ~~[?]~~.

~~[(a) the public school district in which the home school student's parent or legal guardian resides; or~~

~~(b) a charter school.~~

~~—————]~~ (4) A home school student or parent may request the following from the ~~[school district]~~ LEA in which the home school student ~~[or parent resides or a charter school]~~ is participating in statewide assessments:

(a) an annual schedule of ~~[U-PASS]~~ statewide assessments dates;

(b) the locations at which home school students may be tested; and

(c) written policies for home school student participation.

(5) ~~[A school district or charter school]~~ An LEA shall develop a policy regarding home school student participation in ~~[U-PASS]~~ statewide assessments, which:

(a) may not require a home school student to pay a fee that is not charged to traditional students;

(b) shall include notice to home school students or parents of any required parent or adult participation ~~[in monitoring or proctoring of tests]~~; and

(c) shall include reasonable time lines for home school requests for participation and ~~[school district or school]~~ LEA response.

R277-604-5. Bureau of Indian Education (BIE) Students.

(1) [~~BIA~~ BIE] schools may participate in all [~~U-PASS requirements~~] statewide assessments required for all Utah students.

(2) Materials and training shall be provided to BIE schools from the [~~public school district~~] LEA in which the school is located on the schedule that applies to Utah school districts.

R277-604-6. LEA Responsibilities.

An LEA shall comply with the following when administering [~~U-PASS~~] statewide assessments to a private, home school, or Bureau of Indian Education's student:

- (1) [~~Board~~] Rule R277-404; and
- (2) the Standard Test Administration and Testing Ethics Policy described in Section R277-404-3.

KEY: home school, private school, participation, achievement tests

Date of Enactment or Last Substantive Amendment: ~~2020 July 31, 2019~~

Notice of Continuation: October 14, 2016

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-4-302(1)(a)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R277-613	Filing No. 52639	

Agency Information

1. Department:	Education		
Agency:	Administration		
Building:	Board of Education		
Street address:	250 E 500 S		
City, state:	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state, zip:	Salt Lake City, UT 84114-4200		
Contact person(s):			
Name:	Phone:	Email:	
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R277-613. LEA Disruptive Student Behavior, Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct Policies and Training
3. Purpose of the new rule or reason for the change:
This rule is being amended in response to concerns raised by the Legislature's Administrative Rules Review

Committee that this rule inappropriately expanded definitions beyond legislatively established limits.

4. Summary of the new rule or change:

This rule change updates definitions, clarifies local education agency (LEA) training requirements, emphasizes student rights of free speech, and clarifies the data an LEA should collect on bullying related issues.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The Legislature's Administrative Rules Review Committee asked the Board to revise this rule to better align with state and federal law. This rule already contained training requirements for LEAs regarding bullying, cyber-bullying, hazing, and retaliation. These rule changes provide greater clarity as to topics and areas these trainings should cover.

B) Local governments:

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The Legislature's Administrative Rules Review Committee asked the Board to revise this rule to better align with state and federal law. This rule already contained training requirements for LEAs regarding bullying, cyber-bullying, hazing, and retaliation. These rule changes provide greater clarity as to topics and areas these trainings should cover.

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

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The Legislature's Administrative Rules Review Committee asked the Board to revise this rule to better align with state and federal law. This rule already contained training requirements for LEAs regarding bullying, cyber-bullying, hazing, and retaliation. These rule changes provide greater clarity as to topics and areas these trainings should cover.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue 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 **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The Legislature's Administrative Rules Review Committee asked the Board to revise this rule to better align with state and federal law. This rule already contained training requirements for LEAs regarding bullying, cyber-bullying, hazing, and retaliation. These rule changes provide greater clarity as to topics and areas these trainings should cover.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. The Legislature's Administrative Rules Review Committee asked the Board to revise this rule to better align with state and federal law. This rule already contained training requirements for LEAs regarding bullying, cyber-bullying, hazing, and retaliation. These rule changes provide greater clarity as to topics and areas these trainings should cover.

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 Superintendent of the State Board of Education, Sydnee Dickson, 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 are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

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

Sydnee Dickson, State Superintendent

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):

Article X, Section 3	Section 53E-3-501	Section 53G-9-606
Section 53G-9-607	Section 53G-8-209	Subsection 53E-3-401(4)(a)

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:	5/15/2020
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10. This rule change MAY become effective on:	5/22/2020
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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:	Angie Stallings, Deputy Superintendent	Date:	03/30/2020
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R277. Education, Administration.

R277-613. LEA ~~[Disruptive Student Behavior]~~ Polices and Training Regarding Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct ~~[Policies and Training]~~.

R277-613-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Section 53G-9-606, which directs the board to monitor LEA development and implementation of bullying and hazing policies;

(b) Section 53G-9-607, which directs the board to make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, and abusive conduct, and retaliation;

(c) Section 53E-3-501, which directs the Board to establish rules and minimum standards for the public schools governing discipline and control;

(d) Section 53G-8-209, which requires the Board, when making rules regarding student participation in cocurricular or extracurricular activities, to include:

(i) prohibitions against the use of foul, abusive, or profane language while in the classroom, on school property, or during a school sponsored activity; and

(ii) prohibitions against hazing, demeaning, or assaultive behavior, whether consensual or not;

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

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

(2) The purpose of the rule is to:

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

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

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

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

R277-613-2. Definitions.

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

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

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

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

(3) "Civil rights violation" means bullying, cyber-bullying, harassment, or hazing that is targeted at a student based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:

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

(b) Title IX of the Education Amendments of 1972; ~~[-of]~~

(c) Section 504 of the Rehabilitation Act of 1973; ~~[and]~~ or

~~_____ (d) Title II of the Americans with Disabilities Act of 1990.~~

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

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

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

~~_____ (7)(a) "Incident" means one or more infractions committed by a student or group of students acting in concert, at the same time and place.~~

~~_____ (b) A single incident may involve one or more victims and one or more offenders.~~

~~_____ (8) "Infraction" means an act of prohibited behavior.~~

~~[(7)]~~(9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~[(8)]~~(10) "Participant" means any student, employee or volunteer coach participating in a public school sponsored athletic program or activity, including a curricular, co-curricular, or extracurricular club or activity.

~~[(9)]~~(11) "Policy" means standards and procedures that:

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

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

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

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

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

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

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

~~[(40)](12)~~ "Restorative justice practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.

~~[(44)](13)~~ "Retaliate" or "retaliation" means the same as that term is defined in Subsection 53G-9-601(7).

~~[(42)](14)~~ "School employee" means the same as that term is defined in Subsection 53G-9-601(10).

~~[(43)](15)~~ "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the alleged victim and the individual who is alleged to have engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

R277-613-3. Superintendent Responsibilities.

(1) ~~[Subject to availability of funds, t]~~The Superintendent shall provide:

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

(b) ~~subject to availability of funds,~~ model training and training opportunities on:

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

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

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

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

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

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

(b) this rule.

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

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

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

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

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation; and

(v) making a false report.

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

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

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

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

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

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

(b) An LEA shall:

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

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

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

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

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

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

(b) The training described in Subsection (5)(a) shall~~[-]~~:

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

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

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

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

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

~~(A) bullying, cyber-bullying, hazing and retaliation;~~

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

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

~~[(ii)]~~ Title IX of the Education Amendments of 1972~~[-including discrimination on the basis of sex];~~ ~~[or]~~

~~[(iii)]~~ Section 504 of the Rehabilitation Act of 1973; and

~~(IV) Title II of the Americans with Disabilities Act of 1990[-including discrimination on the basis of disability];~~ ~~[-and]~~

~~(C) how bullying, cyber-bullying, hazing and retaliation are different from discrimination and may occur separately from each other or in combination;~~

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

(E) the right of free speech and how it differs for students, employees, and parents;

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

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

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

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

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

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

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

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

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

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

(iii) designates to whom notices shall be provided;

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

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

(vi) is clearly written and consistently enforced; and

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

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

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

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

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

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

(b) An LEA may also interview the following as part of an investigation:

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

(ii) any witnesses;

(iii) school staff; and

(iv) other individuals who may provide additional information.

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

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

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

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

(a) conversations with law enforcement professionals;

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

(c) a state or federal reporting requirement; or

(d) other reporting required by this rule.

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

(a) review disciplinary reports of involved students; and

(b) review physical evidence, consistent with search and seizure law in schools, which may include:

(i) video or audio;

(ii) notes;

(iii) email;

(iv) text messages;

(v) social media; or

(vi) graffiti.

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

(6) An LEA shall adopt a policy outlining under what circumstances the LEA will investigate and report incidents of bullying, cyber-bullying, and retaliation as civil rights violations.

~~[(6)7]~~ Following an investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, or retaliation, if appropriate, an LEA may:

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

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

~~[(6)8]~~(a) An alleged victim is not required to participate in a restorative justice practice as described in Subsection (7)(a) with an individual who is alleged to have engaged in prohibited conduct ~~as described in Subsection (5)(a)].~~

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

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

~~[(8)10]~~ An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

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

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

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

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

(e) the number and type of incidents described in Subsection ([8]10)(d) required to be reported separately under federal law, including the reporting requirements in:

- (i) Title VI of the Civil Rights Act of 1964;
- (ii) Title IX of the Education Amendments of 1972; ~~and~~
- (iii) Section 504 of the Rehabilitation Act of 1973; and
- (iv) Title II of the Americans with Disabilities Act of 1990;

and

(f) the number and type of incidents described in Subsection ([8]10)(d) that include a student who was bullied, cyber-bullied, hazed, or retaliated against based on the student's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

([9]11) The requirements of this Rule R277-613 are in addition to any federal requirements, including reporting civil rights violations to the appropriate entities and taking other appropriate action.

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

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

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

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

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

R277-613-7. Abusive Conduct.

(1) An LEA shall prohibit abusive conduct.

(2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section ~~53G-9-605[53A-11a-304]~~ and this rule, shall include a grievance process for a school employee who has experienced abusive conduct as described in Subsection 53G-9-605(3)(f).

KEY: abusive conduct, bullying, harassment, hazing, training
Date of Enactment or Last Substantive Amendment: 2020[July 9, 2018]

Notice of Continuation: August 2, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-9-607; 53E-3-501; 53G-8-209; 53G-[Chapter]-9

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R277-708	Filing No. 52640	

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education

Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-708. Enhancement for At-Risk Students
3. Purpose of the new rule or reason for the change:
This rule has been amended to update definitions and terminology and place decision making on certain priorities at the local education agency (LEA) level.
4. Summary of the new rule or change:
This rule has updates to definitions related to risk for academic failure and low performance on statewide assessments. In addition, LEAs are given the discretion in this rule to identify concerns related to students at risk for academic failure within their individual LEAs.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. It enables definitions of at-risk of academic failure to be broadened beyond proficiency on statewide assessments. LEAs that have not adopted local definitions of at-risk of academic failure will need to adopt definitions. However, these activities can be accomplished within existing LEA resources.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. It enables definitions of at-risk of academic failure to be broadened beyond proficiency on statewide assessments. LEAs that have not adopted local definitions of at-risk of academic failure will need to adopt definitions. However, these activities can be accomplished within existing LEA resources.
C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. It enables definitions of at-risk of academic failure to be broadened beyond proficiency on statewide assessments. LEAs that have not adopted local definitions of at-risk of academic failure will need to adopt definitions. However, these activities can be accomplished within existing LEA resources.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue 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 **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It enables definitions of at-risk of academic failure to be broadened beyond proficiency on statewide assessments. LEAs that have not adopted local definitions of at-risk of academic failure will need to adopt definitions. However, these activities can be accomplished within existing LEA resources.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. This rule change enables definitions of at-risk of academic failure to be broadened beyond proficiency on statewide assessments. LEAs that have not adopted local definitions of at-risk of academic failure will need to adopt definitions. However, these activities can be accomplished within existing LEA resources.

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 Superintendent of the State Board of Education, Sydnee Dickson, 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 are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

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

Sydnee Dickson, State Superintendent

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):

Article X, Section 3	Section 53F-2-410	Subsection 53E-3-401(4)
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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:	5/15/2020
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10. This rule change MAY become effective on:	5/22/2020
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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:	Angie Stallings, Deputy Superintendent	Date:	03/30/2020
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R277. Education, Administration.

R277-708. Enhancement for At-Risk Students.

R277-708-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53F-2-410, which directs the Board to manage the Enhancement for At-Risk Students interventions by:
 - (i) developing a funding formula;
 - (ii) developing performance criteria;
 - (iii) supporting LEA implementation of evidence-based interventions;
 - (iv) distributing the appropriation; and
 - (v) monitoring and reporting the effectiveness of the evidence-based interventions; and
 - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2)(a) The purpose of this rule is to establish criteria and procedures for distributing Enhancement for At-Risk Students funds to LEAs.

(b) The intent of the rule and the legislative appropriation is to improve academic achievement of students who are at risk of academic failure.

R277-708-2. Definitions.

- (1) "At-risk of academic failure" means a k-12 public school student who:
 - ~~(a) scores below proficient on a Board or LEA approved assessment; or~~
 - ~~(b) meets an LEA governing board's approved definition of at-risk of academic failure.~~
- (2) "Available funds" means the total funds appropriated for the Enhancement for At-Risk Students interventions, less funding designated for gang prevention under Subsection 53F-2-410(1)(b)(i).
- (3) "Chronic absenteeism" means the number of students within an LEA who:
 - (a) were enrolled in the LEA 60 calendar days or more; and
 - (b) missed 10% or more days of instruction, whether the absence was excused or not.
- (4) "Homeless child" or "homeless youth" means the same as that term is defined in R277-616-2.
- (5) "Homelessness" means the number of students within an LEA identified as homeless youth.
- (6) "LEA governing board" means:
 - (a) a charter school governing board; or
 - (b) a district's local school board.
- (7) "LEA share" means the percentage of k-12 students from an LEA who are at risk of academic failure compared to the total count for the state of Utah from the previous school year.
- (8) "Limited English Proficiency" or "LEP" means the total number of English learner or "EL" students in an LEA from the October 1 count from the previous school year who received a score of 1-4 on the English language proficiency assessment.
- (9) "Low performance on a statewide assessment" means the unduplicated count of k-12 students from an LEA scoring below proficient in Reading/Language, Math, and Science on ~~one of the following exams] a statewide assessment~~ from the previous school year:
 - ~~(a) for students in grades 3 through 8, the Readiness Improvement Success Empowerment (RISE) standards assessment;~~
 - ~~(b) for students in grades 9 and 10, Utah Aspire;~~
 - ~~(c) the Special Education alternate assessment; or~~
 - ~~(d) other Board approved assessment].~~
- (10) "Mobility" means the number of k-12 students enrolled less than 160 days or its equivalent in one school within a school year, as determined by the prior year's year-end average daily membership submission.
- (11) "Poverty" means the total number of k-12 students in an LEA reported as economically disadvantaged using federal child nutrition income eligibility guidelines for free or reduced-priced under the federal school lunch program from the official October 1 enrollment count from the previous school year.
- (12) "Statewide assessment" means the same as that term is defined in Subsection R277-404-2(10).
- (1~~2~~3) "Truancy" or "truant student" means a student absent without a valid excuse.
- (1~~3~~4) "UTREx System" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.
- (1~~4~~5) "Valid excuse" means the same as that term is defined in Section 53G-6-201.

R277-708-3. Allocation of Enhancement for At-Risk Student Funds.

(1) The Superintendent shall base an LEA's allocation on the certified data from the UTRex System using the most recent school year for which data is complete and available.

(2) The Superintendent shall use the following funding formula to determine an LEA base to distribute to LEAs:

(a) the Superintendent shall annually calculate 4% of the state appropriation of the Enhancement for At-Risk Students funding available for LEA grants to provide a base amount to LEAs.

(b) The Superintendent shall divide the base amount described in Subsection (2)(a) equally among all eligible LEAs.

(3) The Superintendent shall annually calculate 20% of the state appropriation of the Enhancement for At-Risk Students on a per school basis to provide a targeted amount to LEAs with traditional elementary schools, secondary schools, and alternative high schools with at least 75% poverty.

(4)(a) Subject to Subsection (4)(b), the Superintendent shall award remaining funds to an LEA based on the LEA's number of students who meet any of the following criteria:

- (i) low performance on a Board approved assessment;
- (ii) poverty;
- (iii) mobility;
- (iv) limited English Proficiency;
- (v) chronic absenteeism; and
- (vi) homelessness.

(b) When counting the number of students within an LEA who meet the criteria described in Subsection (4)(a), the Superintendent shall:

- (i) for a student who meets one criterion, count the student once; and
- (ii) for a student who meets more than one criterion, count the student for each criterion the student meets, up to three criteria.

(5) The Superintendent shall notify an LEA that qualifies for funding of the LEA's level of funding annually by May 1.

R277-708-4. Fiscal Procedures.

(1) An LEA shall submit its application to the Superintendent annually by ~~November~~ July 1 through the Board's grant management system.

(2) The Superintendent shall distribute available funds to LEAs with an approved application monthly based on a one-twelfth distribution beginning on July 1.

(3) Except as provided in Subsection (5)(a), an LEA shall spend all allocated funds annually by June 30.

(4) An LEA that accepts funds for Enhancement for At-Risk Students intervention services shall be subject to Board accounting, auditing, and budgeting rules and policies.

(5)(a) With written approval from the Superintendent, an LEA may carry over and spend up to ten percent of state Enhancement for At-Risk Student funds in the next fiscal year.

(b) An LEA shall submit a request to carry over funds under Subsection (5)(a) to the Superintendent annually.

(c) An LEA shall detail approved carry over amounts in a revised budget submitted with the LEA's application described in Subsection (1) and through the Board's grant management system.

(d) The Superintendent shall review and approve a revised budget submitted under Subsection (5)(c) no later than December 1 in the year submitted.

R277-708-5. Application Process.

(1) An LEA may use funds for activities that support ~~[academic achievement of]~~ students who are at risk of academic failure, including addressing truancy.

(2) An LEA shall establish the following to include in the LEA's application for Enhancement for At-Risk Student money:

(a) ~~[supporting the specific measurable goals aligned to the growth goals in the state accountability system, including a baseline measurement, related to increased academic achievement of students at risk of academic failure]~~ the LEA specific definition of a student at-risk of academic failure as described in Subsection R277-708-2(1); and

(b) a copy of the LEA's comprehensive plan for student and classroom management, and school discipline required in Section R277-609-4; ~~and~~

~~(c) if the LEA establishes an LEA specific definition of a student at risk of academic failure as described in Subsection R277-708-2(1)(b), the LEA governing board's approved definition of a student at risk of academic failure.]~~

(3) Annually, an LEA shall provide the following information to the Superintendent:

- (a) a report of the LEA's use of funds through the annual financial reporting process;
- (b) the LEA's outcome data related to the specific measurable goals included in the LEA's application; and
- (c) a report of intervention effectiveness based on performance criteria defined by the Superintendent.

R277-708-6. Oversight: Monitoring, Evaluation and Reports.

(1)(a) The Superintendent shall conduct tri-annual intervention reviews of each LEA receiving Enhancement for At-Risk Students funding to ensure intervention compliance.

(b) ~~At~~ At the Superintendent's discretion or for good cause, the Superintendent may conduct additional formal or informal:

- (i) monitoring;
- (ii) reviews; or
- (iii) site visits.

(2) If the Superintendent identifies violations as a result of a review described in Subsection (1)(a), an LEA shall prepare and submit to the Superintendent a written corrective action plan for each finding made by the Superintendent.

(3) If an LEA fails to resolve findings identified by the Superintendent under Subsection (2), the Superintendent may implement corrective action as provided in R277-114.

R277-708-7. Gang Prevention and Intervention Funds.

(1) Consistent with Subsection 53F-2-410(1)(b), the Superintendent shall distribute funding to LEAs for gang prevention and intervention.

(2) An LEA desiring to receive gang prevention and intervention funds shall submit a proposal consistent with Rule R277-436.

KEY: students at risk

Date of Enactment or Last Substantive Amendment: 2020~~[November 7, 2018]~~

Notice of Continuation: September 15, 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-410; 53E-3-401(4)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-400	Filing No. 52606	

Agency Information

1. Department:	Health		
Agency:	Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R380-400. Utah Medical Cannabis Act Rule
3. Purpose of the new rule or reason for the change:
The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires that the Utah Department of Health (Department) establish rules related to medical cannabis cardholders, medical cannabis pharmacies, medical cannabis home delivery services, qualified medical providers, pharmacy medical providers, medical cannabis pharmacy agents, medical cannabis couriers, medical cannabis courier agents, and other rules.
4. Summary of the new rule or change:
This rule filing defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule filing only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411, and the definitions have not anticipated cost or savings impact on the state budget.

B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):
Defining child care facility or preschool as only those approved by the Department to have a capacity of 300 or more children in Subsection R380-400-2(4) decreases the number applicable facilities from 375 to 3. This change will likely have savings impact on medical cannabis pharmacies because it reduces restrictions on where they can locate and increases the number of available real estate options. At this time, the extent of savings impact on medical cannabis pharmacies prompted by this rule is unknown.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule will not result in a fiscal impact to non-small businesses because this rule does not establish new requirements 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 agency):
This rule only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411 and the definitions have no anticipated cost or savings impact on persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:
This rule only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411 and the definitions have no anticipated cost or savings impact on affected persons.

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

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

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 Health, Joseph K. Miner, MD, 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 fiscal impact to business as a result of this rule.			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, 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):		
Title 26, Chapter 61a	Subsection 26-1-5(1)	Title 63G, Chapter 3

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:	06/01/2020	
B) A public hearing (optional) will be held:		
On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on:	06/08/2020
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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration

R380-400. Utah Medical Cannabis Act Rule.

R380-400-1. Authority and Purpose.

Pursuant to Subsection 26-1-5(1), this rule defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Sections R380-400 through R380-411.

R380-400-2. Definitions.

(1) The definitions in Section 26-61a-102 apply in this rule. In addition the following apply in this rule.

(2) "Card" means any type of medical cannabis card or registration card, whichever is applicable, authorized under Title 26, Chapter 61a.

(3) "Cardholder area" means the area of a medical cannabis pharmacy where a product is purchased that is restricted to a medical cannabis cardholder, a medical cannabis pharmacy employee, or another individual authorized by the medical cannabis pharmacy's PIC.

(4) "Child-care facility or preschool" means a child-care facility approved by the Department to have a capacity of 300 or more children.

(5) "Courier agent" means a medical cannabis courier agent.

(6) "Department" means the Utah Department of Health.

(7) "Direct supervision" means that a PMP is physically present at a medical cannabis pharmacy facility and immediately available for in person face-to-face communication with the pharmacy agent.

(8) "EVS" means the electronic verification system established in Section 26-61-103.

(9) "ICS" means the inventory control system established in Section 4-41a-103.

(10) "Limited access area" means an indoor area of a medical cannabis pharmacy facility where medical cannabis and medical cannabis devices shall be stored, labeled, and disposed of that is separated from the cardholder and public areas of the medical cannabis pharmacy by a physical barrier with suitable locks and an electronic barrier to detect entry doors.

(11) "Pharmacy agent" means a medical cannabis pharmacy agent.

(12) "PIC" means a pharmacist in charge who oversees the operation and generally supervises a medical cannabis pharmacy.

(13) "PMP" means a medical cannabis pharmacy medical provider.

(14) "Public waiting area" means an area of the medical cannabis pharmacy where the public waits for cardholders and cardholders wait for authorization to enter the cardholder area. Non-cardholders and non-employees may be present in this area of the medical cannabis provider.

(15) "QMP" means a qualified medical provider.

(16) "UCIJS" means the Utah Criminal Justice Information System.

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

(18) "Utah resident" means an individual who has established a domicile in Utah.

KEY: medical cannabis, marijuana.

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 26-1-5(1); 26-61a; 63G-3

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-401	Filing No. 52607	No.

Agency Information

1. Department:	Health
Agency:	Administration
Building:	Martha Hughes Cannon Building
Street address:	288 N 1460 W
City, state:	Salt Lake City, UT
Mailing address:	PO Box 141000
City, state, zip:	Salt Lake City, UT 84114-1000

Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-401. Electronic Verification System and Inventory Control System
3. Purpose of the new rule or reason for the change:
The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires the Utah Department of Health (Department) to establish rules related to medical cannabis cardholders, medical cannabis pharmacies, medical cannabis home delivery services, qualified medical providers, pharmacy medical providers, medical cannabis pharmacy agents, medical cannabis couriers, medical cannabis courier agents, and other rules.
4. Summary of the new rule or change:
This rule filing establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements and it has no anticipated cost or savings impact on the state budget.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements 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 **agency**):

This proposed rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements and it has no anticipated cost or savings impact on persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:

This rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements and it has no anticipated cost or savings impact on affected persons.

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

Regulatory Impact Table

Fiscal Cost	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 Health, Joseph K. Miner, MD, 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 fiscal impact to business as a result of this rule.

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

Joseph K. Miner, MD, 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):

Title 26, Chapter 61a	Subsection 61a-103(4)	26-61a-103(4)	Subsection 26-1-5(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: 06/01/2020

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

On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on: 06/08/2020

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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-401. Electronic Verification System and Inventory Control System.

R380-401-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-103(4), this rule establishes EVS and ICS access limitations and standards and confidentiality requirements.

R380-401-2. Definitions.

For purposes of this section, the following definitions apply:

- (1) "Law enforcement personnel" means law enforcement personnel who have access to UCIJIS.
- (2) "Safeguard" means to maintain the confidentiality of the information accessed and not use, release, publish, disclose or otherwise make available to any other person not authorized to access the information; for any other purpose than as specifically authorized or permitted by applicable law.
- (3) "State agency employee" means an employee of the Utah Department of Health, Utah Department of Agriculture and Food, Utah Department of Technology Services and the Utah Department of Commerce, Division of Occupational and Professional Licensing.
- (4) "UCIJIS" means the Utah Criminal Justice Information System.

R380-401-3. Access Limitations and Standards.

- (1) A person requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.
- (2) The following individual may access information in the EVS about themself, or another cardholder for whom they are a guardian or caregiver, to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Utah Cannabis Production Establishments:
 - (a) a medical cannabis patient cardholder;
 - (b) a medical cannabis guardian cardholder; and
 - (c) a medical cannabis caregiver cardholder.
- (3) The following individual may be granted EVS access to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Utah Cannabis Productions Establishments, and this rule:
 - (a) a QMP;
 - (b) a PMP;
 - (c) a pharmacy agent;
 - (d) a courier agent;
 - (e) a cannabis production establishment agent;
 - (f) a state agency employee; or
 - (g) law enforcement personnel.
- (4) A medical cannabis cardholder may be granted EVS access for a purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:

- (a) to submit a card application, both initial and renewal;
- (b) to submit an online payment of fee;
- (c) to submit a petition to the Compassionate Use Board;
- (d) to gain access to a home delivery medical cannabis pharmacy website, to order a product; and
- (e) to complete a survey reporting patient outcomes and interactions with medical cannabis.
- (5) A QMP may be granted EVS access and ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:
 - (a) to complete QMP registration, both initial and renewal;
 - (b) to complete an online fee payment;
 - (c) to submit, review, edit, or change patient medical information;
 - (d) to submit a recommendation on behalf of a patient, to receive a specific dosage type and dosage amount of medical cannabis; and
 - (e) to complete a survey reporting a patient outcome and interaction with medical cannabis.
- (6) A PMP may be granted EVS access and ICS access for a purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:
 - (a) to complete PMP registration, both initial and renewal;
 - (b) to complete an online fee payment;
 - (c) to review and verify a dosing parameter in a patient medical cannabis recommendation, submitted by a QMP;
 - (d) to enter a dosing parameter in a medical cannabis recommendation, if it does not contain dosing parameters;
 - (e) to complete a survey reporting a patient outcome and interaction with medical cannabis; and
 - (f) to update employment status of a PMPs and a pharmacy agent.
- (7) An authorized state agency employee may be granted EVS access or ICS access for a purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and Title 4, Chapter 41a, Utah Cannabis Productions Establishments, and this rule, including:
 - (a) to process an application submitted by a licensee and a card applicant, both initial and renewal;
 - (b) to review the inventory of a medical cannabis pharmacy and cannabis production establishment;
 - (c) to manage a petition submitted to the Compassionate Use Board; and
 - (d) to run an epidemiological report and statistics from data stored in the EVS.
- (8) A cannabis production establishment agent, pharmacy agent, and a courier agent may be granted EVS access and ICS access for any purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:
 - (a) for the purpose of completing agent registration, both initial and renewal;
 - (b) to complete an online payment of fee;
 - (c) to update employment status.
- (9) State and local law enforcement personnel may be granted EVS access through UCIJIS, for the purpose of determining if an individual is in compliance with the state medical cannabis law.

R380-401-4. Applications for Access.

- (1) A person listed in Section R380-401-3 requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.

NOTICES OF PROPOSED RULES

(2) An applicant's EVS access and ICS access is limited to the information submitted by the applicant, until the application is approved.

(3) Once an application is approved, the level of EVS access and ICS access granted shall depend on the type of card or license issued:

(a) a request for access shall be completed within the EVS application interface;

(b) appropriate access shall be automatically requested with a cardholder and license application when applicable;

(c) a separate request for access may be completed, when the Department determines that a card or license application is not required;

(d) required fields of a card or license application shall be completed by an applicant;

(e) a request for access will not be considered submitted unless required information is provided.

R380-401-5. Confidentiality Requirements.

(1) A person authorized to access information in the EVS and the ICS shall access only the minimum amount of information necessary to perform an authorized function specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, or Title 4, Chapter 41a, Utah Cannabis Productions Establishments, R68-27, Cannabis Cultivation, and this rule.

(2) A person authorized to access information in the EVS and the ICS shall safeguard all information stored in those systems, including specific information about medical cannabis cardholders.

(3) The Executive Director of the Department, or his or her designee, shall determine if an emergency situation shall warrant immediate release of medical cannabis cardholder information, to another state agency. The information may be released only to another governmental agency under the Memorandum of Understanding, or data sharing agreement, between the Department and the requesting agency.

(4) A person authorized to access the EVS or ICS who fails to observe the confidentiality requirement of this rule may lose access the EVS and ICS, and may be subject to the penalties provided in Section 26-61a-103.

KEY: medical cannabis, medical cannabis pharmacy, inventory control system, electronic verification system

Date of Enactment or Last Substantive Amendment: 2020 Authorizing, and Implemented or Interpreted Law: 4-41A; 26-61a; 26-61a-103(4); 63G-3

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-402	Filing No. 52608	

Agency Information

1. Department:	Health
Agency:	Administration
Building:	Martha Hughes Cannon Building
Street address:	288 N 1460 W
City, state:	Salt Lake City, UT
Mailing address:	PO Box 141000

City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-402. Medical Cannabis Cards
3. Purpose of the new rule or reason for the change:
The Utah Medical Cannabis Act, Section 26-61a-201, requires that the Utah Department of Health (Department) establish rules related to medical cannabis cardholders.
4. Summary of the new rule or change:
This proposed rule establishes medical cannabis card application procedures and renewal application procedures.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will result in cost savings impact on the state budget because it allows the Department to send correspondence via email rather than regular mail unless a cardholder requests that they receive correspondence via regular mail. The Department estimates that by adopting this policy, it will incur a cost savings of approximately \$5,600 in FY 2020, \$12,000 in FY 2021, and \$14,800 in FY 2022. Cost savings was calculated by multiplying the number of patient correspondence that would have been sent via regular mail for each fiscal year by \$0.40 (cost per mailing). The Department expects approximately 14,000 patient correspondences via email in FY 2020, 30,000 in FY 2021, and 37,000 in FY 2022.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements 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 **agency**):

This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for these persons.

F) Compliance costs for affected persons:

This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish requirements for these 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	\$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	\$5,600	\$12,000	\$14,800
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$5,600	\$12,000	\$14,800
Net Fiscal Benefits	\$5,600	\$12,000	\$14,800

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

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

This rule will only have a fiscal impact on persons other than small businesses, businesses, or local government entities, as this rule does not establish requirements for these persons.

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

Joseph K. Miner, MD, 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):

Title 26, Chapter 61a	Subsection 26-5(1)	Subsection 26-61a-201(8)
Subsection 26-61a-201(9)	Subsection 26-61a-201	

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: 06/01/2020

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

On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on: 06/08/2020

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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-402. Medical Cannabis Cards.

R380-402-1. Medical Cannabis Cards - Authority and Purpose.

Pursuant to Subsections 26-1-5(1), 26-61a-201(8) and 26-61a-201(9), this rule establishes medical cannabis card application procedures, and renewal application procedures.

R380-402-2. Medical Cannabis Cards -- Application Procedures.

(1) The application procedures established in this section govern all applications for initial issuance of a medical cannabis card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Pursuant to Section 26-61a-201, upon receipt of a medical cannabis card, the Department shall provide the cardholder information regarding the following:

- (a) risks associated with medical cannabis treatment;
- (b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment, or cure for that condition; and
- (c) other relevant warnings and safety information that the Department determines.

(3) The information described in Subsection (2) shall be electronically provided to each medical cannabis cardholder, and shall be accessible to the public on the Department's website.

(4) Each card applicant shall apply upon forms available from the Department.

(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(6) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.

(7) The Department shall provide a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(8) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.

(9) Each applicant shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.

R380-402-3. Medical Cannabis Cards - Renewal Application Procedures.

(1) Renewal application procedures established in this section shall govern an application to renew a medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(6) The Department shall send a renewal notice to each cardholder, at least 7 days prior to the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card, via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.

(9) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.

KEY: medical cannabis card, medical cannabis, marijuana
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1); 26-61a-201(8); 26-61a-201(9)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-403	Filing No. 52609	

Agency Information

1. Department:	Health
Agency:	Administration
Building:	Martha Hughes Cannon Building
Street address:	288 N 1460 W
City, state:	Salt Lake City, UT
Mailing address:	PO Box 141000
City, state, zip:	Salt Lake City, UT 84114-1000
Contact person(s):	

Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-403. Qualified Medical Providers
3. Purpose of the new rule or reason for the change:
Subsection 26-61a-106(3) requires the Utah Department of Health (Department) to establish rules related to qualified medical providers.
4. Summary of the new rule or change:
This proposed rule establishes definitions of terms used in the rule and application procedures and continuing education requirements for qualified medical providers (QMPs).

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Under Section R380-403-5, minimal savings impact on the state budget comes as a result of the Department adopting a rule that allows businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. The Department is unable to estimate how much it would cost to contract with a single vendor to create it but work involved would include working with the Division of Purchasing on posting a Request for Proposal (RFP) or coordinating with an existing state vendor.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):

Section R380-403-5 allows small businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. This enables businesses to provide approved coursework at a cost to applicants seeking registration as a qualified medical provider. Small businesses are expected to charge a course registration fee of \$150 to \$300. The number of small businesses impacted by this rule is unknown because the Department has no way of knowing how many small businesses will decide to provide these courses.

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

This proposed rule will not result in a fiscal impact to non-small businesses because this rule does not establish new requirements 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 **agency**):

Entities or individuals affected by this rule filing include some physicians, physician assistants, and advanced practice registered nurses who intend to be registered as QMPs. Section R380-403-5 establishes the continuing education requirement for QMPs and the estimated cost impact of the coursework is \$150 to \$300 during each 2-year renewal cycle. The Department estimates that 100 medical professionals will become registered as QMPs in FY 2020 and 200 in FY 2021 and FY 2022.

F) Compliance costs for affected persons:

Entities or individuals affected by this rule filing include some physicians, physician assistants, and advanced practice registered nurses who intend to be registered as QMPs. Section R380-403-5 establishes the continuing education requirement for QMPs and the estimated cost impact of the coursework is \$150 to \$300 during each 2-year renewal cycle. The Department estimates that 100 medical professionals will become registered as QMPs in FY 2020 and 200 in FY 2021 and FY 2022.

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

NOTICES OF PROPOSED RULES

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	(\$22,500)	(\$45,000)	(\$45,000)
Total Fiscal Cost	(\$22,500)	(\$45,000)	(\$45,000)
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$22,500	\$45,000	\$45,000
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$22,500	\$45,000	\$45,000
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and 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 fiscal impact to non-small businesses because this rule does not establish new requirements for non-small businesses. Entities or individuals affected by this rule filing include some physicians, physician assistants, and advanced practice registered nurses who intend to be registered as QMPs.			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, 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):			
Title 26, Chapter 61a	Subsection 26-61a-106(3)(b)	Subsection 26-5(1)	Subsection 26-1-5(1)

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:	06/01/2020	
B) A public hearing (optional) will be held:		
On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on:	06/08/2020
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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-403. Qualified Medical Providers.

R380-403-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-106(3)(b), this rule establishes definitions of terms used in the rule and application procedures and continuing education requirements for QMPs.

R380-403-2. Definitions.

As used in this section:

(1) "Fundamentals of medical cannabis coursework" means a course, or combination of courses, with content that addresses the following subjects:

(a) endocannabinoid system and phytocannabinoids;

(b) general guidance and recommendations for medical cannabis; and

(c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications (breastfeeding and pregnancy), and toxicology.

(2) "General medical cannabis coursework" means a course or combination of courses with content that addresses medical cannabis which may include medical cannabis law or fundamentals of medical cannabis coursework.

(3) "Medical cannabis law coursework" means a course, or combination of courses, with content that addresses Title 26, Chapter 61a, Utah Medical Cannabis Act, and other state and federal laws relating to medical cannabis; that includes, at a minimum, a review of the following:

(a) qualifying health conditions for which a patient may lawfully use medical cannabis, for medicinal purposes in Utah;

(b) forms of medical cannabis that qualifying patients are allowed, and prohibited, under Utah law;

(c) limits of the quantities of unprocessed cannabis, and cannabis products in medicinal form, that may be dispensed in Utah;

(d) requirements to initially register, and renew registration, as a QMP;

(e) limits to the number of active medical cannabis recommendations that a QMP can make at any given time;

(f) description of what a QMP must document in a patient's record, before recommending medical cannabis;

(g) information required from a QMP when writing a medical cannabis recommendation, and the option to make a recommendation without specifying a dosage form and dosing parameters;

(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosage parameters, when a QMP chooses to recommend without specifying a dosage form and dosing parameters;

(i) limits on advertising by a QMP;

(j) types of medical cannabis cards;

(k) regulations controlling the distribution of product by medical cannabis pharmacies;

(l) partial fill orders;

(m) the role of the compassionate use board;

(n) that all medical cannabis purchased at medical cannabis pharmacies in Utah, is required to be cultivated at cannabis cultivation facilities, processed at cannabis processing facilities, and that samples be tested at independent cannabis testing laboratories; that are licensed in Utah and operate within Utah's medical cannabis system;

(o) the conditions of legal possession of medical cannabis under Utah law before and after January 1, 2021;

(p) legal status of medical and recreational marijuana in states surrounding Utah, and under federal law;

(q) authority to change dosage parameters in a medical cannabis recommendation, as outlined in R380-404, Dosing Parameters;

(r) home delivery of medical cannabis; and

(s) purpose of the state central patient portal.

R380-403-3. Qualified Medical Providers -- Application Procedures.

(1) The application procedures established in this section shall govern application for initial issuance of a QMP registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon forms available in the EVS, from the Department.

(3) The Department may issue a QMP card, only if the Department determines that the applicant meets all requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice, and otherwise meets all card requirements.

(6) Written notices of denial or incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the applicant has requested to be notified by regular mail.

(7) Each applicant shall maintain a current email address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the applicant has requested to be notified by regular mail.

R380-403-4. Qualified Medical Provider - Renewal Application Procedures.

(1) Renewal application procedures established in this section shall govern applications to renew a QMP registration card.

(2) Each QMP registration card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department may issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to the applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice, and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the QMP's card. The notice shall include instructions to renew the card in the EVS, via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database, unless the applicant has requested to be notified by regular mail.

(8) Each cardholder shall maintain a current email address and mailing address with the Department. Emailing to the last email address on file with the Department constitutes legal notice unless, the applicant has requested to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a QMP card automatically expires on the expiration date, and is no longer valid if it is not renewed prior to the expiration.

(10) If an individual's QMP registration card expires, the individual may submit a card renewal application at any time, regardless of the length of time passed since the expiration of the card.

R380-403-5. Qualified Medical Provider - Continuing Education Requirement.

(1) Pursuant to Section Utah Code 26-61a-106, applicants for registration as a QMP shall verify completion of four hours of continuing education. Once registered as a QMP, an individual shall

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complete an additional four hours of continuing education every two years, as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

- (a) approval by the Utah Department of Health;
- (b) be provided by organizations accredited through the Accreditation Council for Continuing Medical Education (ACCME), Accreditation Council for Pharmacy Education (ACPE), American Academy of Physician Assistants (AAPA), or the American Association of Nurse Practitioners (AANP);
- (c) completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and
- (d) a certificate of completion.

(3) Initial registration as a QMP, requires at least four hours of continuing education, which shall include at a minimum:

- (a) medical cannabis law coursework; and
- (b) fundamentals of medical cannabis coursework.

(4) A QMP shall renew registration every two years, after completing at least four hours of continuing education in general medical cannabis coursework; to be completed within two years prior to the date of the QMP's renewal application.

(5) The continuing education report shall be submitted with an individual's application for registration as a QMP, and shall include a certificate of completion for coursework completed after issuance of the most recent registration. Applications that do not include the continuing education report will be considered incomplete, and the Department will not process an application until the report is complete.

KEY: medical cannabis, qualified medical provider, medical marijuana

Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1); 26-61a-106(3)(b)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-404	Filing No. 52610	No.

Agency Information

1. Department:	Health		
Agency:	Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	

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

General Information

2. Rule or section catchline:
R380-404. Dosing Parameters
3. Purpose of the new rule or reason for the change:
The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires the Utah Department of Health (Department) to establish rules related to medical cannabis cardholders, medical cannabis pharmacies, qualified medical providers, and pharmacy medical providers.
4. Summary of the new rule or change:
This proposed rule establishes general standards for dosage parameters in a medical cannabis recommendation.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will not result in a fiscal impact to the state budget because this rule does not establish new requirements for Department.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish new requirements for small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule will not result in a fiscal impact to non-small businesses because this rule does not establish new requirements 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 agency):
This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish new requirements for these persons.

F) Compliance costs for affected persons:			
This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish new requirements for these 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	\$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 Health, Joseph K. Miner, MD, 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 fiscal impact to business as a result of this rule.			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, 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):		
Title 26, Chapter 61a	Subsection 26-1-5(1)	

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.)		
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A) Comments will be accepted until:	06/01/2020
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B) A public hearing (optional) will be held:		
On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on:	06/08/2020
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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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-404. Dosing Parameters.

R380-404-1. Authority and Purpose.

Pursuant to Subsection 26-1-5(1), this rule establishes standards for dosing parameters in a medical cannabis recommendation.

R380-404-2. Dosing Parameters in Medical Cannabis Recommendation.

(1) A QMP can change the dosage form, or dosing parameters, in the EVS for their patient. A PMP shall not change the dosage form, or dosing parameters, entered in the EVS by a patient's QMP; without approval from the patient's QMP.

(2) A QMP may change the dosage form, or dosing parameters, specified by a patient's former QMP; so long as the cardholder has identified the current QMP as the QMP of record, and removed the former QMP from the EVS.

(3) If a QMP has not specified the dosage form, or dosing parameters, for a patient, a PMP may specify the dosage form, and dosing parameters. If a QMP does not specify a dosage form, and dosing parameters, for a patient, or specifies a dosage form and some or no dosing parameters for a patient, a PMP may specify the remaining dosing parameters.

(4) A state central patient portal medical provider may specify dosage form and dosing parameters for a patient recommendation in the EVS, only upon written or verbal consent from a medical cannabis cardholder; and if either the dosage form or dosing parameters are not specified in the EVS by the patient's QMP. If a QMP specifies certain dosing parameters for a patient, a state central patient portal medical provider may specify the remaining dosing parameters, with written or verbal consent of the medical cannabis cardholder.

KEY: medical cannabis, medical cannabis dosing parameters, medical cannabis pharmacy

Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-405	Filing No. 52611	No.

Agency Information

1. Department:	Health		
Agency:	Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R380-405. Pharmacy Medical Providers
3. Purpose of the new rule or reason for the change:
Subsection 26-61a-403(3) requires the Utah Department of Health (Department) to establish rules related to qualified medical providers.
4. Summary of the new rule or change:
This rule filing establishes definitions, pharmacy medical provider (PMP) application procedures, and PMP continuing education requirements.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Under Section R380-405-5, minimal savings impact on the state budget comes as a result of the Department adopting a rule that allows businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. The Department is unable to estimate how much it would cost to contract with a single vendor to create it but work involved would include working with the Division of Purchasing on posting a Request for Proposal (RFP) or coordinating with an existing state vendor.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
Section R380-405-5 allows businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. This enables businesses to provide approved coursework at a cost to applicants seeking registration as a pharmacy medical provider. Businesses are expected to charge a course registration fee of \$150 to \$300. The number of small businesses impacted by this rule is unknown because the Department has no way of knowing how many small businesses will decide to provide these courses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements 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 **agency**):

Entities or individuals affected by this rule filing include some physicians and pharmacists who intend to be registered PMPs. Section R380-405-5 establishes the continuing education requirement for PMPs and the estimated cost impact of the coursework is \$150 to \$300 during each 2-year renewal cycle. The Department estimates that approximately 21 medical professionals will become registered PMPs in FY 2020, 200 in FY 2021, and 121 in FY 2022.

F) Compliance costs for affected persons:

Entities or individuals affected by this rule filing include some physicians and pharmacists who intend to be registered PMPs. Section R380-405-5 establishes the continuing education requirement for PMPs and the estimated cost impact of the coursework is \$150 to \$300 during each 2-year renewal cycle. The Department estimates that approximately 21 medical professionals will become registered PMPs in FY 2020, 200 in FY 2021, and 121 in FY 2022.

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	(\$4,700)	(\$45,000)	(\$27,200)
Total Fiscal Cost	(\$4,700)	(\$45,000)	(\$27,200)
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$4,700	\$45,000	\$27,200
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$4,700	\$45,000	\$27,200
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph Miner, MD, has reviewed and approved this fiscal analysis.

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

Entities or individuals affected by this rule filing include some physicians and pharmacists who intend to be registered PMPs.

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

Joseph K. Miner, MD, 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 26-1-5(1)	Title 26, Chapter 61a	Subsection 26-61a-403(3)(b)
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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: 06/01/2020

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

On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on:	06/08/2020
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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-405. Pharmacy Medical Providers.

R380-405-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-403(3)(b), this rule establishes Pharmacy Medical Provider application procedures, and Pharmacy Medical Provider continuing education requirements.

R380-405-2. Definitions.

As used in this section:

(1) "Fundamentals of medical cannabis coursework" means a course, or combination of courses, with content that addresses the following subjects:

- (a) endocannabinoid system and phytocannabinoids;
- (b) general guidance and recommendations for medical cannabis; and
- (c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications (breastfeeding and pregnancy), and toxicology.

(2) "General medical cannabis coursework" means a course, or combination of courses, with content that addresses medical cannabis; which may include medical cannabis law, or fundamentals of medical cannabis coursework.

(3) "Medical cannabis law coursework" means a course, or combination of courses, with content that addresses Title 26, Chapter 61a, Utah Medical Cannabis Act; and other state and federal laws relating to medical cannabis that include, at a minimum, a review of the following:

- (a) qualifying health conditions for which a patient may lawfully use medical cannabis, for a medicinal purpose in Utah;
- (b) forms of medical cannabis that a qualifying patient is allowed, and prohibited, under Utah law;
- (c) the limit of the quantities of unprocessed cannabis, and cannabis products in medicinal form, that may be dispensed in Utah;
- (d) requirement to initially register and renew registration as a PMP;
- (e) limit to the number of active medical cannabis recommendations that a QMP can make at any given time;
- (f) a description of what a QMP must document in a patient's record, before recommending medical cannabis;
- (g) information required from a QMP, when writing a medical cannabis recommendation, and the option to make a recommendation without specifying a dosage form and dosing parameters;

(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosage parameters, when a QMP chooses to recommend without specifying a dosage form and dosing parameters;

- (i) limit on advertising by a QMP;
- (j) type of medical cannabis cards;
- (k) the regulation controlling the distribution of product, by a medical cannabis pharmacy;
- (l) a partial fill order;
- (m) the role of the Compassionate Use Board;
- (n) the role of a cannabis cultivation facility, a cannabis processing facility, and independent cannabis testing laboratory, that operate within Utah's medical cannabis system;
- (o) the conditions of legal possession of medical cannabis under Utah law, before and after January 1, 2021;
- (p) the legal status of medical and recreational marijuana in states surrounding Utah, and under federal law;
- (q) the authority to change dosage parameters in a medical cannabis recommendation as outlined in R380-404, Dosing Parameters;
- (r) home delivery of medical cannabis; and
- (s) the purpose of the state central patient portal.

R380-405-3. Pharmacy Medical Providers - Application Procedures.

(1) The application procedures established in this section govern an application for initial issuance of a PMP registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(2) Each card applicant shall apply upon forms available in the EVS, from the Department.

(3) The Department may issue a PMP card only if an applicant meets the card requirements, established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.

(6) A written notice of denial, or incomplete application, shall be sent to an applicant's last email address shown in the Department's EVS database.

(7) Each applicant shall maintain a current email address with the Department. Notice sent to the last email address on file with the Department, constitutes legal notice.

R380-405-4. Pharmacy Medical Providers - Renewal Application Procedures.

(1) Renewal application procedures established in this rule, shall govern an application for an PMP registration card.

(2) Each PMP card applicant shall apply upon a renewal application form available from the Department.

(3) The Department may issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice; and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the PMP cardholder's card. The notice shall include directions for the PMP to renew the card, in the EVS via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database.

(8) Each cardholder shall maintain a current email address and mailing address with the Department. Notice sent to the current email address on file with the Department constitutes legal notice, unless the applicant has requested to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid, if it is not renewed prior to the expiration.

(10) If an individual's PMP registration card expires, the individual may submit a card renewal application at any time, regardless of the length of time passed since the expiration of the card.

R380-405-5. Pharmacy Medical Providers - Continuing Education Requirement.

(1) Pursuant to Subsection Utah Code 26-61a-403, an applicant for registration as a PMP shall verify completion of four hours of continuing education. Once registered as a PMP, an individual shall complete an additional four hours of continuing education every two years as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

- (a) approval by the Utah Department of Health;
- (b) be provided by an organization accredited through the Accreditation Council for Continuing Medical Education (ACCME), Accreditation Council for Pharmacy Education (ACPE), or the American Association of Nurse Practitioners (AANP);
- (c) completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and
- (d) a certificate of completion.

(3) Initial registration as a PMP shall require at least four hours of continuing education, which shall include at a minimum:

- (a) medical cannabis law coursework; and
- (b) fundamentals of medical cannabis coursework.

(4) A PMP shall renew a registration every two years, after completing at least four hours of continuing education in general medical cannabis coursework, to be completed within two years prior to the date that the PMP submits the renewal application.

(5) The continuing education report shall be submitted with an individual's application for registration as a PMP, and shall include a certificate of completion for coursework completed after issuance of the most recent registration. An applications that does not include the continuing education report shall be considered incomplete, and the Department shall not process an application until the report is complete.

KEY: medial cannabis, pharmacy medical providers, marijuana
Date of Enactment or Last Substantive Amendment:2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a-403(3)(b); 26-61a

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-406	Filing No. 52614	No.

Agency Information

1. Department:	Health		
Agency:	Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	

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

General Information

2. Rule or section catchline:
R380-406. Medical Cannabis Pharmacy
3. Purpose of the new rule or reason for the change:
Sections 26-61a-501, 26-61a-503, and 26-61a-605 of the Utah Medical Cannabis Act require the Utah Department of Health (Department) to establish rules related to medical cannabis pharmacies.
4. Summary of the new rule or change:
This proposed rule establishes definitions, general medical cannabis pharmacy operating standards, partial fill standards, medical cannabis pharmacy operating plan requirements, cannabis product transportation standards, cannabis product waste and disposal standards, cannabis product recall standards, duties and requirements of a pharmacist-in-charge, security standards, supervision standards, inventory standards, cannabis product packaging standards, and standards related to closing a medical cannabis pharmacy.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will not result in a fiscal impact to the state budget because it does not establish requirements for the Department.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

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

Section R380-406-3 prohibits a medical cannabis pharmacy from selling or transferring their license. This may have cost impact on small businesses that have a medical cannabis pharmacy license and want the option of selling or transferring the license to another business for a price. Rather than selling or transferring the license, the business must abandon it and the Department would post a Request for Proposal (RFP) through the Division of Purchasing, accept applications, and award the license to the top applicant. The market price for a medical cannabis pharmacy license in Utah would depend on a lot of factors, such as market size and the location of a facility being purchased. The Department does not have enough information to estimate market price.

Subsection R380-406-3 establishes general operating standards for medical cannabis pharmacies. One standard is that a medical cannabis pharmacy must protect at all times confidential cardholder data and information stored in the EVS. This means that each medical cannabis pharmacy must purchase the 's designated EVS which is MicroPact's entellittrak software programmed to Utah's specifications. The cost of the software depends on the number of users. It is anticipated that most medical cannabis pharmacies will have five or less concurrent users and therefore purchase the entellittrak Professional Edition which has a one-time perpetual license fee of \$76,302 and an annual support and upgrade subscription fee of \$15,260. The \$15,260 annual support and subscription fee will not increase more than 2% annually unless a compelling business need arises, and with consultation and approval of the Department.

Section R380-406-7 establishes security standards for medical cannabis pharmacies. According to the industry, estimated costs of security equipment (i.e., cameras and monitors, access control, panic button(s), burglary system) range from \$34,000 to \$60,000 for initial purchase and installation. Annual maintenance of this security equipment ranges between \$1,000 and \$1,500 per year. Estimated costs of infrastructure (i.e., installing steel doors, adding walls, bullet proof glass, building vaults) range between \$80,000 and \$100,000 for initial installation. Maintenance costs of these items will be low.

Section R380-406-8 establishes inventory standards for medical cannabis pharmacies. One standard is that pharmacies use the state's designated inventory control system (ICS) to establish a record of each transaction. This means that each medical cannabis pharmacy must purchase the 's designated ICS which is MJ Freeway's Leaf Data Systems software programmed to Utah's specifications. The cost of the ICS is a \$599 per month subscription fee.

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

This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements 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 **agency**):

This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because it does not establish requirements for these persons.

F) Compliance costs for affected persons:

This proposed rule will not result in a fiscal impact to affected persons because it does not establish requirements for these 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	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	(\$3,250,900)	(\$336,000)	(\$340,400)
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	(\$3,250,900)	(\$336,000)	(\$340,400)
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	(\$3,250,900)	(\$336,000)	(\$340,400)

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

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

This may have cost impact on businesses that have a medical cannabis pharmacy license and want the option of selling or transferring the license to another business for a price. Rather than selling or transferring the license, the business must abandon it and the Department would post an RFP through the Division of Purchasing, accept applications, and award the license to the top applicant.

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

Joseph K. Miner, MD, 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):

Title 26, Chapter 61a	Subsection 26-1-5(1)	Subsection 26-61a-501(13)
Subsection 26-61a-503(3)	Subsection 26-61a-605(5)	Subsection 26-61a-501(12)

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: 06/01/2020

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

On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on: 06/08/2020

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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-406. Medical Cannabis Pharmacy.

R380-406-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1), 26-61a-501(12), 26-61a-501(13), 26-61a-503(3) and 26-61a-605(5), this rule establishes general medical cannabis pharmacy operating standards, partial fill standards, medical cannabis pharmacy operating plan requirements, cannabis product transportation standards, cannabis product waste and disposal standards, cannabis product recall standards, duties and requirements of a pharmacist-in-charge, security standards, supervision standards, inventory standards, cannabis product packaging standards, and standards related to closing a medical cannabis pharmacy.

R380-406-2. Definitions.

As used in this rule:

(1) "Cannabis waste" means cannabis product that is damaged, deteriorated, mislabeled, expired, returned, subject to a recall, or enclosed within a container or package that has been opened or breached.

R380-406-3. Medical Cannabis Pharmacy - General Operating Standards.

(1) In addition to general operating standards established in Title 26, Chapter 61a, Part 5, Utah Medical Cannabis Act, Medical Cannabis Pharmacy Operation, medical cannabis pharmacies shall comply with the operating standards established in this rule. Medical cannabis pharmacies shall:

(a) be well lit, well ventilated, clean, and sanitary;
(b) maintain a current list of employees working at the medical cannabis pharmacy;

(i) the list shall include employee name, Department registration license classification and license number, registration expiration date, and work schedule; and

(ii) the list shall be readily retrievable for inspection by the Department and may be maintained in paper or electronic form;

(c) have a counseling area to allow for confidential patient counseling;

(d) have current and retrievable editions of the following reference publications, in print or electronic format, and readily available and retrievable to medical cannabis pharmacy personnel:

(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) R380-400 through R380-411, Utah Medical Cannabis Act Rules.

(2) A medical cannabis pharmacy shall not distribute medical cannabis, or a medical cannabis device, to a medical cannabis cardholder, unless an employee who is a PMP is physically present and immediately available in the medical cannabis pharmacy.

(3) A medical cannabis pharmacy location shall be open for a cardholder to purchase a medical cannabis product, and medical device, for a minimum of 35 hours a week, except as authorized by the Department.

(4) A medical cannabis pharmacy that closes during normal hours of operation, shall implement procedures to notify a cardholder when the medical cannabis pharmacy will resume normal hours of operation. Such procedures may include, telephone system messages and conspicuously posted signs.

(5) Deliveries from a cannabis processing facility or another medical cannabis pharmacy shall be carried out under the direct supervision of a PMP or pharmacy agent, who shall be present to accept the delivery. Upon delivery, the medical cannabis or medical cannabis device, shall immediately be placed in the limited access area of the medical cannabis pharmacy.

(6) A medical cannabis pharmacy shall protect, at all times, confidential cardholder data and information stored in the EVS; such that access to and use of the data and information is limited to those individuals and purposes authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule.

(7) A medical cannabis pharmacy shall not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical cannabis.

(8) A medical cannabis pharmacy license cannot be sold or transferred.

R380-406-4. Medical Cannabis Pharmacy -- Operating Plan.

(1) Pursuant to Subsection 26-61a-301, Medical Cannabis Pharmacy License, a medical cannabis pharmacy license application shall include an operating plan that includes, at a minimum the following:

(a) any information requested in the application;

(b) all information listed in Section 26-61a-301, Medical Cannabis Pharmacy License;

(c) a plan to comply with all applicable operating standards, statutes, and administrative rules, including:

(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) R380-400 through R380-411, Utah Medical Cannabis Act Rules.

(2) The Department may require the applicant for a medical cannabis pharmacy license, to make a change to its operating plan before issuing a pharmacy license. The applicant shall submit a copy of its updated operating plan, with the required change, and receive Department approval of the plan, before the Department awards the license.

(3) Once the Department issues a license, any change to a medical cannabis pharmacy's operating plan is subject to the approval of the Department. A medical cannabis pharmacy shall submit a notice, in a manner determined by the Department, at least 14 days prior to the date that it plans to implement any change to its operating plan.

R380-406-5. Medical Cannabis Pharmacy -- Operating Standards -- Pharmacist-In- Charge.

(1) A medical cannabis pharmacy's pharmacist-in-charge (PIC) shall have the responsibility to oversee the medical cannabis pharmacy's operation, and that it is in compliance with Chapter 26, Title 61a, Utah Medical Cannabis Act and Utah Administrative Rules R380-400 through R380-411, Utah Medical Cannabis Act Rules. The PIC shall generally supervise the medical cannabis pharmacy, though the PIC is not required to be on site during all business hours.

(2) A unique email address shall be established by the PIC, or responsible party, for the medical cannabis pharmacy; to be used for self-audits or medical cannabis pharmacy alerts, initiated by the Department. The PIC or responsible party shall notify the Department of the medical cannabis pharmacy's email address in the initial application for licensure.

(3) The duties of the PIC shall include:

(a) ensure that PMPs, and pharmacy agents, at the medical cannabis pharmacy appropriately interpret and distribute a recommendation, in a suitable container, appropriately labeled for subsequent administration, or use by a patient;

(b) ensure that medical cannabis and a medical cannabis device are distributed safely, and accurately, with correct dosage parameters as recommended;

(c) ensure that medical cannabis, and a medical cannabis device, is distributed with information and instruction as necessary for proper utilization;

(d) ensure that PMPs and pharmacy agents communicate to a cardholder, at their request, information concerning any medical cannabis or medical cannabis device distributed to the cardholder;

(e) ensure that a reasonable effort is made to obtain, protect, record, and maintain patient records;

(f) education and training of medical cannabis pharmacy personnel;

(g) establishment of policies for procurement of medical cannabis, a medical cannabis device, and educational material sold at the facility;

(h) distribution and disposal of medical cannabis and a medical cannabis device, from a medical cannabis pharmacy;

(i) appropriate storage of all medical cannabis and a medical cannabis device;

(j) a record of transactions of the medical cannabis pharmacy necessary to maintain accurate control and accountability for materials required by applicable state laws;

(k) establish effective control against theft or diversion of medical cannabis or a medical cannabis device, and record of such product;

(l) legal operation of the medical cannabis pharmacy, including inspections, and other requirements, of state laws governing the medical cannabis pharmacies;

(m) implementation of an ongoing quality assurance program, that monitors performance of the personnel at the medical cannabis pharmacy;

(n) ensure that the point of sale (POS) is in working order;

(o) ensure that relevant information is submitted to the state's ICS and EVS in a timely manner;

(p) ensure that medical cannabis pharmacy personnel have appropriate licensure and registration;

(q) ensure that no medical cannabis pharmacy operates with a ratio of medical cannabis pharmacy medical provider to pharmacy agents that results in, or reasonably would be expected to result in, a reasonable risk of harm to public health, safety, and welfare;

(r) ensure that the PIC assigned to the medical cannabis pharmacy is recorded with the Department, and the Department is notified of a PIC change within 30 days of the change; and

(s) ensure with regard to the unique email address used for self-audits or medical cannabis pharmacy alerts, that:

(i) the medical cannabis pharmacy uses a single email address; and

(ii) the medical cannabis pharmacy notifies the Department, on the form prescribed, of any change in the email address within seven calendar days of the change.

(4) A PMP cannot be designated as PIC, for more than two medical cannabis pharmacies at one time.

R380-406-6. Medical Cannabis Pharmacy -- Operating Standards -- Supervision.

(1) A medical cannabis pharmacy is always under the full and actual charge of the medical cannabis pharmacy's PIC, but it shall be under the direct supervision of at least one supervising PMP, who is physically present at all times when a medical cannabis pharmacy is open to the public.

(2) A medical cannabis pharmacy PIC is not required to be in the medical cannabis pharmacy at all times, but shall be available for contact within a reasonable period with the supervising PMP.

(3) A medical cannabis pharmacy shall never operate with a supervision ratio of PMP to pharmacy agent that results in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare.

R380-406-7. Medical Cannabis Pharmacy -- Security Standards.

(1) A medical cannabis pharmacy shall comply with security standards established in Section 26-61a-501, Medical Cannabis Pharmacy Operation, and this rule.

(2) A medical cannabis pharmacy shall have security equipment sufficient to deter and prevent unauthorized entrance into the limited access areas of the medical cannabis pharmacy that includes equipment required in this Section.

(3) A medical cannabis pharmacy shall have a system to detect unauthorized intrusion; which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device.

(4) A medical cannabis pharmacy shall be equipped with a secure lock on any entrance to the medical cannabis pharmacy.

(5) A medical cannabis pharmacy shall have electronic monitoring including:

(a) at least one 19-inch or greater call-up monitor;

(b) a printer, capable of immediately producing a clear still photo from any video camera image;

(c) a video camera with a recording resolution of at least 640 x 470, or the equivalent, which provide coverage of entrances to and exits from limited access areas; and entrances to and exits from the building, and are capable of identifying any activity occurring in or adjacent to the building;

(d) a video camera shall record continuously, 24 hours a day, 7 days a week;

(e) a video camera at each point-of-sale location, which will allow for the identification of a medical cannabis cardholder;

(f) a method for storing video recordings from the video camera for at least 45 calendar days;

(g) for locally stored footage, 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;

(h) access to footage stored on a remote server shall be restricted to protect from employee tampering;

(i) a failure notification system that provides an audible, and visual, notification of failure in the electronic monitoring system;

(j) sufficient battery backup for video camera and recording equipment, to support at least five minutes of recording in the event of a power outage;

(k) a date and time stamp embedded on all video camera recordings, which shall be set correctly; and

(l) a panic alarm in the interior of the facility, which is a silent security alarm system signal, generated by the manual activation of a device intended to signal a robbery in progress.

(6) Security measures implemented by a medical cannabis pharmacy to deter and prevent unauthorized entrance in areas containing products, theft of product, and to ensure the safety of employees and medical cannabis cardholders, shall include the following:

(a) store all medical cannabis and a medical cannabis device in a secure locked limited access area, in such a manner as to prevent diversion, theft, and loss;

(b) notwithstanding (5)(a), a medical cannabis pharmacy may display, in a secure locked case, a sample of each product offered;

(i) the display case shall be transparent;

(ii) an authorized PMP, or pharmacy agent, may remove an example of medical cannabis, or medical cannabis device, from the case, and provide it to a cardholder for inspection; provided the patient does not consume or otherwise use the sample; and

(iii) inside the medical cannabis pharmacy, medical cannabis and medical cannabis product, shall be stored in a limited access area during non-business hours;

(c) keep safes, vaults, and any other equipment, or areas used for storage, including prior to disposal of product, securely locked and protected from entry; except for the actual time required to remove or replace medical cannabis;

(d) keep locks and security equipment in good working order, and shall test such equipment at least two times per calendar year;

(e) prohibit keys, if any, from being left in the locks, or stored or placed, in a location accessible to any person other than specifically authorized personnel;

(f) prohibit accessibility of security measures, such as combination numbers, passwords, or electronic, or biometric security systems, to any person other than specifically authorized personnel;

(g) ensure that the outside perimeter of the building is sufficiently lit, to facilitate surveillance;

(h) ensure that all medical cannabis is kept out of plain sight, and is not visible from a public place, outside of the medical cannabis pharmacy;

(i) develop emergency policies and procedures for securing all product following any instance of diversion, theft, or loss of product, and conduct an assessment to determine whether additional safeguards are necessary;

(j) at a medical cannabis pharmacy where a cash transaction is conducted, establish a procedure for safe cash handling and cash transportation, to a financial institution to prevent theft, loss, and associated risk to the safety of employees, customers and the general public;

(k) while inside the medical cannabis pharmacy, employee shall wear an identification tag, or similar form of identification, to clearly identify them to the public;

(i) including their position at the medical cannabis pharmacy, as a PMP or pharmacy agent; and

(l) prevent an individual from remaining on the premise of the medical cannabis pharmacy, if they are not engaging in activity expressly, or by necessary implication, permitted by Title 26, Chapter 61a, Utah Medical Cannabis Act.

(7) A medical cannabis pharmacy shall include the following areas of security:

(a) public waiting area;

(b) cardholder only area; and

(c) limited access area.

(8) A medical cannabis pharmacy shall allow only medical a cannabis cardholder, PMP, pharmacy agent, authorized vendor, contactor, and visitor, to have access to the cardholder area of the medical cannabis pharmacy.

(9) An outside vendor, contractor, and visitor, must obtain a visitor identification badge, prior to entering the cardholder only, or limited access area of a medical cannabis pharmacy; to be worn at all times when on the premise of the medical cannabis pharmacy, and shall be escorted at all times by an employee authorized to enter the medical cannabis pharmacy. The visitor identification badge must be visibly displayed at all times, while in the facility. A visitor must be logged in and out, and that log shall be available for inspection by the Department at all times. The visitor identification badge shall be returned to the medical cannabis pharmacy upon exit.

(10) Product inside a medical cannabis pharmacy, shall be kept in a limited access area, inaccessible to any person other than a PMP, pharmacy agent, employee of the Department, or an individual authorized by the medical cannabis pharmacy's PIC. The limited access area shall meet the following standards:

(a) be identified by the posting of a sign, that shall be a minimum of 12" x 12", and states: "Limited Access Area", in lettering no smaller than one inch in height; and

(b) clearly describe by the filing of a diagram of the licensed premise, in the form and manner determined by the Department, reflecting walls, partitions, counters, and areas of entry and exit, vegetation, flowering, storage, disposal, cardholder area, and public waiting area.

(11) Only a PMP, or a pharmacy agent, employed at the medical cannabis pharmacy, shall have access to the medical cannabis pharmacy; when the medical cannabis pharmacy is closed to the public.

(12) The medical cannabis pharmacy, or parent company, shall maintain a record of not less than five years, of the initials or identification codes that identify each PMP or pharmacy agent by name. The initial or identification code, shall be unique, to ensure that each PMP, or pharmacy agent, can be identified. An identical initial or identification code, shall not be used for different a PMP, or pharmacy agent.

R380-406-8. Medical Cannabis Pharmacy -- Operating Standards -- Inventory.

(1) A medical cannabis pharmacy shall be equipped for orderly inventory, storage of medical cannabis product, and medical cannabis device, in a manner to permit clear identification, separation, and easy retrieval of product; and an environment necessary to maintain the integrity of product inventory.

(2) A medical cannabis pharmacy shall use the state's ICS to establish a record of each transaction, and day's beginning acquisitions, sales, disposal, and ending inventory.

(3) A medical cannabis pharmacy shall input in the ICS information regarding the purchase of medical cannabis, or medical cannabis device, immediately after a transaction with a cardholder is closed, so reporting of purchases to the ICS across all medical cannabis pharmacies in Utah will be in real-time.

(4) At the close of each business day, a medical cannabis pharmacy shall reconcile the medical cannabis, and each medical cannabis device, with that medical cannabis pharmacy's inventory.

(5) A medical cannabis pharmacy's supervising PMP shall conduct an audit of a medical cannabis pharmacy's daily inventory, at least once a week. A PMP shall conduct annual comprehensive inventory of product, at a medical cannabis pharmacy. The PMP conducting the annual inventory shall document the time the inventory was taken, and shall sign and date the inventory with the date the inventory was taken. The signature of the PIC, and the date of the inventory, shall be documented within 72 hours, or three working days, of the completed annual inventory.

(a) If the audit identifies a reduction in the amount of medical cannabis in the medical cannabis pharmacy's inventory is not due to documented causes, the medical cannabis pharmacy shall determine where the loss occurred, and immediately take and document corrective action. The medical cannabis pharmacy shall immediately inform the Department of the loss by telephone, and provide written notice of the loss, and the corrective action taken within two business days after first discovery.

(b) If the reduction in the amount of medical cannabis, or any medical cannabis device, in the inventory is due to criminal activity, or suspected criminal activity, the medical cannabis pharmacy shall immediately make a report identifying the circumstances surrounding the reduction to the Department, and to law enforcement with jurisdiction where the suspected criminal acts occurred.

(c) If the audit identifies an increase in the amount of medical cannabis, or medical cannabis device, in the medical cannabis pharmacy's inventory, not due to documented causes, the medical cannabis pharmacy shall determine where the increase occurred and take and document corrective action.

(6) Records of each day's beginning inventory, weekly inventory, and comprehensive annual inventory, shall be kept for a period of five years; at the medical cannabis pharmacy where the medical cannabis and medical cannabis device is located. Any medical cannabis pharmacy intending to maintain such records at a location other than the medical cannabis pharmacy, must first send a written request to the Department. The request shall contain the

medical cannabis pharmacy name and license number, and the name and address of the alternate location. The Department will send written notification to the medical cannabis pharmacy documenting the approval, or denial, of the request. A copy of the Department's approval shall be maintained. Any such alternate location shall be secured and accessible only to authorized medical cannabis pharmacy employees.

(7) A medical cannabis pharmacy shall maintain the documentation required of this rule in a secure, locked location for five years from the date on the document. These records may be kept electronically if the method is approved by the Department, and the records are backed-up each business day.

(8) A medical cannabis pharmacy shall provide any documentation required to be maintained in this rule to the Department for review upon request.

R380-406-9. Medical Cannabis Pharmacy -- Operating Standards -- Transportation.

(1) Transport of medical cannabis from a medical cannabis pharmacy to another location shall occur only when:

(a) a home delivery medical cannabis pharmacy is delivering shipments of medical cannabis, or medical cannabis devices, to a cardholder's home address;

(b) a medical cannabis pharmacy, or cannabis production establishment, is transporting medical cannabis, or a medical cannabis device, from a medical cannabis pharmacy facility to a cannabis production establishment facility, or waste disposal location to be disposed of; and

(c) a product recall is initiated and medical cannabis, or a medical cannabis device, must be returned from a medical cannabis pharmacy to the cannabis production establishment.

(2) Medical cannabis and a medical cannabis device to be returned to the cannabis production establishment shall be:

(a) logged into the ICS;

(b) stored in a locked container with clear and bold lettering: "Return"; and

(c) prepared in compliance with any guideline and protocol of the cannabis production establishment for collecting, storing, and labeling a returned product.

(3) A PMP or pharmacy agent accepting a shipment of medical cannabis, or medical cannabis device, at a medical cannabis pharmacy facility from a cannabis production establishment shall:

(a) obtain a copy of the transport manifest and safeguard the manifest for recordkeeping;

(b) not delete, void, or change information provided on the transport manifest, upon arrival at the medical cannabis pharmacy;

(c) ensure that the medical cannabis and medical device received are as described in the transport manifest, and record the amount received into the ICS;

(d) clearly record on the manifest the individual's unique initial, or identification code, and the actual date and time of receipt of the medical cannabis, or medical cannabis device;

(e) if a difference between the quantity specified in the transport manifest and the quantity received occur, document the difference in the ICS; and

(f) log in the ICS any change to a medical cannabis product, or medical cannabis device, that may have occurred while in transport.

R380-406-10. Medical Cannabis Pharmacy -- Operating Standards -- Packaging.

(1) Medical cannabis in the following dosage form shall be delivered to a medical cannabis pharmacy, from a cannabis processing facility, or another medical cannabis pharmacy, in their final container:

(a) concentrated oil;

(b) liquid suspension;

(c) topical preparation;

(d) transdermal preparation;

(e) gelatinous cube;

(f) sublingual preparation; and

(g) resin or wax.

(2) Medical cannabis in the following dosage form may be delivered to a medical cannabis pharmacy from a cannabis processing facility, in either a final container or a bulk container, to later be separated into a final packaging prior to being dispensed to a cardholder:

(a) tablet;

(b) capsule; and

(c) unprocessed cannabis flower.

R380-406-11. Medical Cannabis Pharmacy -- Operating Standards -- Cannabis Disposal and Waste.

(1) A medical cannabis pharmacy's cannabis waste may be disposed of at either a medical cannabis pharmacy location, or a location of a cannabis production establishment, licensed by the UDAF.

(2) In addition to complying with standards for cannabis disposal and waste established in Section 26-61a-501 a medical cannabis pharmacy shall ensure compliance with standards established in R68-27-12. When handling cannabis waste, a medical cannabis pharmacy shall do the following:

(a) designate a location in the limited access area of the medical cannabis pharmacy where cannabis waste shall be securely locked and stored;

(b) designate a lockable container, or containers, that are clearly and boldly labeled with the words "Not for Sale or Use";

(c) ensure logging of the cannabis product in the ICS at the time of disposal with appropriate information including:

(i) a description of and reason for the cannabis product being disposed;

(ii) date of disposal;

(iii) method of disposal; and

(iv) name and registration identification number of the agent responsible for the disposal.

R380-406-12. Medical Cannabis Pharmacy -- Operating Standards -- Product Recall.

(1) A recall may be initiated by a cannabis production establishment, a medical cannabis pharmacy, the Department, or the UDAF.

(2) A medical cannabis pharmacy's recall plan shall include, at a minimum:

(a) a designation of at least one employee who shall serve as the recall coordinator;

(b) immediate notification of the Department, UDAF, and the cannabis production establishment from which it obtained the cannabis product in question;

(i) notification shall occur within 24 hours upon becoming aware of a complaint about the cannabis product in question;

- (c) a procedure for identifying and isolating product to prevent or minimize distribution to patients;
- (d) a procedure to retrieve and destroy product; and
- (e) a communication plan to notify those affected by the recall.
- (3) The medical cannabis pharmacy shall track the total amount of affected cannabis product, and the amount of cannabis product returned to the medical cannabis pharmacy, as part of the recall.
- (4) The medical cannabis pharmacy shall coordinate the destruction of the cannabis product with the Department and the UDAF, and allow the UDAF to oversee the destruction of the final product.
- (5) A medical cannabis pharmacy shall notify the Department before initiating a voluntary recall.

R380-406-13. Medical Cannabis Pharmacy -- Partial Filing.

- (1) A PMP or pharmacy agent who partially fills a recommendation for a medical cannabis cardholder shall specify in the ICS the following:
 - (a) date of partial fill;
 - (b) quantity supplied to cardholder;
 - (c) quantity remaining of the recommendation partially filled; and
 - (d) a brief explanation as to why the recommendation was partially filled.

R380-406-14. Medical Cannabis Pharmacy -- Operating Standards -- Closing a Pharmacy.

- (1) At least 14 days prior to the closing of a medical cannabis pharmacy, the pharmacist-in-charge shall comply with the following:
 - (a) send written notice to the Department containing the following information:
 - (i) the name, address, and Department issued license number of the medical cannabis pharmacy;
 - (ii) surrender the license issued to the medical cannabis pharmacy;
 - (iii) a statement attesting:
 - (A) a comprehensive inventory has been conducted;
 - (B) the manner in which the medical cannabis product and medical cannabis device were transferred or disposed;
 - (C) the anticipated date of closing;
 - (D) the name, address, and Department issued license number of the medical cannabis pharmacy, or cannabis production establishment, acquiring the medical cannabis and medical cannabis device from the medical cannabis pharmacy that is closing;
 - (E) the date of transfer when the medical cannabis product and medical cannabis devices will occur; and
 - (F) the name and address of the medical cannabis pharmacy to which the orders, including all refill information, and patient records, were transferred;
 - (b) post a closing notice in a conspicuous place at all public entrance doors to the medical cannabis pharmacy which shall contain the following information:
 - (i) the date of closing; and
 - (ii) the name, address, and telephone number of the medical cannabis pharmacy acquiring the recommendation orders, including all refill information and customer records of the medical cannabis pharmacy.
- (2) If the medical cannabis pharmacy closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction,

bankruptcy, or emergency circumstances, and the PIC cannot provide notification 14 days prior to the closing, the PIC shall provide notification to the Department of the closing, no later than 24 hours after the closing.

(3) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with the provisions of this section.

(4) On the date of the closing, the PIC shall remove all medical cannabis product, and any medical cannabis devices, from the medical cannabis pharmacy by one or a combination of the following methods:

(a) transport them to a cannabis processing facility for credit or disposal; or

(b) transfer or sell them to a person who is legally entitled to possess drugs, such as another medical cannabis pharmacy in the state of Utah.

(5) The PIC shall transfer the orders for medical cannabis, and medical cannabis devices, to a licensed medical cannabis pharmacy in the state of Utah.

(6) The PIC shall remove signs, and notify the landlord of the property that it is unlawful to use the word "medical cannabis pharmacy", or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead, or tend to mislead the public that a medical cannabis pharmacy is located at this address.

KEY: medical cannabis, medical cannabis pharmacy, marijuana
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-501; 26-61-501(12); 26-61a-501(13); 26-61a-503(3); 26-61a-605(5).

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-407	Filing No.	52615

Agency Information

1. Department:	Health		
Agency:	Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R380-407. Medical Cannabis Pharmacy Agent
3. Purpose of the new rule or reason for the change:
Subsection 26-61a-401(5) of the Utah Medical Cannabis Act, requires that the Utah Department of Health (Department) establish rules related to medical cannabis pharmacy agents.
4. Summary of the new rule or change:
This rule filing establishes medical cannabis pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Under Section R380-407-5, minimal cost impact on the state budget comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
Under Section R380-407-5, minimal savings impact on medical cannabis pharmacies comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws. Had the Department required that pharmacy agents complete a course provided by a private vendor, the cost of the courses would likely be paid by medical cannabis pharmacies. The cost of those courses would likely be between \$150 and \$300 for each pharmacy agent applicant during every 2-year renewal cycle. This is a cost savings to medical cannabis pharmacies. The Department estimates that approximately 32 applicants will become registered pharmacy agents in FY 2020 and 56 in FY 2021 and FY 2022.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements 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 agency):
Under Section R380-407-5, minimal savings impact on medical cannabis pharmacy agents comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws. Had the Department required that pharmacy agents complete a course provided by a private vendor, the cost of the courses would likely be paid by medical cannabis pharmacies. The cost of those courses would likely be between \$150 and \$300 for each pharmacy agent applicant during every 2-year renewal cycle. This is a cost savings to medical cannabis pharmacy agents. The Department estimates that approximately 32 applicants will become registered pharmacy agents in FY 2020 and 56 in FY 2021 and FY 2022.
F) Compliance costs for affected persons:
Under Section R380-407-5, minimal savings impact on medical cannabis pharmacy agents comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws. Had the Department required that pharmacy agents complete a course provided by a private vendor, the cost of the courses would likely be paid by medical cannabis pharmacies. The cost of those courses would likely be between \$150 and \$300 for each pharmacy agent applicant during every 2-year renewal cycle. This is a cost savings to medical cannabis pharmacy agents. The Department estimates that approximately 32 applicants will become registered pharmacy agents in FY 2020 and 56 in FY 2021 and FY 2022.
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

NOTICES OF PROPOSED RULES

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	\$7,200	\$12,600	\$12,600
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$7,200	\$12,600	\$12,600
Net Fiscal Benefits	\$7,200	\$12,600	\$12,600

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

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

Minimal savings impact on medical cannabis pharmacies comes as a result of the Department adopting a rule that requires the certification standard for initial and renewal of registration of a pharmacy agent upon successful completion of an online course developed by the Department.

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

Joseph K. Miner, MD, 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):

Title 26, Chapter 61a	Subsection 26-61a-401(5)	
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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: 06/01/2020

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

On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on: 06/08/2020

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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-407. Medical Cannabis Pharmacy Agent.

R380-407-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-401(5), this rule establishes medical cannabis pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards.

R380-407-2. Medical Cannabis Pharmacy Agent -- Duties and Responsibilities.

(1) A pharmacy agent may perform the following duties:
 (a) within the dosage parameters specified by a QMP or PMP, assist the cardholder with understanding available products, proper use of a medical device, medical cannabis strains, and methods of consumption or application;

(b) using the ICS, verify the status of an individual's medical cannabis card, and dosage parameters in a patient recommendation;

(c) enter and retrieve information from the ICS;

(d) authorize entry of a cardholder into the cardholder counseling area;

(e) take a refill order from a QMP;

(f) provide pricing and product information;

(g) accurately process cardholder payment, including issuance of receipt, refund, credit, and cash;

(h) prepare labeling for product;

(i) retrieve medical cannabis, and medical cannabis device, from inventory;

(j) accept new medical cannabis, or medical cannabis device, orders left on voicemail for a PMP to review;

(k) verbally offer to a cardholder, the opportunity for counseling with a PMP regarding medical cannabis, or a medical cannabis device;

(l) assist with dispensing of product to a cardholder;

(m) screen calls for a PMP;

(n) prepare inventory of medical cannabis, and medical cannabis device;

(o) transport medical cannabis, or medical cannabis device; and

(p) assist with maintaining a safe, clean, and professional environment.

(2) A pharmacy agent shall not perform the following duties:

(a) receive dosage parameters for a patient's recommendation over the phone, or in person;

(b) access patient information in the EVS;

(c) view medical treatment, and medication history, in the EVS;

(d) determine, or modify, dosage parameters in a patient's recommendation; or

(e) provide counseling, or consultation, regarding a patient's medical condition, or medical treatment.

R380-407-3. Medical Cannabis Pharmacy Agent -- Application Procedures.

(1) The application procedures established in this section shall govern an application for initial issuance of a pharmacy agent registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each pharmacy agent card applicant shall apply upon forms available from the Department.

(3) The Department may issue a card to an applicant who submits a complete application, and the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application, that the application will be closed unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.

(6) A written notice of denial, and incomplete application, shall be sent to the applicant's last email address shown in the Department's EVS database.

(7) Each applicant is required to maintain a current email address with the Department. Notice sent to the last email address on file with the Department, constitutes legal notice.

R380-407-4. Medical Cannabis Pharmacy Agent - Renewal Application Procedures.

(1) Renewal application procedures established in the rule shall apply to applicants applying for renewal of a pharmacy agent registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide a written notice of incomplete application to an applicant who submits an incomplete application. Which notice shall advise the applicant that the renewal application is incomplete, and that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder prior to the expiration date shown on the cardholder's card. The notice shall include directions for the cardholder to renew the card via the Department's website.

(7) Renewal notices shall be sent by email, addressed to the cardholder's last email shown in the Department's EVS database.

(8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice.

(9) A renewal notice shall advise each cardholder that a card will automatically expire on the expiration date, and is no longer valid if it is not renewed prior to the expiration date.

(10) If an individual's pharmacy agent registration card expires, the individual may submit a card renewal application at any time regardless of the length of time passed since the expiration of the card.

R380-407-5. Medical Cannabis Pharmacy Agent -- Certification Standard.

The certification standard for an applicant for initial and renewal registration of a pharmacy agent card will be successful completion of an online course, or acknowledgement of information developed by the Department.

KEY: medical cannabis, medical cannabis pharmacy, medical cannabis pharmacy agent, marijuana

Date of Enactment or Last Substantive Amendment: 2020 Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-401(5)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-408	Filing No.	52616

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Martha Hughes Cannon Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-408. Home Delivery and Courier
3. Purpose of the new rule or reason for the change:
Section 26-61a-606, Utah Medical Cannabis Act, requires the Utah Department of Health (Department) to establish rules related to medical cannabis couriers and medical cannabis courier agents.
4. Summary of the new rule or change:
This proposed rule establishes the requirements for home delivery operating standards, home delivery agent operating standards, courier agent application procedures, and courier agent renewal application procedures and courier agent certification standards.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will not result in a fiscal impact to the state budget because this rule does not establish requirements for the Department.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):

Section R380-408-2 establishes operating standards for medical cannabis home delivery services. The cost impact to a home delivery medical cannabis pharmacy or a medical cannabis courier equipping their vehicle(s) with a GPS tracking system that provides real time tracking to off-site locations (i.e., the pharmacy) ranges from \$350 to \$1,100 per year, per pharmacy. The estimated cost impact to a home delivery medical cannabis pharmacy or a medical cannabis courier equipping their vehicle with an alarm system ranges from \$98 to \$400 per vehicle. The Department estimates that each of the 14 pharmacies will have a GPS tracking system in FY 2021 and FY 2022 and approximately 42 vehicles will be equipped with an alarm system in FY 2021 and FY 2022.

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

This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements 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 **agency**):

This proposed rule will not result in a fiscal impact to the persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for enforcement by these persons.

F) Compliance costs for affected persons:

This proposed rule will not result in a fiscal impact to the affected persons because this rule does not establish requirements for enforcement by these 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	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	(\$20,600)	(\$20,600)
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	(\$20,600)	(\$20,600)

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	(\$20,600)	(\$20,600)
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
The cost impact to a home delivery medical cannabis pharmacy or a medical cannabis courier equipping their vehicle(s) with a GPS tracking system that provides real time tracking to off-site locations (i.e., the pharmacy).			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, 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):		
Title 26, Chapter 61a	Subsection 26-1-5(1)	Section 26-61a-606

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:	06/01/2020	
B) A public hearing (optional) will be held:		
On:	At:	At:
05/18/2020	01:00 PM	Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT or Meet.google.com/ke x-wdum-ohv 1 516-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on:	06/08/2020
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:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-408. Home Delivery and Courier.

R380-408-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-606, this rule establishes home delivery operating standards, home delivery agent operating standards, courier agent application procedures, courier agent renewal application procedures, and courier agent certification standards.

R380-408-2. Home Delivery Service -- Operating Standards.

(1) In addition to general operating standards established in Sections 26-61a-605 through 26-61a-607, home delivery medical cannabis pharmacies and couriers shall comply with the operating standards established in this rule. The following operating standards apply to home delivery medical cannabis pharmacies and couriers:

(a) maintain an updated written operating plan for the home delivery service, describing plan to comply with standards

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established in this section and meeting the requirements of subsection 26-61a-604(14);

(b) ensure accurate record keeping of delivery information in the ICS;

(c) maintain a record of not less than 5 years of the initials, or identification codes that identify each pharmacy agent, or courier agent, by name. The initials, or identification codes, shall be unique to ensure that each pharmacy agent, or courier agent, can be identified. Identical initials, or identification codes, shall not be used for different pharmacy agents, or courier agents;

(d) lock medical cannabis, and medical cannabis device, that are transported in a fully enclosed box, container, or cage, that is secured inside a delivery vehicle. Ensure appropriate storage temperature throughout the delivery process to maintain the integrity of the product;

(e) maintain a current list, either paper or electronic, of any employee working for the home delivery medical cannabis pharmacy, or courier, who make home deliveries, that shall include employee name, Department registration license classification and license number, and registration expiration date;

(f) upon request, provide the Department with information regarding any vehicle used for the home delivery service; including the vehicle's make, model, color, vehicle identification number, license plate number, insurance number, and Division of Motor Vehicle registration number;

(g) ensure that a manifest is not modified in any way, after a pharmacy agent, or courier agent, departs from a home delivery medical cannabis pharmacy facility with a shipment appearing on the manifest;

(h) ensure that no person, other than a pharmacy agent or courier agent, is in a delivery vehicle during a delivery; or during the time medical cannabis, or a medical cannabis device, is in the vehicle; and

(i) ensure that trip log documentation showing a specific route of delivery exists for a route driven by a pharmacy agent, or courier agent, on a specific day is immediately available for review by the Department, upon request.

(2) When delivering medical cannabis, and a medical cannabis device, to a medical cannabis cardholder's home, a pharmacy agent, or courier agent shall not:

(a) drop off medical cannabis, or a medical cannabis device, with anyone other than a medical cannabis cardholder;

(b) perform a home delivery before 6am or after 10pm;

(c) leave medical cannabis, or a medical cannabis device, unattended in a delivery vehicle, for more than one hour;

(d) make changes in dosage, or quantity, at the request of the medical cannabis cardholder, during a delivery; and

(e) consume medical cannabis while delivering medical cannabis.

(3) When delivering medical cannabis, and a medical cannabis device, a pharmacy agent, and courier agent, employed by the home delivery medical cannabis pharmacy, or courier, shall:

(a) wear an identification tag, or similar form of identification, that clearly identify them to medical a cannabis cardholder; including their position as a pharmacy agent, or courier agent; and

(b) provide each cardholder receiving a shipment, printed material that includes a home delivery medical cannabis pharmacy's contact information, and hours when a PMP at the home delivery medical cannabis pharmacy is available for counseling over the phone.

(4) Vehicles used for the purpose of home delivery must meet the following standards:

(a) no marking, or other indication, on the exterior that may indicate what is being transported;

(b) cannot be an unmanned vehicle;

(c) have an active alarm system;

(d) have a global positioning system (GPS) monitoring device that is:

(i) not a mobile device that is easily removable;

(ii) attached to the vehicle at all times that the vehicle contains medical cannabis, or a medical cannabis device; and

(iii) capable of storing and transmitting GPS data so it can be monitored by the home delivery medical cannabis pharmacy, during transport of medical cannabis, and a medical cannabis device;

(e) be subject to inspection by the Department at any time; and

(f) not transport medical cannabis, or a medical cannabis device, beyond what appears on a manifest; or what a pharmacy agent, or courier, has picked up from a medical cannabis cardholder, to be returned to the home delivery medical cannabis pharmacy.

(5) In the case of medical cannabis, or a medical cannabis device, that goes missing during the course of a home delivery route:

(a) the pharmacy agent, or courier agent, shall notify the home delivery medical cannabis pharmacy's supervising PMP, within 24 hours of when the pharmacy agent, or courier agent, first became aware of the missing product; and

(b) information regarding missing product shall be reported by the home delivery medical cannabis pharmacy, to the Department and local law enforcement, and logged in to the ICS.

(6) A courier cannot store medical cannabis, or a medical cannabis device, at its facility. Medical cannabis, and a medical cannabis device, delivered by the courier must be picked up from a home delivery medical cannabis pharmacy facility; and either delivered to the medical cannabis cardholder's residence, or returned to the home delivery medical cannabis pharmacy facility.

R380-408-3. Home Delivery Agent -- Operating Standards.

(1) In addition to operating standards established in Sections 26-61a-605 through 26-61a-607, a pharmacy agent and courier agent, shall comply with the operating standards established in this rule. The following operating standards apply to a pharmacy agent, and courier agent:

(a) ensure accurate record keeping of delivery information in the ICS;

(b) ensure locking of medical cannabis, and a medical cannabis device, that are transported in a fully enclosed box container or cage that is secured inside a delivery vehicle, that ensures appropriate storage temperature throughout the delivery process, to maintain the integrity of the product;

(c) ensure that a manifest is not modified in any way, after they depart from a home delivery medical cannabis pharmacy facility with the shipment appearing on the manifest; and

(d) ensure that no person, other than a pharmacy agent or courier agent, is in a delivery vehicle during a delivery; or during the time medical cannabis, or a medical cannabis device, is in the vehicle.

(2) When delivering medical cannabis and a medical cannabis device to a cardholder home, a pharmacy agent or courier agent shall not:

(a) drop off medical cannabis, or medical cannabis device, with anyone other than a medical cannabis cardholder;

(b) perform a home delivery before 6am or after 10pm;

(c) leave medical cannabis, or a medical cannabis device, unattended in a delivery vehicle for more than 60 minutes;

(d) make a change in dosage or quantity, on the request of the cardholder during a delivery;

(e) consume medical cannabis while delivering medical cannabis; and

(f) transport medical cannabis, or a medical cannabis device, beyond what appears on a manifest.

(3) When delivering medical cannabis, and a medical cannabis device, a pharmacy agent and courier agent shall:

(a) wear an identification tag or similar form of identification to clearly identify them to a cardholder, including their position as a pharmacy agent or courier agent; and

(b) provide each cardholder printed material that includes a home delivery medical cannabis pharmacy's contact information, and hours for counseling over the phone with a PMP.

(4) In the case of medical cannabis, or a medical cannabis device, that goes missing during the course of a home delivery route, the pharmacy agent, or courier agent, shall notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the medical cannabis pharmacy agent first became aware of the missing product.

R380-408-4. Medical Cannabis Courier Agent -- Application Procedures.

(1) The application procedures established in this section shall govern applications for initial issuance of a courier agent registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon forms available in the EVS from the Department.

(3) The Department may issue a card only if the applicant meets the card requirements, established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.

(6) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the applicant has requested to be notified by regular mail.

(7) Each applicant is required to maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the applicant has requested to be notified by regular mail.

R380-408-5. Medical Cannabis Courier Agent - Renewal Application Procedures.

(1) Renewal application procedures established in this section shall govern applications to renew a courier agent registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the cardholder's card. The notice shall include instructions to renew the card via the Department's website.

(7) A renewal notice shall be sent to the cardholder's last email shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.

(9) It shall be the responsibility of each cardholder to maintain a current email address, and mailing address with the Department.

(10) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date, and is no longer valid.

(11) If an individual's courier agent registration card expires, the individual may submit a card renewal application at any time, regardless of the length of time passed since the expiration of the card.

R380-408-6. Medical Cannabis Courier Agent -- Certification Standard.

The certification standard for applicants for initial and renewal registration of a courier agent card will be the successful completion of an online course developed by the Department.

KEY: medial cannabis, medical cannabis courier agent, medical cannabis home delivery, marijuana
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-606; 26-61a-604(14); 26-61a-607

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R392-302	Filing No. 52636	

Agency Information

1. Department:	Health
Agency:	Disease Control and Prevention, Environmental Services
Room no.:	Second Floor
Building:	Cannon Health Building
Street address:	288 North 1460 West
City, state:	Salt Lake City, UT 84116
Mailing address:	PO BOX 142102
City, state, zip:	Salt Lake City, UT 84114-2102

Contact person(s):		
Name:	Phone:	Email:
Chris Nelson	801-538-6191	chrisnelson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R392-302. Design, Construction and Operation of Public Pools
3. Purpose of the new rule or reason for the change:
The Utah Department of Health's (Department) Swimming Pool Advisory Committee has recommended this change to clarify language pertaining to the interlocking of chemical feed pumps. The vagueness of the previous language could lead to under/over regulation and faulty implementation of interlocks. The new language is modeled after the Center for Disease Control's (CDC's) Model Aquatic Health Code.
4. Summary of the new rule or change:
This amendment modifies Subsection R392-302-16(12) and Subsection R392-302-21(7) to clarify language for interlocking chemical feeders, clarifies language addresses responsibility and adequacy of interlocks, removes grandfather status for interlocks, and requires all pools to comply by 2023. Also, numbering errors and typos are fixed.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Enacting the proposed changes to Rule R392-302 will not result in a cost or benefit to the state budget because the proposed rule amendment does not require a change to current state operations or programs.

B) Local governments:
Enacting the proposed changes to Rule R392-302 will not result in a direct cost or benefit to local health departments because the proposed rule amendment does not require a change to current operation or programs. The proposed changes to Rule R392-302 will likely result in a cost to those municipal pool facilities not currently in compliance with Subsection R392-302-21(7), interlocking chemical feeds with the circulation pump. It was reported in FY19 an estimated 164 municipal pool facilities were permitted as public pools. Due to the wide variety of ways to meet this requirement, the cost is estimated to be \$250 to \$700 per circulation pump, averaged to \$475, per facility not currently in compliance with the interlock requirement. An estimated 13% of municipal pool facilities may need to make changes, resulting in an approximate total cost of \$10,127.
C) Small businesses ("small business" means a business employing 1-49 persons):
Enacting the proposed changes to Rule R392-302 will likely result in a cost to those small businesses not currently in compliance with Subsection R392-302-21(7), interlocking chemical feeds with the circulation pump. It was reported in FY19 an estimated 3,254 facilities permitted as public pools, with 3,243 possibly being affected by this rule change, of which an estimated 2,859 are considered small businesses. Affected industries include contractors, engineers, and multiple types of operators and maintenance companies. Also affected will be those businesses which own or operate a public pool, including hotels, apartments, amusement parks, home owner's associations (HOA), schools, municipalities, and fitness centers. The Department can be contacted for a full list of North American Industry Classification System (NAICS) codes. Due to the wide variety of ways to meet this requirement the cost is estimated to be \$250 to \$700 per circulation pump, averaged to \$475, per facility not currently in compliance with the interlock requirement. An estimated 13% of small businesses may need to make changes, resulting in an approximate total cost of \$176,543.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

It was reported in FY19 an estimated 3,254 facilities permitted as public pools, with 3,243 possibly being affected by this rule change, of which an estimated 220 are considered non-small. An estimated 13% of these may need to come into compliance with Subsection R392-302-21(7), interlocking circulation pumps with chemical feed systems. Affected industries include contractors, engineers, and multiple types of operators and maintenance companies. Also affected will be those businesses which own or operate a public pool, including hotels, apartments, amusement parks, HOAs, schools, municipalities, and fitness centers. The Department can be contacted for a full list of NAICS codes. Due to the wide variety of ways to meet this requirement the cost is estimated to be \$250 to \$700 per circulation pump, averaged to \$475, per facility not currently in compliance with Subsection R392-302-21(7). The total cost for non-small businesses is estimated to be \$13,585. Facilities have until January 31, 2023, to make these changes.

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**):

Enacting the proposed changes to Rule R392-302 will not result in a direct cost or benefit to any one specific person, as defined, because no additional construction, equipment or operational requirements are included in this rule change specific to any one person.

F) Compliance costs for affected persons:

Affected persons are as follows:
 State: Utah Department of Health. There are no compliance costs associated with this rule change for state entities.

Local Government: 13 local health departments. There are no compliance costs associated with this rule change for local health departments. Municipal run public pools may be affected due to coming into compliance with the requirement to interlock circulation systems with chemical feed systems. An estimated 13% of municipal pools may be affected.

Small business: All public pool facilities, as defined, including schools, universities, apartments, HOAs, fitness centers, amusement parks, municipalities, and hotels. Compliance costs will result from complying with the requirement to interlock circulation systems with chemical feed systems. An estimated 13% of small businesses with pools may be affected.

Persons: No specific person will be affected by this rule. There are no compliance costs associated with this rule change for any one specific person.

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	\$10,127	\$0	\$0
Small Businesses	\$176,542	\$0	\$0
Non-Small Businesses	\$13,585	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$200,255	\$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	-\$200,285	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

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

Due to the wide variety of ways to meet this requirement the cost is estimated to be \$250 to \$700 per circulation pump, averaged to \$475, per facility not currently in compliance with Subsection R392-302-21(7). An estimated 13% of small businesses may need to make changes, resulting in an approximate total cost of \$176,543. The total cost for non-small businesses is estimated to be \$13,585. Facilities have until January 31, 2023, to make these changes.

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

Joseph K. Miner, MD, 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 26-1-5	Subsection 26-1-30(23)	Section 26-15-2
Subsection 26-1-30(9)	Section 26-7-1	

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:	07/01/2020

10. This rule change MAY become effective on:	07/08/2020
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:	Joseph K. Miner, MD, Executive Director	Date:	03/26/2020
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R392. Health, Disease Control and Prevention, Environmental Services.

R392-302. Design, Construction and Operation of Public Pools.

R392-302-1. Authority and Purpose of Rule.

This rule is authorized under Sections 26-1-5, 26-1-30(9) and (23), 26-7-1, and 26-15-2. It establishes minimum standards for the design, construction, operation and maintenance of public pools and provides for the prevention and control of health hazards associated with public pools which are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

R392-302-2. Definitions.

The following definitions apply in this rule.

- (1) "AED" means automated external defibrillator.
- (2) "Backwash" means the process of cleaning a swimming pool filter by reversing the flow of water through the filter.

(3) "Bather Load" means the number of persons using a pool at any one time or specified period of time.

(4) "Cleansing shower" means the cleaning of the entire body surfaces with soap and water to remove any matter, including fecal matter, that may wash off into the pool while swimming.

(5) "Collection Zone" means the area of an interactive water feature where water from the feature will be collected and drained for treatment.

(6) "CPR" means Cardiopulmonary Resuscitation.

(7) "Department" means the Utah Department of Health.

(8) "Executive Director" means the Executive Director of the Utah Department of Health, or his designated representative.

(9) "Facility" means any premises, building, pool, equipment, system, and appurtenance which appertains to the operation of a public pool.

(10) "Float Tank" means a tank containing a skin-temperature solution of water and Epsom salts at a specific gravity high enough to allow the user to float supine while motionless and require a deliberate effort by the user to turn over and that is designed to provide for solitary use and sensory deprivation of the user.

(11) "Gravity Drain System" means a pool drain system wherein the drains are connected to a surge or collector tank and rather than drawing directly from the drain, the circulation pump draws from the surge or collector tank and the surface of the water contained in the tank is maintained at atmospheric pressure.

(12) "High Bather Load" means 90% or greater of the designed maximum bather load."

(13) "Hydrotherapy Pool" means a pool designed primarily for medically prescribed therapeutic use.

(14) "Illuminance Uniformity" means the ratio between the brightest illuminance falling on a surface compared to the lowest illuminance falling on a surface within an area. The value of illuminance falling on a surface is measured in foot candles.

(15) "Instructional Pool" means a pool used solely for purposes of providing water safety and survival instruction taught by a certified instructor. Instructional pools do not include private residential pools. Private residential pools used for swim instruction shall not be considered instructional pools as defined in this rule.

(16) "Interactive Water Feature" means a recirculating water feature designed, installed or used for recreational use, in which there is direct water contact from the feature with the public, and when not in operation, all water drains freely so there is no ponding.

(17) "Lamp Lumens" means the quantity of light, illuminance, produced by a lamp.

(18) "Lifeguard" means an attendant who supervises the safety of bathers.

(19) "Living Unit" means one or more rooms or spaces that are, or can be, occupied by an individual, group of individuals, or a family, temporarily or permanently for residential or overnight lodging purposes. Living units include motel and hotel rooms, condominium units, travel trailers, recreational vehicles, mobile homes, single family homes, and individual units in a multiple unit housing complex.

(20) "Local Health Officer" means the health officer of the local health department having jurisdiction, or his designated representative.

(21) "Onsite Septic System" means an approved onsite waste water system designed, constructed, and operated in accordance with Rule 317-4.

(22) "Pool" means a man-made basin, chamber, receptacle, tank, or tub, above ground or in-ground, which, when filled with water, creates an artificial body of water used for swimming, bathing, diving, recreational and therapeutic uses.

(23) "Pool Deck" means the area contiguous to the outside of the pool curb, diving boards, diving towers and slides.

(24) "Pool Shell" means the rigid encasing structure of a pool that confines the pool water by resisting the hydrostatic pressure of the pool water, resisting the pressure of any exterior soil, and transferring the weight of the pool water (sometimes through other supporting structures) to the soil or the building that surrounds it.

(25) "Private Residential Pool" means a swimming pool, spa pool or wading pool used only by an individual, family, or living unit members and guests, but not serving any type of multiple unit housing complex of four or more living units.

(26) "Public Pool" means a swimming pool, spa pool, wading pool, or special purpose pool facility which is not a private residential pool and may be above ground or in-ground.

(27) "Saturation Index" means a value determined by application of the formula for calculating the saturation index in Table 5, which is based on interrelation of temperature, calcium hardness, total alkalinity and pH which indicates if the pool water is corrosive, scale forming or neutral.

(28) "Spa Pool" means a pool which uses therapy jet circulation, hot water, cold water, bubbles produced by air induction, or any combination of these, to impart a massaging effect upon a bather. Spa pools include, spas, whirlpools, hot tubs, or hot spas.

(29) "Special Purpose Pool" means a pool with design and operational features that provide patrons recreational, instructional, or therapeutic activities which are different from that associated with a pool used primarily for swimming, diving, or spa bathing.

(30) "Splash Pool" means the area of water located at the terminus of a water slide or vehicle slide.

(31) "Swimming Pool" means a pool used primarily for recreational, sporting, or instructional purposes in bathing, swimming, or diving activities.

(32) "Surge Tank" means a tank receiving the gravity flow from an overflow gutter and main drain or drains from which the circulation pump takes water which is returned to the system.

(33) "Turnover" means the circulation of a quantity of water equal to the pool volume through the filter and treatment facilities.

(34) "Vehicle Slide" means a recreational pool where bathers ride vehicles, toboggans, sleds, etc., down a slide to descend into a splash pool.

(35) "Unblockable Drain" means a drain of any size or shape such that a representation of the torso of a 99 percentile adult male cannot sufficiently block it to the extent that it creates a body suction entrapment hazard.

(36) "Wading Pool" means any pool or pool area used or designed to be used by children five years of age or younger for wading or water play activities.

(37) "Waste Water" means discharges of pool water resulting from pool drainage or backwash.

(38) "Water Slide" means a recreational facility consisting of flumes upon which bathers descend into a splash pool.

R392-302-3. General Requirements.

(1) This rule does not require a construction change in any portion of a public pool facility if the facility was installed and in compliance with law in effect at the time the facility was installed, except as specifically provided otherwise in this rule. However if the Executive Director or the Local Health Officer determines that any facility is dangerous, unsafe, unsanitary, or a nuisance or menace to life, health or property, the Executive Director or the Local Health Officer may order construction changes consistent with the requirements of this rule to existing facilities.

(2) This rule does not regulate any private residential pool. A private residential pool that is used for swimming instruction purposes shall not be regulated as a public pool.

(3) This rule does not regulate any body of water larger than 30,000 square feet, 2,787.1 square meters, and for which the design purpose is not swimming, wading, bathing, diving, a water slide splash pool, or children's water play activities.

(4) This rule does not regulate float tanks.

(5) All public pools shall meet the requirements of this rule unless otherwise specified in R392-302.

R392-302-4. Water Supply.

(1) The water supply serving a public pool and all plumbing fixtures, including drinking fountains, lavatories and showers, must meet the requirements for drinking water established by the Department of Environmental Quality.

(2) All portions of water supply, re-circulation, and distribution systems serving the facility must be protected against backflow. Water introduced into the pool, either directly or through the circulation system, must be supplied through an air gap or a backflow preventer in accordance with the International Plumbing Code as incorporated and amended in Title 15a, State Construction and Fire Codes Act.

(a) The backflow preventer must protect against contamination, backsiphonage and backpressure.

(b) Water supply lines protected by a backflow prevention device shall not connect to the pool recirculation system on the discharge side of the pool recirculation pump.

R392-302-5. Waste Water.

(1) Each public pool must connect to a public sanitary sewer or an onsite septic system.

(a) Each public pool must connect to a sanitary sewer or onsite septic system through an air break to preclude the possibility of sewage or waste backup into the piping system. Pools constructed and approved after December 31, 2010 shall be connected through an air gap.

(2) Each public pool shall discharge waste water:

(a) to a public sanitary sewer system when available within 300 feet of the property line with authorization by the local sanitary sewer authority; or

(b) to an onsite septic system when public sanitary sewer system is not within 300 feet of the property line or authorization is not available; or

(c) in accordance with Subsection R392-302-5(4) and Subsection R392-302-5(5) except for any public pool utilizing salt in the pool water.

(i) Public pools utilizing salt in the pool water shall only discharge waste water to a public sanitary sewer system or an onsite septic system which has been designed for such.

(3) A public pool shall not discharge waste water directly to storm sewers or surface waters.

(4) Except for pools utilizing salt in the pool water, a public pool may discharge waste water that is not backwash according to Subsection R392-302-5(5) if:

(a) a public sanitary sewer is not available within 300 feet of a property line or authorization to discharge to a sanitary sewer is not available; and

(b) an onsite septic system is not available or designed for the discharge amount.

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(5) If a public pool meets the criteria of Subsection R392-302-5(4), the public pool shall reduce the disinfectant level to less than one part per million and:

(a) may discharge as irrigation in an area where the water will not flow into a storm drain or surface water; or

(b) may discharge on the facility's property as long as it does not flow off the property.

(6) Public pools shall not discharge waste water in a manner that will create a nuisance condition.

R392-302-6. Construction Materials.

(1) Each public pool and the appurtenances necessary for its proper function and operation must be constructed of materials that are inert, non-toxic to humans, impervious, enduring over time, and resist the effects of wear and deterioration from chemical, physical, radiological, and mechanical actions.

(2) All public pools shall be constructed with a pool shell that meets the requirements of this section R392-302-6. Vinyl liners that are not bonded to a pool shell are prohibited. A vinyl liner that is bonded to a pool shell shall have at least a 60 mil thickness. Sand, clay or earth walls or bottoms are prohibited.

(3) The pool shell of a public pool must withstand the stresses associated with the normal uses of the pool and regular maintenance. The pool shell shall by itself withstand, without any damage to the structure, the stresses of complete emptying of the pool without shoring or additional support.

(4) In addition to the requirements of R392-302-6(3), the interior surface of each pool must be designed and constructed in a manner that provides a smooth, easily cleanable, non-abrasive, and slip resistant surface. The pool shell surfaces must be free of cracks or open joints with the exception of structural expansion joints. The owner of a non-cementitious pool shall submit documentation with the plans required in R392-302-8 that the surface material has been tested and passed by an American National Standards Institute (ANSI) accredited testing facility using one of the following standards that is appropriate to the material used:

(a) for a fiberglass reinforced plastic spa pool, the International Association of Plumbing and Mechanical Officials (IAPMO) standard IAPMO/ANSI Z 124.7-2013, which is incorporated by reference;

(b) for a fiberglass reinforced plastic swimming pool, the IAPMO IGC 158-2000 standard, which is incorporated by reference;

(c) for pools built with prefabricated pool sections or pool members, ISO 19712-1:2008 - Plastics -- Decorative solid surfacing materials -- Part 1: Classification and specifications, which is incorporated by reference; or

(d) a standard that has been approved by the Department based on whether the standard is applicable to the surface and whether it determines compliance with the requirements of this section R392-302-6.

(5) The pool shell surface must be of a white or light pastel color.

R392-302-7. Bather Load.

(1) The bather load capacity of a public pool is determined as follows:

(a) Ten square feet, 0.929 square meters, of pool water surface area must be provided for each bather in a spa pool during maximum load.

(b) Twenty-four square feet, 2.23 square meters, of pool water surface area must be provided for each bather in an indoor swimming pool during maximum load.

(c) Twenty square feet, 1.86 square meters, of pool water surface area must be provided for each bather in an outdoor swimming pool during maximum load.

(d) Fifty square feet, 4.65 square meters, of pool water surface must be provided for each bather in a slide plunge pool during maximum load.

(2) The Department may make additional allowance for bathers when the facility operator can demonstrate that lounging and sunbathing patrons will not adversely affect water quality due to overloading of the pool.

R392-302-8. Design Detail and Structural Stability.

(1) The designing architect or engineer is responsible to certify the design for structural stability and safety of the public pool.

(2) The shape of a pool and design and location of appurtenances must be such that the circulation of pool water and control of swimmer's safety are not impaired. The designing architect or engineer shall designate sidewalls and endwalls on pool plans.

(3) A pool must have a circulation system with necessary treatment and filtration equipment as required in R392-302-16, unless turnover rate requirements as specified in sub-section R392-302-16(1) can be met by continuous introduction of fresh water and wasting of pool water under conditions satisfying all other requirements of this rule.

(4) Where a facility is subject to freezing temperatures, all parts of the facility subject to freezing damage must be adequately and properly protected from damage due to freezing, including the pool, piping, filter system, pump, motor, and other components and systems.

(5) No new pool construction or modification project of an existing pool shall begin until the requirements of Subsection R392-302-8(6) have been met.

(6) The pool owner or designee shall submit a set of plans for a new pool or modification project of an existing pool to the local health department. This includes the replacement of equipment which is different from that originally approved by the local health department.

(a) The set of plans shall have sufficient details to address all applicable requirements of R392-302 and shall bear a stamp from an engineer licensed in the State of Utah.

(b) The local health department may exempt the pool owner from Subsection R392-302-8(6) for a modification of an existing pool if health and safety are not compromised.

(c) The set of plans shall be initially reviewed by the local health department and a letter of review sent by the local health department to the submitter, pool owner, or designee within 30 days of submittal.

(d) The pool owner shall make required changes to the plans to meet the local health department's review criteria.

(7) All manufactured components of the pool shall be installed as per manufacturer's recommendations.

R392-302-9. Depths and Floor Slopes.

(1) In determining the horizontal slope ratio of a pool floor, the first number shall indicate the vertical change in value or rise and the second number shall indicate the horizontal change in value or run of the slope.

(a) The horizontal slope of the floor of any portion of a pool having a water depth of less than 5 feet, 1.52 meters, may not be steeper than a ratio of 1 to 10 except for a pool used exclusively for scuba diving training.

(b) The horizontal slope of the floor of any portion of a pool having a water depth greater than 5 feet, 1.52 meters, must be uniform, must allow complete drainage and may not exceed a ratio of 1 to 3 except for a pool used exclusively for scuba diving training. The

horizontal slope of the pool bottom in diving areas must be consistent with the requirements for minimum water depths as specified in Section R392-302-11 for diving areas.

R392-302-10. Walls.

(1) Pool walls must be vertical or within plus three degrees of vertical to a depth of at least two feet and nine inches.

(2) Walls shall transition from wall to floor using a radius or an angle.

(3) When a radius is used as the transition from wall to floor, the radius shall meet the following requirements:

(a) At water depths of 3 ft. or less, a transitional radius from wall to floor shall not exceed 6 in. and shall be tangent to the wall and may be tangent to or intersect the floor.

(b) At water depth between 3 ft. to 5 ft. the maximum transitional radius from wall to floor shall be determined by calculating the radius as it varies progressively from a maximum 6 inch radius at a 3 foot depth to a maximum of 2 feet radius at 5 feet of depth.

(c) At water depth greater than 5 feet the maximum transitional radius from wall to floor shall be equivalent to the water depth of the pool less 3 feet.

(4) When an angle is used as the transition from wall to floor, the angle shall meet the following requirements:

(a) At water depths of 3 ft. or less, a transitional angle from wall to floor shall start maximum 3 inches above the floor and shall intersect the floor at an angle equal to or steeper than 45 degrees from horizontal.

(b) At water depth between 3 ft. to 5 ft. the transitional angle from wall to floor shall vary progressively starting at a maximum of 3 inches above the floor at a 3 foot depth to a maximum of 18 inches above the floor at the 5 foot depth and shall intersect the floor at an angle equal to or steeper than 45 degrees from horizontal.

(c) At water depths greater than 5 feet the transitional angle from wall to floor shall be equivalent to the water depth of the pool less 3 feet 6 inches and shall intersect the floor at an angle:

(i) equal to or steeper than 45 degrees from horizontal; or

(ii) equal to or a shallower angle than the 1:3 floor slope required in R39-302-9(1)(b) for these areas.

(5) All outside corners created by adjoining walls or floor shall be rounded or chamfered to eliminate sharp corners to be easily cleanable.

(6) Underwater ledges are prohibited except when approved by the local health officer for a special purpose pool. Underwater ledges are prohibited in areas of a pool designed for diving. Where underwater ledges are allowed, a line must mark the extent of the ledge within 2 inches, 5.08 centimeters, of its leading edge. The line must be at least 2 inches, 5.08 centimeters, in width and in a contrasting dark color for maximum visual distinction.

(7) Underwater seats and benches are allowed in pools so long as they conform to the following:

(a) Seats and benches shall be located completely inside of the shape of the pool. Where seats and benches are not located on the perimeter walls of the pool, seats and benches shall have a wall on the back of the seats and benches that extend above the operating level of the pool and is clearly visible to users.

(b) The horizontal surface shall be a maximum of 20 inches, 51 centimeter, below the water line;

(c) An unobstructed surface shall be provided that is a minimum of 10 inches, 25 centimeters, and a maximum of 20 inches front to back, and a minimum of 24 inches, 61 centimeters, wide;

(d) Seats and benches shall not transverse a depth change of more than 24 inches, 61 centimeters;

(e) The minimum horizontal separation between sections of seats and benches shall be five feet, 1.52 meters.

(f) The pool wall under the seat or bench shall be flush with the leading edge of the seat or bench and meet the requirements of R392-302-10(1) and (2);

(g) Seats and benches may not replace the stairs or ladders required in R392-302-12, but are allowed in conjunction with pool stairs;

(h) Underwater seats may be located in the deep area of the pool where diving equipment (manufactured or constructed) is installed, provided they are located outside of the minimum water envelope for diving equipment; and

(i) A line must mark the extent of the seat or bench within 2 inches, 5.08 centimeters, of its leading edge. The line must be at least 2 inches, 5.08 centimeters, in width and in a contrasting dark color for maximum visual distinction.

(8) Recessed footholds are allowed so long as they are at least four feet, 1.21 meters, under water and meet the requirements of R392-302-12(5)(b) and (c).

R392-302-11. Diving Areas.

(1) Where diving is permitted, the diving area design, equipment placement, and clearances must meet the minimum standards of:

(a) The 2015-2017 USA Diving Official Technical Rules, Appendix B -- FINA Dimensions for Diving Facilities, which are incorporated by reference.; or

(b) Rule 1, Section 1, Article 4 and Rule 1, Section 2, Article 4 of the NCAA Men's and Women's Swimming and Diving 2014-2015 Rules and Interpretations, which is incorporated by reference; or

(c) Table 4.8.2.2 and Figure 4.8.2.2.1 and Figure 4.8.2.2.2 of the 2018 Model Aquatic Health Code, which are incorporated by reference; or

(d) Section 402.12, Table 402.12, and Figure 402.12 of the 2018 International Swimming Pool and Spa Code, which is incorporated by reference.

(2) Where diving from a height of less than 3.28 feet, 1 meter, from normal water level is permitted, the diving bowl shall meet the minimum depths outlined in Section 6, Figure 1 and Table 2 of ANSI/NSPI-1, 2003, which is adopted by reference, for type VI, VII and VIII pools according to the height of the diving board above the normal water level. ANSI/NSPI pool type VI is a maximum of 26 inches, 2/3 meter, above the normal water level; type VII is a maximum of 30 inches, 3/4 meter, above the normal water level; and type VIII is a maximum of 39.37 inches, 1 meter, above the normal water level.

(3) The use of a starting platform is restricted to competitive swimming events or supervised training for competitive swimming events.

(a) If starting platforms are used for competitive swimming or training, the water depth shall be at least four feet.

(b) The operator shall either remove the starting platforms or secure them with a lockable cone-type platform safety cover when not in competitive use.

(4) Areas of a pool where diving is not permitted must have "NO DIVING" or the international no diving icon, or both provided in block letters at least four inches, 10.16 centimeters, in height, as required in R392-302-39(3)(a), in a contrasting color on the deck, located on the horizontal surface of the deck or coping as close to the water's edge as practical.

(a) Where the "NO DIVING" warnings are used, the spacing between each warning may be no greater than 25 feet, 7.62 centimeters.

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(b) Where the icon alone is used on the deck as required, the operator shall also post at least one "NO DIVING" sign in plain view within the enclosure. Letters shall be at least four inches, 10.16 centimeters, in height with a stroke width of at least one-half inch.

R392-302-12. Ladders, Recessed Steps, and Stairs.

(1) Location.

(a) In areas of a pool where the water depth is greater than 2 feet, 60.96 centimeters, and less than 5 feet, 1.52 meters, as measured vertically from the bottom of the pool to the mean operating level of the pool water, steps or ladders must be provided, and be located in the area of shallowest depth.

(b) In areas of the pool where the water depth is greater than 5 feet, 1.52 meters, as measured vertically from the bottom of the pool to the mean operating level of the pool water, ladders or recessed steps must be provided.

(c) A pool over 30 feet, 9.14 meters, wide must be equipped with steps, recessed steps, or ladders as applicable, installed on each end of both side walls.

(d) A pool over 30 feet, 9.14 meters, wide and 75 feet, 22.8 meters, or greater in length, must have ladders or recessed steps midway on both side walls of the pool, or must have ladders or recessed steps spaced at equal distances from each other along both sides of the pool at distances not to exceed 30 feet, 9.14 meters, in swimming and diving areas, and 50 feet, 15.23 meters, in non-swimming areas.

(e) Ladders or recessed steps must be located within 15 feet, 4.56 meters, of the diving area end wall.

(f) No pool shall be equipped with fewer than two means of entry or exit as outlined above.

(2) Handrails.

(a) Handrails must be rigidly installed and constructed in such a way that they can only be removed with tools.

(b) Handrails must be constructed of corrosion resistant materials.

(c) The outside diameter of handrails may not exceed 2 inches, 5.08 centimeters.

(3) Steps.

(a) Steps must have at least one handrail. The handrail shall be mounted on the deck and extend to the bottom step either attached at or cantilever to the bottom step. Handrails may also be mounted in the pool bottom of a wading area at the top of submerged stairs that lead into a swimming pool; such handrails must also extend to the bottom step either attached at or cantilever to the bottom step.

(b) Steps must be constructed of corrosion-resistant material, be easily cleanable, and be of a safe design.

(c) Steps leading into pools must be of non-slip design, have a minimum run of 10 inches, 25.4 centimeters, and a maximum rise of 12 inches, 30.48 centimeters.

(d) Steps must have a minimum width of 18 inches, 45.72 centimeters, as measured at the leading edge of the step.

(e) Steps must have a line at least 1 inch, 2.54 centimeters, in width and be of a contrasting dark color for a maximum visual distinction within 2 inches, 5.08 centimeters, of the leading edge of each step.

(4) Ladders.

(a) Pool ladders must be corrosion-resistant and must be equipped with non-slip rungs.

(b) Pool ladders must be designed to provide a handhold, must be rigidly installed, and must be maintained in safe working condition.

(c) Pool ladders shall have a clearance of not more than 5 inches, 12.7 centimeters, nor less than 3 inches, 7.62 centimeters, between any ladder rung and the pool wall.

(d) Pool ladders shall have rungs with a maximum rise of 12 inches, 30.5 centimeters, and a minimum width of 14 inches, 35.6 centimeters.

(5) Recessed Steps.

(a) Recessed steps shall have a set of grab rails located at the top of the course with a rail on each side which extend over the coping or edge of the deck.

(b) Recessed steps shall be readily cleanable and provide drainage into the pool to prevent the accumulation of dirt on the step.

(c) Full or partial recessed steps must have a minimum run of 5 inches, 12.7 centimeters, and a minimum width of 14 inches, 35.56 centimeters.

R392-302-13. Decks and Walkways.

(1) A continuous, unobstructed deck at least 5 feet, 1.52 meters, wide must extend completely around the pool. The deck is measured from the pool side edge of the coping if the coping is flush with the pool deck, or from the back of the pool curb if the coping is elevated from the pool deck. Pool curbs shall be a minimum of 12 inches wide. The pool deck may include the pool coping if the coping is installed flush with the surrounding pool deck. If the coping is elevated from the pool deck, the maximum allowed elevation difference between the top of the coping surface and the surrounding deck is 19 inches, 38.1 centimeters. The minimum allowed elevation is 4 inches.

(2) Deck obstructions are allowed to accommodate diving boards, platforms, slides, steps, or ladders so long as at least 5 feet, 1.52 meters, of deck area is provided behind the deck end of any diving board, platform, slide, step, or ladder. Other types of deck obstructions may also be allowed by the local health officer so long as the obstructions meet all of the following criteria:

(a) the total pool perimeter that is obstructed equals less than 10 percent of the total pool perimeter; likewise, no more than 15 feet, 4.56 meters, of pool perimeter can be obstructed in any one location;

(b) multiple obstructions must be separated by at least five feet, 1.52 meters;

(c) an unobstructed area of deck not less than five feet, 1.52 meters, is provided around or through the obstruction and located not more than fifteen feet, 4.55 meters, from the edge of the pool.

(d) the design of the obstruction does not endanger the health or safety of persons using the pool; and

(e) written approval for the obstruction is obtained from the local health official prior to, or as part of, the plan review process.

(3) The deck must slope away from the pool to floor drains at a grade of 1/4 inch, 6.35 millimeters, to 3/8 inch, 9.53 millimeters, per linear foot.

(a) The Local Health Officer may allow decks to slope towards the pool for deck level gutter pools if it can be demonstrated that it will not adversely affect the pool's water quality and:

(i) the deck must slope back towards the pool for a maximum distance of five feet, 1.52 meters, from the water's edge; and

(ii) the portion of the deck that slopes back towards the pool must slope towards the pool at grade of 1/4 inch, six millimeters, to 3/8 inch, ten millimeters, per linear foot; and

(iii) a minimum of three feet, 91.4 centimeters, of deck that meets R392-302-13(3) must be provided beyond the high point of said deck.

(4) Decks and walkways must be constructed to drain away any standing water and must have non-slip surfaces.

(5) Wooden decks, walks or steps are prohibited.

(6) Deck drains may not return water to the pool or the circulation system.

(7) The operator shall maintain decks in a sanitary condition and free from litter.

(8) Carpeting may not be installed within 5 feet, 1.52 meters, of the water side edge of the coping. The operator shall wet vacuum any carpeting as often as necessary to keep it clean and free of accumulated water.

(9) Steps serving decks must meet the following requirements:

(a) Risers of steps for the deck must be uniform and have a minimum height of 4 inches, 10.2 centimeters, and a maximum height of 7 inches, 17.8 centimeters.

(b) The minimum run of steps shall be 10 inches, 25.4 centimeters.

(c) Steps must have a minimum width of 18 inches, 45.72 centimeters.

R392-302-14. Fencing and Barriers.

(1) A fence or other barrier is required and must provide complete perimeter security of the facility, and be at least 6 feet, 1.83 meters, in height. Openings through the fence or barrier, other than entry or exit access when the access is open, may not permit a sphere greater than 4 inches, 10.16 centimeters, to pass through it at any location. Horizontal members shall be equal to or more than 45 inches, 114.3 centimeters, apart.

(a) If the local health department determines that the safety of children is not compromised, it may exempt indoor pools from the fencing requirements.

(b) The local health department may grant exceptions to the height requirements in consideration of architectural and landscaping features for pools designed for hotels, motels and apartment houses.

(2) A fence or barrier that has an entrance to the facility must be equipped with a self-closing and self-latching gate or door. Except for self-locking mechanisms, self-latching mechanisms must be installed 54 inches, 1.37 meters, above the ground and must be provided with hardware for locking the gate when the facility is not in use. A lock that is separate from the latch and a self locking latch shall be installed with the lock's operable mechanism (key hole, electronic sensor, or combination dial) between 34 inches, 86.4 centimeters, and 48 inches, 1.219 meters, above the ground.

(a) All gates for the pool enclosure shall open outward from the pool except where emergency egress rules or ordinances require them to swing into the pool area.

(b) Emergency egress gates or doors shall be designed in such a way that they do not prevent egress in the event of an emergency.

(c) Gates or doors shall be constructed so as to prevent unauthorized entry from the outside of the enclosure around pool area.

(3) Entrances to the facility may be exempted by the local health officer from the requirements in R392-302-14(2) if:

(a) The gate or door to a facility or pool area is part of a staffed, controlled entrance and is locked when the facility or pool area is not open to the public; or

(b) The pool or facility has certified lifeguards conducting patron surveillance when the pool or facility is open and the gate or door is locked when the facility or pool is not open to the public.

(4) The gate or door shall have no opening greater than 0.5 inches, 1.27 centimeters, within 18 inches, 45.7 centimeters, of the latch release mechanism.

(5) Any pool enclosure which is accessible to the public when one or more of the pools are not being maintained for use, shall protect

those closed pools from access by a sign meeting R392-302-39(3)(a) indicating the pool is closed and by using:

(a) a safety cover which restricts access and meets the minimum ASTM standard F1346-91; or

(b) a secondary barrier that is approved by the Department; or

(c) any method approved by the Department.

R392-302-15. Depth Markings and Safety Ropes.

(1) The depth of the water must be plainly marked at locations of maximum and minimum pool depth, and at the points of separation between the swimming and non-swimming areas of a pool. Pools must also be marked at intermediate 1 foot, 30.48 centimeters, increments of depth, spaced at distances which do not exceed 25 feet, 7.62 meters. Markings must be located above the water line or within 2 inches, 5.8 centimeters, from the coping on the vertical wall of the pool and on the edge of the deck or walk next to the pool with numerals at least 4 inches, 10.16 centimeters, high as required in R392-302-39(3).

(2) A pool with both swimming and diving areas must have a floating safety rope separating the swimming and diving areas. An exception to this requirement is made for special activities, such as swimming contests or training exercises when the full unobstructed length of the pool is used.

(a) The safety rope must be securely fastened to wall anchors. Wall anchors must be of corrosion-resistant materials and must be recessed or have no projections that may be a safety hazard if the safety rope is removed.

(b) The safety rope must be marked with visible floats spaced at intervals of 7 feet, 2.13 meters or less.

(c) The rope must be at least 0.5 inches, 1.27 centimeters, in diameter, and of sufficient strength to support the loads imposed on it during normal bathing activities.

(3) A pool constructed with a change in the slope of the pool floor must have the change in slope designated by a floating safety rope and a line of demarcation on the pool floor.

(a) The floating safety rope designating a change in slope of the pool floor must be attached at the locations on the pool wall that place it directly above and parallel to the line on the bottom of the pool. The floating safety rope must meet the requirements of Subsections R392-302-15(2)(a),(b),(c).

(b) A line of demarcation on the pool floor must be marked with a contrasting dark color.

(c) The line must be at least 2 inches, 5.08 centimeters, in width.

(d) The line must be located 12 inches, 30.48 centimeters, toward the shallow end from the point of change in slope.

(4) The Department may exempt a spa pool from the depth marking requirement if the spa pool owner can successfully demonstrate to the Department that bather safety is not compromised by the elimination of the markings.

R392-302-16. Circulation Systems.

(1) A circulation system, consisting of pumps, piping, filters, water conditioning and disinfection equipment and other related equipment must be provided. The operator shall maintain the normal water line of the pool at the overflow rim of the gutter, if an overflow gutter is used, or at the midpoint of the skimmer opening if skimmers are used whenever the pool is open for bathing. An exemption to this requirement may be granted by the Department if the pool operator can demonstrate that the safety of the bathers is not compromised.

(a) The circulation system shall meet the minimum turnover time listed in Table 1.

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(b) If a single pool incorporates more than one the pool types listed in Table 1, either:

(i) the entire pool shall be designed with the shortest turnover time required in Table 1 of all the turnover times for the pool types incorporated into the pool or

(ii) the pool shall be designed with pool-type zones where each zone is provided with the recirculation flow rate that meets the requirements of Table 1.

(c) The Health Officer may require the pool operator to demonstrate that a pool is performing in accordance with the approved design.

(d) The operator shall run circulation equipment continuously except for periods of routine or other necessary maintenance. Pumps with the ability to decrease flow when the pool has little or no use are allowed as long as the original approved and designed number of turnovers are achieved in 24 hours that would be required using the turnover time listed in Table 1 and the water quality standards of R392-302-27 can be maintained. The circulation system must be designed to permit complete drainage of the system.

(e) Piping must be of non-toxic material, resistant to corrosion and be able to withstand operating pressures.

(f) Plumbing must be identified by a color code or labels.

(2) The water velocity in discharge piping may not exceed 10 feet, 3.05 meters, per second, except for copper pipe where the velocity for piping may not exceed 8 feet, 2.44 meters, per second.

(3) Suction velocity for all piping may not exceed 6 feet, 1.83 meters, per second.

(4) The circulation system must include a strainer to prevent hair, lint, etc., from reaching the pump.

(a) Strainers must be corrosion-resistant with openings not more than 1/8 inch, 3.18 millimeters, in size.

(b) Strainers must provide a free flow capacity of at least four times the area of the pump suction line.

(c) Strainers must be readily accessible for frequent cleaning.

(d) Strainers must be maintained in a clean and sanitary condition.

(e) Each pump strainer must be provided with necessary valves to facilitate cleaning of the system without excessive flooding.

(5) A vacuum-cleaning system must be provided.

(a) If this system is an integral part of the circulation system, connections must be located in the walls of the pool, at least 8 inches, 20.32 centimeters, below the water line. This requirement does not apply to vacuums operated from skimmers.

(b) The number of connections provided must facilitate access to all areas of the pool through hoses less than 50 feet, 15.24 meters, in length.

(6) A rate-of-flow indicator, reading in gallons per minute, must be properly installed and located according to manufacturer recommendations. The indicator must be located in a place and position where it can be easily read.

(7) Pumps must be of adequate capacity to provide the required number of turnovers of pool water as specified in Subsection R392-302-16, Table 1. The pump or pumps must be capable of providing flow adequate for the backwashing of filters. Under normal conditions, the pump or pumps must supply the circulation rate of flow at a dynamic head which includes, in addition to the usual equipment, fitting and friction losses, an additional loss of 15 feet, 4.57 meters, for rapid sand filters, vacuum precoat media filters or vacuum cartridge filters and 40 feet, 12.19 meters, for pressure precoat media filters, high rate sand filters or cartridge filters, as well as pool inlet orifice loss of 15 feet, 4.57 meters.

(8) A pool equipped with heaters must meet the requirements for boilers and pressure vessels as required by the State of Utah Boiler and Pressure Vessel Rules, R616-2, and must have a fixed thermometer mounted in the pool circulation line downstream from the heater outlet. The heater must be provided with a heatsink as required by manufacturer's instructions.

(9) The area housing the circulation equipment must be designed with adequate working space so that all equipment may be easily disassembled, removed, and replaced for proper maintenance.

(10) All circulation lines to and from the pool must be regulated with valves in order to control the circulation flow.

(a) All valves must be located where they will be readily and easily accessible for maintenance and removal.

(b) Multiport valves must comply with NSF/ANSI 50-2015, which is incorporated by reference.

(11) Written operational instructions must be immediately available at the facility at all times.

(12) Notwithstanding Subsection R392-302-3(1), all pools must comply with Subsection 16(12) by January 31, ~~2021.~~ All chemical feed systems must be wired electrically to the main circulation pump so that the operation of these systems is dependent upon the operation of the main circulation pump. If a chemical feed system has an independent timer, the main circulation pump and chemical feed system timer must be interlocked.] 2023. All chemical feed systems must include two layers of interlocking protection for a low or no flow condition so that the operation of the chemical feeders is dependent upon the operational flow of the main circulation system. The functionality of the interlocking shall be verified by the operator and documented to the local health department. This interlocking shall be accomplished through an electrical interlock consisting of both:

(a) A flow meter or flow switch at the chemical controller; and

(b) Chemical feeders wired electrically to the circulation system. This may include the use of a differential pressure switch, a pump power monitor, or other suitable means.

TABLE 1

Circulation

Pool Type	Min. Number of Wall Inlets	Min. Number of Skimmers per 3,500 square ft. or less	Min. Turnover Time
1. Swim	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	8 hrs.
2. Swim, high bather load	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	6 hrs.
3. Wading pool	1 per 20 ft., 6.10 m. min. of 2 equally spaced	1 per 500 sq. ft., 46.45 sq. m.	1 hr.
4. Spa	1 per 20 ft., 6.10 m.	1 per 100 sq. ft., 9.29 sq. m.	0.5 hr.
5. Wave	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	6 hrs.

6. Slide	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	1 hr.
7. Vehicle slide	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	1 hr.
8. Special Purpose Pool	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	1 hr.

~~[(12)]~~¹³ Each air induction system installed must comply with the following requirements:

(a) An air induction system must be designed and maintained to prevent any possibility of water back-up that could cause electrical shock hazards.

(b) An air intake may not introduce contaminants such as noxious chemicals, fumes, deck water, dirt, etc. into the pool.

~~[(13)]~~¹⁴ The circulation lines of jet systems and other forms of water agitation must be independent and separate from the circulation-filtration and heating systems.

R392-302-17. Inlets.

(1) Inlets for fresh or treated water must be located to produce uniform circulation of water and to facilitate the maintenance of a uniform disinfectant residual throughout the entire pool.

(2) If wall inlets from the circulation system are used, they must be flush with the pool wall and submerged at least 5 feet, 1.52 meters, below the normal water level or at the bottom of the vertical wall surface tangent to the arc forming the transition between the vertical wall and the floor of the pool. Except as provided in Subsection R392-302-31(13) and Subsection R392-302-32(6), wall inlets must be placed every 10 feet, 3.05 meters, around the pool perimeter.

(a) The Department or the local health officer may require floor inlets to be installed in addition to wall inlets if a pool has a width greater than 50 feet, 4.57 meters, to assure thorough chemical distribution. If floor inlets are installed in addition to wall inlets, there must be a minimum of one row of floor inlets centered on the pool width. Individual inlets and rows of inlets shall be spaced a maximum of 15 feet, 4.57 meters, from each other. Floor inlets must be at least 15 feet, 4.57 meters, from a pool wall with wall inlets.

(b) Each inlet must be designed as a directionally adjustable and lockable orifice with sufficient head loss to insure balancing of flow through all inlets. The return loop piping must be sized to provide less than 2.5 feet, 76.20 centimeters, of head loss to the most distant orifice to insure approximately equal flow through all orifices.

(i) Inlets must be locked in place once adjusted for uniform circulation.

(ii) The head loss requirement for orifices may be reduced so long as it can be shown by demonstration that at least a 6:1 pressure ratio from orifice to the return loop is maintained.

(3) If floor inlets from the circulation system are used, they must be flush with the floor. Floor inlets shall be placed at maximum 15 foot, 4.46 meter, intervals. The distance from floor inlets to a pool wall shall not exceed 7.5 feet, 2.29 meters if there are no wall inlets on that wall. Each floor inlet must be designed such that the flow can be adjusted to provide sufficient head loss to insure balancing of flow through all inlets. All floor inlets must be designed such that the flow cannot be adjusted without the use of a special tool to protect against swimmers being able to adjust the flow. The return supply piping must be sized to provide less than 2.5 feet, 76.20 centimeters, of head loss to the most distant orifice to insure approximately equal flow through all orifices.

(a) Inlets must be locked in place once adjusted for uniform circulation.

(b) The head loss requirement for orifices may be reduced so long as it can be shown by demonstration that at least a 6:1 pressure ratio from orifice to the return loop is maintained.

(4) The Department may grant an exemption to the inlet placement requirements on a case by case basis for inlet designs that can be demonstrated to produce uniform mixing of pool water.

R392-302-18. Outlets.

(1) No feature or circulation pump shall be connected to less than two outlets unless the pump is connected to a gravity drain system or the pump is connected to an unblockable drain. All pool outlets shall meet the following design criteria:

(a) The grates or covers of all submerged outlets in pools shall conform to the standards of ANSI/APSP-16 2011, as incorporated in 16 CFR 1450.3 (July 5, 2011).

(b) The outlets must be constructed so that if one of the outlets is completely obstructed, the remaining outlets and related piping will be capable of handling 100 percent of the maximum design circulation flow.

(c) All pool outlets that are connected to a pump through a single common suction line must connect to the common suction line through pipes of equal diameter. The tee feeding to the common suction line from the outlets must be located approximately midway between outlets.

(d) An outlet system with more than one outlet connected to a pump suction line must not have any valve or other means to cut any individual outlet out of the system.

(e) At least one of the circulation outlets shall be located at the deepest point of the pool and must be piped to permit the pool to be completely and easily emptied.

(f) The center of the outlet covers or grates of multiple main drain outlets shall not be spaced more than 30 feet, 9.14 meters, apart nor spaced closer than 3 feet, 0.914 meters, apart.

(g) Multiple pumps may utilize the same outlets only if the outlets are sized to accommodate 100 percent of the total combined design flow from all pumps and only if the flow characteristics of the system meet the requirements of subsection R392-302-18(2) and (3).

(h) There must be one main drain outlet for each 30 feet, 9.14 meters, of pool width. The centers of the outlet covers or grates of any outermost main drain outlets must be located within 15 feet, 4.57 meters, of a side wall.

(i) Devices or methods used for draining pools shall prevent overcharging the sanitary sewer.

(j) No operator shall allow the use of a pool with outlet grates or covers that are broken, damaged, missing, or not securely fastened.

(2) Notwithstanding Section R392-302-3, all public pools must comply with Subsections R392-302-18(2) and (3). The pool operator shall not install, allow the installation of, or operate a pool with a drain, drain cover, or drain grate in a position or an application that conflicts with any of the following mandatory markings on the drain cover or grate under the standard required in R392-302-18(1)(a):

(a) whether the drain is for single or multiple drain use;

(b) the maximum flow through the drain cover; and

(c) whether the drain may be installed on a wall or a floor.

(3) The pool operator shall not install, allow the installation of, or operate a pool with a drain cover or drain grate unless it is over or in front of:

(a) the sump that is recommended by the drain cover or grate manufacturer;

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(b) a sump specifically designed for that drain by a Registered Design Professional as defined in ANSI/APSP-16 2011, as incorporated in 16 CFR 1450.3 (July 5, 2011); or

(c) a sump that meets the ANSI/APSP-16 2011 standard, as incorporated in 16 CFR 1450.3 (July 5, 2011).

(4) Notwithstanding Section R392-302-3, all public pools must comply with this subsection R392-302-18(4). The pool owner or certified pool operator shall retrofit by December 19, 2009 each pool circulation system on existing pools that do not meet the requirements of subsections R392-302-18(1) through R392-302-18(1)(g) and R392-302-18(2) through (3)(c). The owner or operator shall meet the retrofit requirements of this subsection by any of the following means:

(a) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and install a safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when it detects a blockage; that has been tested by an independent third party; and that conforms to ASME standard A112.19.17-2010 or ASTM standard F2387-04(2012), as required in the Federal Swimming Pool and Spa Drain Cover Standard, 15 U.S.C. 8003;

(i) To ensure proper operation, the certified pool operator shall inspect and test the vacuum release system at least once a week but no less often than established by the manufacturer. The certified pool operator shall test the vacuum release system in a manner specified by the manufacturer. The certified pool operator shall log all inspections, tests and maintenance and retain the records for a minimum of two years for review by the Department and local health department upon request.

(ii) The vacuum release system shall include a notification system that alerts patrons and the pool operator when the system has inactivated the circulation system. The pool operator shall submit to the local health department for approval the design of the notification systems prior to installation. The system shall activate a continuous clearly audible alarm that can be heard in all areas of the pool or a continuous visible alarm that can be seen in all areas of the pool. A sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-39(1),(2) and (3)(b) shall be posted next to the sound or visible alarm source. The sign shall state, "DO NOT USE THE POOL IF THIS ALARM IS ACTIVATED." and provide the phone number of the pool operator.

(iii) No operator shall allow the use of a pool that has a single drain with a safety vacuum release system if the safety vacuum release system is not functioning properly.

(b) Install an outlet system that includes no fewer than two suction outlets separated by no less than 3 feet, 0.914 meters, on the horizontal plane as measured from the centers of the drain covers or grates or located on two different planes and connected to pipes of equal diameter. The outlet system shall meet the requirements of R392-302-18(1)(a) through R392-302-18(1)(g) and 18(2) through (3)(c);

(c) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and installing (or having an existing) gravity drain system;

(d) Install an unblockable drain that meets the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c); or

(e) Any other system determined by the federal Consumer Products Safety Commission to be equally effective as, or better than, the systems described in 15 USC 8003 (c)(1)(A)(ii)(I), (III), or (IV) at preventing or eliminating the risk of injury or death associated with pool drainage systems.

R392-302-19. Overflow Gutters and Skimming Devices.

(1) A pool having a surface area of over 3,500 square feet, 325.15 square meters, must have overflow gutters. A pool having a

surface area equal to or less than 3,500 square feet, 325.15 square meters, must have either overflow gutters or skimmers provided.

(2) Overflow gutters must extend completely around the pool, except at steps, ramps, or recessed ladders. The gutter system must be capable of continuously removing pool water at 100 percent of the maximum flow rate. This system must be connected to the circulation system by means of a surge tank.

(3) Overflow gutters must be designed and constructed in compliance with the following requirements:

(a) The opening into the gutter beneath the coping or grating must be at least 3 inches, 7.62 centimeters, in height with a depth of at least 3 inches, 7.62 centimeters.

(b) Gutters must be designed to prevent entrapment of any part of a bather's body.

(c) The edge must be rounded so it can be used as a handhold and must be no thicker than 2.5 inches, 6.35 centimeters, for the top 2 inches, 5.08 centimeters.

(d) Gutter outlet pipes must be at least 2 inches, 5.08 centimeters, in diameter. The outlet grates must have clear openings and be equal to at least one and one-half times the cross sectional area of the outlet pipe.

(4) Skimmers complying with NSF/ANSI 50-2015 standards, which is incorporated by reference, or equivalent are permitted on any pool with a surface area equal to or less than 3,500 square feet, 325.15 square meters. At least one skimming device must be provided for each 500 square feet, 46.45 square meters, of water surface area or fraction thereof. Where two or more skimmers are required, they must be spaced to provide an effective skimming action over the entire surface of the pool.

(5) Skimming devices must be built into the pool wall and must meet the following general specifications:

(a) The piping and other components of a skimmer system must be designed for a total capacity of at least 80 percent of the maximum flow rate of the circulation system.

(b) Skimmers must be designed with a minimum flow rate of 25 gallons, 94.64 liters, per minute and a maximum flow rate of 55 gallons, 208.12 liters, per minute. The local health department may allow a higher maximum flow through a skimmer up to the skimmer's NSF rating if the piping system is designed to accommodate the higher flow rates. Alternatively, skimmers may also be designed with a minimum of 3.125 gallons, 11.83 liters, to 6.875 gallons, 26.02 liters, per lineal inch, 2.54 centimeters, of weir.

(6) Each skimmer weir must be automatically adjustable and must operate freely with continuous action to variations in water level over a range of at least 4 inches, 10.16 centimeters. The weir must operate at all flow variations. Skimmers shall be installed with the normal operating level of the pool water at the midpoint of the skimmer opening or in accordance with the manufacturer's instructions.

(7) An easily removable and cleanable basket or screen through which all overflow water passes, must be provided to trap large solids.

(8) The skimmer must be provided with a system to prevent air-lock in the suction line. The anti-air-lock may be accomplished through the use of an equalizer pipe or a surge tank or through any other arrangement approved by the Department that will assure a sufficient amount of water for pump suction in the event the pool water drops below the weir level. If an equalizer pipe is used, the following requirements must be met:

(a) An equalizer pipe must be sized to meet the capacity requirements for the filter and pump;

(b) An equalizer pipe may not be less than 2 inches, 5.08 centimeters, in diameter and must be designed to control velocity through the pipe in accordance with section R392-302-16(3);

(c) This pipe must be located at least 1 foot, 30.48 centimeters, below a valve or equivalent device that will remain tightly closed under normal operating conditions. In a shallow pool, such as a wading pool, where an equalizer outlet can not be submerged at least one foot below the skimmer valve, the equalizer pipe shall be connected to a separate dedicated outlet with an anti-entrapment outlet cover in the floor of the pool that meets the requirements of ANSI/APSP-16 2011, as incorporated in 16 CFR 1450.3 (July 5, 2011); and

(d) The equalizer pipe must be protected with a cover or grate that meets the requirements of ANSI/APSP-16 2011, as incorporated in 16 CFR 1450.3 (July 5, 2011), and is sized to accommodate the design flow requirement of R392-302-19(5).

(9) The operator shall maintain proper operation of all skimmer weirs, float valves, check valves, and baskets. Skimmer baskets shall be maintained in a clean and sanitary condition.

(10) Where skimmers are used, a continuous handhold is required around the entire perimeter of the pool except in areas of the pool that are zero depth and shall be installed not more than 9 inches, 2.86 centimeters, above the normal operating level of the pool. The decking, coping, or other material may be used as the handhold so long as it has rounded edges, is slip-resistant, and does not exceed 3.5 inches, 8.89 centimeters, in thickness. The overhang of the coping, decking, or other material must not exceed 2 inches, 5.08 centimeters, nor be less than 1 inch, 2.54 centimeters beyond the pool wall. An overhang may be up to a maximum of 3 inches to accommodate an automatic pool cover track system.

R392-302-20. Filtration.

(1) The filter system must provide for isolation of individual filters for backwashing or other service.

(2) The filtration system must be designed to allow the pool operator to easily observe the discharge backwash water from the filter in order to determine if the filter cells are clean.

(3) A public pool must use either a rapid sand filter, hi-rate sand filter, precoat media filter, a cartridge filter or other filter types deemed equivalent by the Department. All filters must comply with the standard NSF/ANSI 50-2015, which is incorporated by reference.

(4) Gravity and pressure rapid sand filter requirements.

(a) Rapid sand filters must be designed for a filter rate of 3 gallons, 11.36 liters, or less, per minute per square foot, 929 square centimeters, of bed area at time of maximum head loss. The filter bed surface area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover.

(b) The filter system must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filters. Air-relief valves must be provided at or near the high point of the filter or piping system.

(c) The filter system must be designed with necessary valves and piping to permit:

(i) filtering of all pool water;

(ii) individual backwashing of filters to a sanitary sewer at a minimum rate of 15 gallons, 56.78 liters, per minute per square foot, 929 square centimeters, of filter area;

(iii) isolation of individual filters;

(iv) complete drainage of all parts of the system;

(v) necessary maintenance, operation and inspection in a convenient manner.

(d) Each pressure type filter tank must be provided with an access opening of at least a standard size 11 inch, 27.94 centimeters, by 15 inch, 38.10 centimeters, manhole with a cover.

(5) Hi-rate sand filter requirements.

(a) Hi-rate sand filters must be designed for a filter rate of less than 18 gallons, 68.14 liters, per minute per square foot, 929 square centimeters, of bed area. The filter bed area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover. Minimum flow rates must be at least 13 gallons, 49.21 liters, per minute per square foot, 929 square centimeters, of bed area. The minimum flow rate requirement may be reduced to a rate of no less than 10 gallons per minute per square foot of bed area where a multiple filter system is provided, and where the system includes a valve or other means after the filters which is designed to regulate the backwash flow rate and to assure that adequate backwash flow can be achieved through each filter per the filter manufacturer's requirements.

(b) The filter tank and all components must be installed in compliance with the manufacturer's recommendations.

(c) An air-relief valve must be provided at or near the high point of the filter.

(d) The filter system must be provided with an influent pressure gauge to indicate the condition of the filter.

(6) Vacuum or pressure type precoat media filter requirements.

(a) The filtering area must be compatible with the design pump capacity as required by R392-302-16(7). The design rate of filtration may not exceed 2.0 gallons per minute per square foot, 7.57 liters per 929 square centimeters, of effective filtering surface without continuous body feed, nor greater than 2.5 gallons per minute per square foot, 9.46 liters per 929 square centimeters, with continuous body feed.

(b) Where body feed is provided, the feeder device must be accurate to within 10 percent, must be capable of continual feeding within a calibrated range, and must be adjustable from two to six parts per million. The device must feed at the design capacity of the circulation pump.

(c) Where fabric is used, filtering area must be determined on the basis of effective filtering surfaces.

(d) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations.

(e) If a precoat media filter is supplied with a potable water supply, then the water must be delivered through an air gap.

(f) The filter plant must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filter. In vacuum-type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off device must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(g) A filter must be designed to facilitate cleaning by one or more of the following methods: backwashing, air-bump-assist backwashing, automatic or manual water spray, or agitation.

(h) The filter system must provide for complete and rapid draining of the filter.

(i) Diatomaceous earth filter backwash water must discharge to the sanitary sewer system through a separation tank. The separation tank must have a sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-39(1), (2) and (3)(b) warning the user not to start up the filter pump without first opening the air relief valve.

(j) Personal protection equipment suitable for preventing inhalation of diatomaceous earth or other filter aids must be provided.

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(7) The Department may waive NSF/ANSI 50-2015, which is incorporated by reference, standards for precoat media filters and approve site-built or custom-built vacuum precoat media filters, if the precoat media filter elements are easily accessible for cleaning by hand hosing after each filtering cycle. Site-built or custom-built vacuum precoat media filters must comply with all design requirements as specified in Subsection R392-302-20(6). Any design which provides the equivalent washing effectiveness as determined by the Department may be acceptable. Where the Department or the local health department determines that a potential cross-connection exists, a hose bib in the vicinity of the filter to facilitate the washing operation must be equipped with a vacuum breaker listed by the International Association of Plumbing and Mechanical Officials, IAPMO, the American Society of Sanitary Engineering, A.S.S.E., or other nationally recognized standard.

(8) Vacuum or pressure type cartridge filter requirements.

(a) Sufficient filter area must be provided to meet the design pump capacity as required by Subsection R392-302-16, Table 1.

(b) The designed rate of filtration may not exceed 0.375 gallons, 1.42 liters, per minute per square foot, 929 square centimeters, of effective filter area.

(c) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations. The filter element must be constructed of polyester fiber only.

(d) The filter must be fitted with influent and effluent pressure gauges, vacuum, or compound gauges to indicate the condition of the filter. In vacuum type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(e) Cleaning of cartridge type filters must be accomplished in accordance with the manufacturer's recommendations.

R392-302-21. Disinfectant and Chemical Feeders.

(1) A pool must be equipped with disinfectant dosing or generating equipment which conform to the NSF/ANSI 50-2015, which is incorporated by reference, standards relating to mechanical chemical feeding equipment, or be deemed equivalent by the Department.

(2) All chlorine dosing and generating equipment, including erosion feeders, or in-line electrolytic and brine/bath generators, shall be designed with a capacity to provide the following, depending on the intended use:

(a) Outdoor pools: 4.0 pounds of free available chlorine per day per 10,000 gallons of pool water; or

(b) Indoor pools: 2.5 pounds of free available chlorine per day per 10,000 gallons of pool water.

(3) Where oxidation-reduction potential controllers are used, the operator shall perform supervisory water testing, calibration checks, inspection and cleaning of sensor probes and chemical injectors in accordance with the manufacturer's recommendations. If specific manufacturer's recommendations are not made, the operator shall perform inspections, calibration checks, and cleaning of sensor probes at least weekly.

(4) Where compressed chlorine gas is used, the following additional features must be provided:

(a) Chlorine and chlorinating equipment must be located in a secure, well-ventilated enclosure separate from other equipment systems or equipment rooms. Such enclosures may not be below ground level. If an enclosure is a room within a building, it must be provided with vents near the floor which terminate at a location out-of-doors.

Enclosures must be located to prevent contamination of air inlets to any buildings and areas used by people. Forced air ventilation capable of providing at least one complete air change per minute, must be provided for enclosures.

(b) The operator shall not keep substances which are incompatible with chlorine in the chlorine enclosure.

(c) The operator shall secure chlorine cylinders to prevent them from falling over. The operator shall maintain an approved valve stem wrench on the chlorine cylinder so the supply can be shut off quickly in case of emergency. The operator shall keep valve protection hoods and cap nuts in place except when the cylinder is connected.

(d) A sign that meets the requirements of a "4 Inch Safety Sign" in R392-302-39(1), (2) and (3)(a) shall be attached to the entrance door to chlorine gas and equipment rooms that reads, "DANGER CHLORINE GAS" and display the United States Department of Transportation placard and I.D. number for chlorine gas.

(e) The chlorinator must be designed so that leaking chlorine gas will be vented to the out-of-doors.

(f) The chlorinator must be a solution feed type, capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere. Injector water must be furnished from the pool circulation system with necessary water pressure increases supplied by a booster pump. The booster must be interlocked with both the pool circulation pump and with a flow switch on the return line.

(g) Chlorine feed lines may not carry pressurized chlorine gas.

(h) The operator shall keep an unbreakable bottle of ammonium hydroxide, of approximately 28 percent solution in water, readily available for chlorine leak detection.

(i) A self-contained breathing apparatus approved by NIOSH for entering environments that are immediately dangerous to life or health must be available and must have a minimum capacity of fifteen minutes.

(j) The breathing apparatus must be kept in a closed cabinet located outside of the room in which the chlorinator is maintained, and must be accessible without use of a key or lock combination.

(k) The facility operator shall demonstrate to the local health department through training documentation, that all persons who operate, or handle gas chlorine equipment, including the equipment specified in Subsections R392-203-21(3)(h) and (i) are knowledgeable about safety and proper equipment handling practices to protect themselves, staff members, and the public from accidental exposure to chlorine gas.

(l) The facility operator or his designee shall immediately notify the local health department of any inadvertent escape of chlorine gas.

(5) Bactericidal agents, other than chlorine and bromine, and their feeding apparatus may be acceptable if approved by the Department. Each bactericidal agent must be registered by the U.S. Environmental Protection Agency for use in swimming pools.

(6) Equipment of the positive displacement type and piping used to apply chemicals to the water must be sized, designed, and constructed of materials which can be cleaned and maintained free from clogging at all times. Materials used for such equipment and piping must be resistant to the effects of the chemicals in use.

(7) Notwithstanding Subsection R392-302-3(1), all pools must comply with Subsection 21(7) by January 31, ~~2021. All chemical feed systems must be wired electrically to the main circulation pump so that the operation of these systems is dependent upon the operation of the main circulation pump. If a chemical feed system has an independent timer, the main circulation pump and chemical feed system timer must be interlocked.~~ 2023. All chemical feed systems must

include two layers of interlocking protection for a low or no flow condition so that the operation of the chemical feeders is dependent upon the operational flow of the main circulation system. The functionality of the interlocking shall be verified by the operator and documented to the local health department. This interlocking shall be accomplished through an electrical interlock consisting of both:

(a) A flow meter or flow switch at the chemical controller; and

(b) Chemical feeders wired electrically to the circulation system. This may include the use of a differential pressure switch, a pump power monitor, or other suitable means.

R392-302-22. Safety Requirements and Lifesaving Equipment.

(1) Areas of a public pool with water depth greater than six feet or a width greater than forty feet and a depth greater than four feet where a lifeguard is required under Subsection R392-302-30(2) shall provide for a minimum number of elevated lifeguard stations in accordance with Table 2. Elevated lifeguard stations shall be located to provide a clear unobstructed view of the pool bottom by lifeguards on duty.

(2) A public pool must have at least one unit of lifesaving equipment. One unit of lifesaving equipment must consist of the following: a Coast Guard-approved ring buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet and a life pole or shepherd's crook type pole with blunted ends and a minimum length of 12 feet, 3.66 meters. The facility operator may substitute a rescue tube for a ring buoy, a shepherd crook, and a life pole where lifeguard service is provided. Additional units must be provided at the rate of one for each 2,000 square feet, 185.8 square meters, of surface area or fraction thereof. The operator of a pool that has lifeguard services shall provide at least one backboard designed with straps and head stabilization capability.

(3) A public pool must be equipped with a first aid kit which includes a minimum of the following items:

- 2 Units eye dressing packet;
- 2 Units triangular bandages;
- 1 CPR shield;
- 1 scissors;
- 1 tweezers;
- 6 pairs disposable medical exam gloves; and

Assorted types and sizes of the following: self adhesive bandages, compresses, roller type bandages and bandage tape.

(a) The operator shall keep the first-aid kit filled, available, and ready for use.

(4) Lifesaving equipment must be mounted in readily accessible, conspicuous places around the pool deck. The operator shall maintain it in good repair and operable condition. The operator and lifeguards shall prevent the removal of lifesaving equipment or use of it for any reason other than its intended purpose.

(5) Where no lifeguard service is provided in accordance with Subsection R392-302-30(2), a warning sign that meets the requirements of a "4 Inch Safety Sign" in R392-302-39(1), (2) and (3)(a) shall be posted. The sign shall state: WARNING - NO LIFEGUARD ON DUTY. In addition, the sign shall state in text that meets the requirements of "2 Inch Safety Sign" in R392-302-39(1), (2) and (3)(b) "BATHERS SHOULD NOT SWIM ALONE", and CHILDREN 14 AND UNDER SHALL NOT USE POOL WITHOUT RESPONSIBLE ADULT SUPERVISION.

(6) Where lifeguard service is required, the facility must have a readily accessible area designated and equipped for emergency first aid care.

TABLE 2

	Safety Equipment	
	POOLS WITH LIFEGUARD	POOLS WITH NO LIFEGUARD
Elevated Station	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction	None
Backboard	1 per facility	None
Room for Emergency Care	1 per facility	None
Ring Buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet, 3.05 meters	None	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction
Rescue Tube (used as a substitute for ring buoys, shepherd crook, lifepole when lifeguards are present)	1 per 2,000	None
Life Pole or Shepherds Crook	None	1 per 2,000 sq. ft., 185, sq. meters, of pool area or fraction
First Aid Kit	1 per facility	1 per facility

R392-302-23. Lighting, Ventilation and Electrical Requirements.

(1) A pool constructed after September 16, 1996 may not be used for night swimming in the absence of underwater lighting. The local health officer may grant an exemption to this if the pool operator demonstrates that a 6 inch, 15.24 centimeters, diameter black disk on a white background placed in the deepest part of the pool can be clearly observed from the pool deck during night time hours. The local health department shall keep a record of this exemption on file. The pool operator shall keep a record of this exemption on file at the facility.

(2) Where night swimming is permitted and underwater lighting is used, artificial lighting shall be provided so that all areas of the pool, including the deepest portion of the pool shall be visible. Underwater lights shall provide illumination equivalent to 0.5 watt of incandescent lamp light per square foot, 0.093 square meter, of pool water surface area. The Local Health Officer may waive underwater lighting requirements if overhead lighting provides a minimum of 15 foot candles, 161 lux, illumination over the entire pool surface.

(3) Where night swimming is permitted and underwater luminaires are used, area lighting must be provided for the deck areas and directed away from the pool surface as practical to reduce glare. The luminance must be at least 5 horizontal foot candles of light per square foot, 929 square centimeters, of deck area, but less than the luminance level for the pool shell.

(4) Electrical wiring must conform with Article 680 of the National Electrical Code as incorporated under Title 15a, State Construction and Fire Codes Act.

(a) Wiring may not be routed under a pool or within the area extending 5 feet, 1.52 meters, horizontally from the inside wall of the pool as provided in Article 680 of the National Electric Code as incorporated under Title 15a, State Construction and Fire Codes Act,

without the written approval of the Department. The Department may deny the installation and use of any electrical appliance, device, or fixture, if its power service is routed under a pool or within the area extending 5 feet, 1.52 meters, horizontally from the inside wall of the pool, except in the following circumstances;

- (i) For underwater lighting,
- (ii) electrically powered automatic pool shell covers, and
- (iii) competitive judging, timing, and recording apparatus.

(5) Buildings containing indoor pools, pool equipment rooms, access spaces, bathhouses, dressing rooms, shower rooms, and toilet spaces must be ventilated in accordance with American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 62.1-2016, which is incorporated and adopted by reference.

R392-302-24. Dressing Rooms.

- (1) The operator shall maintain all areas and fixtures within dressing rooms in an operable, clean and sanitary condition.
- (2) Where dressing rooms are provided, the entrances and exits must be designed to break the line of sight into the dressing areas from other locations.
- (3) Dressing rooms must be constructed of materials that have smooth, non-slip surfaces, and are impervious to moisture.
- (4) Floors must slope to a drain and be constructed to prevent accumulation of water.
- (5) Carpeting may not be installed on dressing room floors.
- (6) Junctions between walls and floors must be covered.
- (7) Partitions between dressing cubicles must be raised at least 10 inches, 25.4 centimeters, above the floor or must be placed on continuous raised masonry or concrete bases at least 4 inches, 10.16 centimeters, high.
- (8) Lockers must be set either on solid masonry bases 4 inches, 10.16 centimeters, high or on legs elevating the bottom locker at least 10 inches, 25.4 centimeters, above the floor.
 - (a) Lockers must have louvers for ventilation.
 - (9) At least one covered waste receptacle must be provided in each dressing room.

R392-302-25. Restroom and Shower Facilities.

- (1) The facility shall provide patrons access to a restroom with shower facilities in accordance with Table 4. These must be:
 - (a) located with convenient access for bathers; and
 - (b) located no further than 150 feet, 45.7 meters, from the pool deck; and
 - (c) designed to break the line of sight into the restroom and shower facilities.
- (2) The minimum number of toilets and showers must be based upon the designed maximum bather load. A minimum of two unisex facilities, or one for each gender, must be provided with access to the pool deck.
 - (a) Required numbers of fixtures must be based upon 50 percent of the total number of bathers being male and 50 percent being female, except where the facility is used exclusively by one gender.
 - (b) The minimum number of sanitary fixtures must be in accordance with Table 4 except as stated in R392-302-25(2)(b)(i).
 - (i) The local health department may reduce the minimum number of fixtures required by considering the number of fixtures available within 150 feet, 45.7 meters, of the pool deck. The minimum number of toilets with showers may not be reduced to less than two for unisex, or one for each gender, except where the bather load is 25 or less, in which case the minimum may be one unisex restroom with shower facility.

TABLE 4
Sanitary Fixture Minimum Requirements

Water Closets	
Male	Female
1:1 to 25	1:1 to 25
2:26 to 75	2:26 to 75
3:76 to 125	3:76 to 125
4:126 to 200	4:126 to 200
5:201 to 300	5:201 to 300
6:301 to 400	6:301 to 400

Over 400, add one fixture for each additional 200 males or 150 females.

Where urinals are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases may not be reduced to less than one half of the minimum specified.

- (3) Lavatories must be provided on the basis of one for each water closet up to four, then one for each two additional water closets.
- (4) The facility shall provide showers for each gender and shall enclose these showers for privacy. A minimum of one shower head for each gender must be provided for each 50 bathers or fraction thereof.
 - (a) Potable water must be provided at all shower heads. Water heaters and thermostatically controlled mixing valves must be inaccessible to bathers and must be capable of providing 2 gallons per minute, 7.57 liters per minute, of 90 degree F. water to each shower head for each bather.
 - (5) If unisex facilities are provided they may count toward the total number of required fixtures in this section as long as the unisex facilities are provided in multiples of two, unless as specified in R392-302-25(2)(b)(i).
 - (6) Soap must be dispensed at all lavatories and showers.
 - (a) Soap dispensers must be constructed of metal or plastic.
 - (b) Use of bar soap or any communal soap item is prohibited.
 - (c) Disposable towels or air dryers must be provided for all lavatories.
 - (7) Fixtures must be designed so that they may be readily cleaned. Fixtures must withstand frequent cleaning and disinfecting.
 - (8) The operator shall maintain all areas and fixtures within restroom facilities in an operable, clean and sanitary condition.
 - (9) Restroom and shower facilities must be constructed of materials that have smooth, non-slip surfaces, and are impervious to moisture.
 - (10) Floor must slope to a drain and be constructed to prevent accumulation of water.
 - (11) Carpeting may not be installed on restroom and shower floors.
 - (12) Junctions between walls and floors must be covered.
 - (13) At least one covered waste receptacle must be provided in each restroom.

R392-302-26. Visitor and Spectator Areas.

- (1) Visitors, spectators, or animals may not be allowed within 10 feet, 3.05 meters, of the pool. Service animals are exempt from this requirement.
- (2) Food or drink is prohibited within ten feet, 3.05 meters, of the pool. Beverages must be served in non-breakable containers.
- (3) Trash containers must be provided in visitor and spectator areas. The entire area must be kept free of litter and maintained in a clean, sanitary condition.

R392-302-27. Disinfection and Quality of Water.

(1) Disinfection Process.

(a) A pool must be continuously disinfected by a product which:

(i) Is registered with the United States Environmental Protection Agency as a disinfecting process or disinfectant product for water;

(ii) Imparts a disinfectant residual which may be easily and accurately measured by a field test procedure appropriate to the disinfectant in use;

(iii) Is compatible for use with other chemicals normally used in pool water treatment;

(iv) Does not create harmful or deleterious effects on bathers if used according to manufacturer's specifications; and

(v) Does not create an undue safety hazard if handled, stored and used according to manufacturer's specifications.

(b) The concentration levels of the active disinfectant within the pool water shall be consistent with the label instructions of the disinfectant and with the minimum levels listed in Table 6 for all circumstances, bather loads, and the pH level of the water.

(i) At no time shall the concentration level of free available chlorine reach a level above ten parts per million while the facility is open to bathers.

(2) Products used to treat or condition pool water shall be used according to the product label.

(3) Testing Kits.

(a) An easy to operate pool-side disinfectant testing kit, compatible with the disinfectant in use and accurate to within 0.5 milligrams per liter, must be provided at each pool.

(b) If chlorine is the disinfectant used, it must be tested by the diethyl-p-phenylene diamine method, the leuco crystal violet method, or another test method approved by the Department.

(c) If cyanuric acid or stabilized chlorine is used, a testing kit for cyanuric acid, accurate to within 10.0 milligrams per liter must be provided.

(d) Expired test kit reagents may not be used.

(4) Chemical Quality of Water.

(a) If cyanuric acid is used to stabilize the free residual chlorine, or if one of the chlorinated isocyanurate compounds is used as the disinfecting chemical, the concentration of cyanuric acid in the water must be at least ten milligrams per liter, but may not exceed 100 milligrams per liter.

(b) The difference between the total chlorine and the free chlorine in a pool shall not be greater than 0.5 milligrams per liter. If the concentration of combined residual chlorine is greater than 0.5 milligrams per liter the operator shall breakpoint chlorinate the pool water to reduce the concentration of combined chlorine.

(c) Total dissolved solids shall not exceed 1,500 milligrams per liter over the startup total dissolved solids of the pool water.

(d) Total alkalinity must be within the range from 100 to 125 milligrams per liter for a plaster lined pool, 80 to 150 milligrams per liter for a spa pool lined with plaster, and 125 to 150 milligrams per liter for a pool lined with other approved construction materials.

(e) A calcium hardness of at least 200 milligrams per liter must be maintained.

(f) The saturation index value of the pool water must be within the range of positive 0.3 and minus 0.3. The saturation index shall be calculated in accordance with Table 5.

(5) Water Clarity and Temperature.

(a) The water must have sufficient clarity at all times that the drain grates or covers in the deepest part of the pool are readily visible.

As an alternative test for clarity, a black disk, six inches in diameter, must be readily visible if placed on a white field in the deepest part of the pool.

(b) Pool water temperatures for general use should be within the range of 82 degrees Fahrenheit, 28 degrees Celsius, to 86 degrees Fahrenheit, 30 degrees Celsius.

(c) The minimum water temperature for a pool is 78 degrees Fahrenheit, 26 degrees Celsius.

(d) The local health department may grant exemption to the pool water temperature requirements for a special purpose pool including a cold plunge pool, but may not exempt maximum hot water temperatures for a spa pool.

TABLE 5

CHEMICAL VALUES AND FORMULA FOR CALCULATING SATURATION INDEX

The formula for calculating the saturation index is:

$$SI = pH + TF + CF + AF - TDSF$$

SI means saturation index

TF means temperature factor

CF means calcium factor

mg/l means milligrams per liter

deg F means degrees Fahrenheit

AF means alkalinity factor

TDSF means total dissolved solids factor.

Temperature deg. F	TF	Calcium Hardness mg/l	CF	Total Alkalinity mg/l	AF
32	0.0	25	1.0	25	1.4
37	0.1	50	1.3	50	1.7
46	0.2	75	1.5	75	1.9
53	0.3	100	1.6	100	2.0
60	0.4	125	1.7	125	2.1
66	0.5	150	1.8	150	2.2
76	0.6	200	1.9	200	2.3
84	0.7	250	2.0	250	2.4
94	0.8	300	2.1	300	2.5
105	0.9	400	2.2	400	2.6
128	1.0	800	2.5	800	2.9

Total Dissolved Solids

mg/l	TDSF
0 to 999	12.1
1000 to 1999	12.2
2000 to 2999	12.3
3000 to 3999	12.4
4000 to 4999	12.5
5000 to 5999	12.55
6000 to 6999	12.6
7000 to 7999	12.65
each additional 1000, add	.05

If the SATURATION INDEX is 0, the water is chemically in balance.

If the INDEX is a minus value, corrosive tendencies are indicated.

If the INDEX is a positive value, scale-forming tendencies are indicated.

EXAMPLE: Assume the following factors:

pH 7.5; temperature 80 degrees F, 19 degrees C;

calcium hardness 235; total alkalinity 100; and total dissolved solids 999.

pH = 7.5

TF = 0.7

CF = 1.9

AF = 2.0

TDSF = 12.1

TOTAL: 7.5 + 0.7 + 1.9 + 2.0 - 12.1 = 0.0

This water is balanced.

TABLE 6

DISINFECTANT LEVELS AND CHEMICAL PARAMETERS

	POOLS	SPAS	SPECIAL PURPOSE
Stabilized Chlorine(2) (milligrams per liter)			
pH 7.2 to 7.6	2.0(1)	3.0(1)	2.0(1)
pH 7.7 to 8.0	3.0(1)	5.0(1)	3.0(1)
Non-Stabilized Chlorine(2) (milligrams per liter)			
pH 7.2 to 7.6	1.0(1)	2.0(1)	2.0(1)
pH 7.7 to 8.0	2.0(1)	3.0(1)	3.0(1)
Bromine (milligrams per liter)	4.0(1)	4.0(1)	4.0(1)
Iodine (milligrams per liter)	1.0(1)	1.0(1)	1.0(1)
pH	7.2 to 7.8	7.2 to 7.8	7.2 to 7.8
Total Dissolved Solids (TDS) over start-up TDS (milligrams per liter)	1,500	1,500	1,500
Cyanuric Acid (milligrams per liter)	10 to 100	10 to 100	10 to 100
Maximum Temperature (degrees Fahrenheit)	104	104	104
Calcium Hardness (milligrams per liter as calcium carbonate)	200(1)	200(1)	200(1)
Total Alkalinity (milligrams per liter as calcium carbonate)			
Plaster Pools	100 to 125	80 to 150	100 to 125
Painted or Fiberglass Pools	125 to 150	80 to 150	125 to 150
Saturation Index (see Table 5)	Plus or Minus 0.3	Plus or Minus 0.3	Plus or Minus 0.3
Chloramines (combined chlorine residual, milligrams per liter)	0.5	0.5	0.5

Note (1): Minimum Value

Note (2): Maximum value of free chlorine is ten milligrams per liter as stated in Subsection 27(1)(b)(i).

(6) Pool Water Sampling and Testing.

(a) At the direction of the Local Health Officer, the pool operator or a representative of the local health department shall collect a pool water sample from each public pool at least once per month or at a more frequent interval as determined by the Local health Officer. A seasonal public pool during the off season and any public pool while it is temporarily closed, if the pool is closed for an interval exceeding half of that particular month, are exempt from the requirement for monthly sampling. The operator or local health department representative shall submit the pool water sample to a laboratory approved under R444-14 to perform total coliform and heterotrophic plate count testing.

(b) The operator or local health department shall have the laboratory analyze the sample for total coliform and heterotrophic plate count using methods allowed under R444-14-4.

(c) If the operator submits the sample as required by local health department, the operator shall require the laboratory to report sample results within five working days to the local health department and operator.

(d) A pool water sample fails bacteriological quality standards if it:

(i) Contains more than 200 bacteria per milliliter, as determined by the heterotrophic plate count or

(ii) Shows a positive test for presence of coliform or contains more than 1.0 coliform organisms per 100 milliliters.

(e) Not more than 1 of 5 samples may fail bacteriological quality standards. Failure of any bacteriological water quality sample shall require submission of a second sample within one lab receiving day after the sample report has been received.

R392-302-28. Cleaning Pools.

(1) The operator shall clean the bottom of the pool as often as needed to keep the pool free of visible dirt.

(2) The operator shall clean the surface of the pool as often as needed to keep the pool free of visible scum or floating matter.

(3) The operator shall keep all pool shell surfaces, handrails, floors, walls, and ceilings of rooms enclosing pools, dressing rooms and equipment rooms clean, sanitary, and in good repair.

(4) The operator shall respond to all discovered releases of fecal matter into a public pool in accordance with the following protocol: Centers for Disease Control and Prevention. Fecal Accident Response Recommendations for Pool Staff and Notice to Readers--Revised Guidance for Responding to Fecal Accidents in Disinfected Swimming Venues. Morbidity Mortality Weekly Report February 15, 2008 Volume 57, pages 151-152 and May 25, 2001 Volume 50, pages 416-417, which are incorporated by reference. The operator shall include in the records required in R392-302-29(2) information about all fecal matter releases into a public pool. The records shall include date, time, and where the fecal matter was discovered; whether the fecal matter was loose or solid; and the responses taken. The Local Health Officer may approve the alteration of the required Centers for Disease Control protocol for the hyperchlorination step for a loose fecal release if an operator is able to achieve a 99.9 percent kill or removal of cryptosporidium oocysts in the entire pool system by another method such as ultraviolet light, ozone, or enhanced filtration prior to allowing bathers to reenter the pool.

R392-302-29. Supervision of Pools.

(1) Public pools must be supervised by an operator that is certified or recertified by a program of training and testing that is approved by the Utah Department of Health. The local health department may determine the appropriate numbers of pools any one certified operator may supervise using criteria based on pool compliance history, local considerations of time and distance, and the individual operator's abilities.

(2) The pool operator must keep written records of all information pertinent to the operation, maintenance and sanitation of each pool facility. Records must be available at the facility and be readily accessible. The pool operator must make records available to the Department or the local health department having jurisdiction upon their request. These records must include disinfectant residual in the pool water, pH and temperature of the pool water, pool circulation rate, quantities of chemicals and filter aid used, filter head loss, filter washing schedule, cleaning and disinfecting schedule for pool decks and dressing rooms, occurrences of fecal release into the pool water or onto the pool deck, bather load, and other information required by the local health department. The pool operator must keep the records at the facility, for at least two operating seasons.

(3) The public pool owner, in consultation with the qualified operator designated in accordance with R392-302-29(1), shall develop an operation, maintenance and sanitation plan for the pool that will assure that the pool water meets the sanitation and quality standards set forth in this rule. The plan shall be in writing and available for inspection by the local health department. At a minimum the plan shall include the frequency of measurements of pool disinfectant residuals, pH and pool water temperature that will be taken. The plan shall also specify who is responsible to take and record the measurements.

(4) If the public pool water samples required in Section R392-302-27(5) fail bacteriological quality standards as defined in Section R392-302-27(5), the local health department shall require the public pool owner and qualified operator to develop an acceptable plan to correct the problem. The local health department may require more frequent water samples, additional training for the qualified operator and also may require that:

(a) the pool operator measure and record the level of disinfectant residuals, pH, and pool water temperature four times a day (if oxidation reduction potential technology is used in accordance with this rule, the local health department may reduce the water testing frequency requirement) or

(b) the pool operator read flow rate gauges and record the pool circulation rate four times a day.

(5) Bather load must be limited if necessary to insure the safety of bathers and pool water quality as required in Section R392-302-27.

(6) A sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-39(1), (2) and (3)(b) must be posted in the immediate vicinity of the pool stating the location of the nearest telephone and emergency telephone numbers which shall include 911 or other local emergency numbers.

R392-302-30. Supervision of Bathers.

(1) Access to the pool must be prohibited when the facility is not open for use.

(2) Lifeguard service must be provided at a public pool if direct fees are charged or public funds support the operation of the pool. If a public pool is normally exempt from the requirement to provide lifeguard services, but is used for some purpose that would require lifeguard services, then lifeguard services are required during the period of that use. For other pools, lifeguard service must be provided, or signs must be clearly posted indicating that lifeguard service is not provided.

(3) The Department shall approve programs which provide training and certifications to lifeguards. These programs shall meet the standards set in Subsection R392-302-30(4)(a).

(4) A lifeguard must:

(a) Obtain training and certification in:

(i) lifeguarding by the American Red Cross or an equivalent program; and

(ii) professional level skills in CPR, AED use, and other resuscitation skills consistent with the 2010 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care; and

(iii) first aid consistent with the 2010 American Heart Association Guidelines for First Aid.

(b) Be on duty at all times when the pool is open to use by bathers, except as provided in Subsection R392-302-30(2); and

(c) Have full authority to enforce all rules of safety and sanitation.

(5) A lifeguard shall not have any other duties to perform other than the supervision and safety of bathers while he or she is assigned lifeguarding duties.

(6) Where lifeguard service is required, the number of lifeguards must be sufficient to allow for continuous supervision of all bathers, and surveillance over total pool floor areas.

(7) Lifeguards must be relieved in the rotation of lifeguarding responsibilities at least every 30 minutes with a work break of at least 10 minutes every hour.

(8) The facility operator and staff are responsible for the enforcement of the following personal hygiene and behavior rules:

(a) A bather using the facility must take a cleansing shower before entering the pool enclosure. A bather leaving the pool to use the toilet must take a second cleansing shower before returning to the pool enclosure.

(b) The operator and lifeguards shall exclude any person having a communicable disease transmissible by water from using the pool. A person having any exposed sub-epidermal tissue, including open blisters, cuts, or other lesions may not use a public pool. A person who has or has had diarrhea within the last two weeks caused by an unknown source or from any communicable or fecal-borne disease may not enter any public pool.

(c) Any child under three years old, any child not toilet trained, and anyone who lacks control of defecation shall wear a water resistant swim diaper and waterproof swimwear. Swim diapers and waterproof swimwear shall have waist and leg openings fitted such that they are in contact with the waist or leg around the entire circumference.

(d) Running, boisterous play, or rough play, except supervised water sports, are prohibited.

(e) Where no lifeguard service is provided, children 14 and under shall not use a pool without responsible adult supervision. Children under the age of five shall not use a spa or hot tub.

(f) The lifeguards and operator shall ensure that diapers shall be changed only in restrooms not at poolside. The person or persons who change the diaper must wash their hands thoroughly with soap before returning to the pool. The diapered person using a swim diaper and waterproof swimwear discussed in subsection R392-302-30(7)(c) above must undergo a cleansing shower before returning to the pool.

(g) Placards that meet the requirements of "Rule Sign" in R392-302-39(1), (2) and (3)(c) and embody the above rules of personal hygiene and behavior must be conspicuously posted in the pool enclosure and in the dressing rooms and lifeguard rooms (where applicable).

R392-302-31. Special Purpose Pools: Spa Pools.

(1) Spa pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of spa pools.

(a) Spa pool projects require consultation with the local health department having jurisdiction.

(2) This subsection supercedes R392-302-6(5). A spa pool shell may be a color other than white or light pastel.

(3) Spa pools shall meet the bather load requirement of R392-302-7(1)(a).

(4) A spa pool may not exceed a maximum water depth of 4 feet, 1.22 meters. The Department may grant exceptions to the maximum depth requirement for a spa pool designed for special purposes, such as instruction, treatment, or therapy.

(5) This subsection supercedes R392-302-12(1)(f). A spa pool may be equipped with a single entry/exit. A spa pool must be equipped with at least one handrail for each 50 feet, 15.24 meters, of perimeter, or portion thereof, to designate the point of entry and exit. Points of entry and exit must be evenly spaced around the perimeter of the spa pool and afford unobstructed entry and egress.

(6) This subsection supercedes R392-302-12(3)(c). In a spa pool where the bottom step serves as a bench or seat, the bottom riser may be a maximum of 14 inches, 35.56 centimeters.

(7) This subsection supercedes R392-302-13(1). A spa pool must have a continuous, unobstructed deck at least 3 feet, 91.44 centimeters, wide around 25 percent or more of the spa.

(8) This subsection supercedes R392-302-13(5). The Department may allow spa decks or steps made of sealed, clear-heart redwood.

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(9) A pool deck may be included as part of the spa deck if the pools are separated by a minimum of 5 feet, 1.52 meters. An exception is allowed to the deck and pool separation requirements if a spa pool and another pool are constructed adjacent to each other and share a common pool sidewall which separates the two pools. The top surface of the common pool side wall may not exceed 18 inches, 45.7 centimeters, in width and shall have markings indicating "No Walking" or an icon that represents the same, provided in block letters at least four inches, 10.16 centimeters, in height, as required by R392-302-39(3)(a), in a contrasting color on the horizontal surface of the common wall. Additionally the deck space around the remainder of the spa shall be a minimum of five feet, 1.52 meters.

(10) This subsection supersedes R392-302-15. The local health officer may exempt a spa pool from depth marking requirements if the spa pool owner can successfully demonstrate to the local health officer that bather safety is not compromised by the elimination of the markings.

(11) A spa pool must have a minimum of one turnover every 30 minutes.

(12) Spa pool air induction systems shall meet the requirements of R392-302-16(12)(a) through (b). Jet or water agitation systems shall meet the requirements of R392-302-16(13).

(13) Spa pool filtration system inlets shall be wall-type inlets and the number of inlets shall be based on a minimum of one for each 20 feet, 6.10 meters, or fraction thereof, of pool perimeter.

(14) Spa pool outlets shall meet all of the requirements of subsections R392-302-18(1) through R392-302-18(4)(e); however, the following exceptions apply:

(a) Multiple spa outlets shall be spaced at least three feet apart from each other as measured from the centers of the drain covers or grates or a third drain shall be provided and the separation distance between individual outlets shall be at the maximum possible spacing.

(b) The Department may exempt an acrylic or fiberglass spa from the requirement to locate outlets at the deepest point in the pool if the outlets are located on side walls within three inches of the pool floor and a wet-vacuum is available on site to remove any water left in the pool after draining.

(15) A spa pool must have a minimum number of surface skimmers based on one skimmer for each 100 square feet, 9.29 square meters of surface area.

(16) A spa pool must be equipped with an oxidation reduction potential controller which monitors chemical demands, including pH and disinfectant demands, and regulates the amount of chemicals fed into the pool circulation system. A spa pool constructed and approved prior to September 16, 1996 is exempt from this requirement if it is able to meet bacteriological quality as required in Subsection R392-302-27(6)(e).

(17) A spa pool is exempt from the Section R392-302-22, except for Section R392-302-22(3).

(18) The maximum water temperature for a spa pool is 104 degrees Fahrenheit, 40 degrees Celsius.

(19) A spa pool shall meet the total alkalinity requirements of R392-302-27(3)(d).

(20) A spa pool must have a sign that meets the requirements of a "Rule Sign" in R392-302-39(1),(2) and (3)(c) which contains the following information:

(a) The word "caution" centered at the top of the sign.

(b) Elderly persons and those suffering from heart disease, diabetes or high blood pressure should consult a physician before using the spa pool.

(c) Persons suffering from a communicable disease transmissible via water may not use the spa pool. Persons using

prescription medications should consult a physician before using the spa.

(d) Individuals under the influence of alcohol or other impairing chemical substances should not use the spa pool.

(e) Bathers should not use the spa pool alone.

(f) Pregnant women should not use the spa pool without consulting their physicians.

(g) Persons should not spend more than 15 minutes in the spa in any one session.

(h) Children under the age of 14 must be accompanied and supervised by at least one responsible adult over the age of 18 years, when lifeguards are not on duty.

(i) Children under the age of five years are prohibited from bathing in a spa or hot tub.

(j) Running or engaging in unsafe activities or horseplay in or around the spa pool is prohibited.

(21) Water jets and air induction ports on spa pools must be controlled by an automatic timer which limits the duration of their use to 15 minutes per each cycle of operation. The operator shall mount the timer switch in a location which requires the bather to exit the spa before the timer can be reset for another 15 minute cycle or part thereof.

(a) A clearly labeled emergency shutoff or control switch for the purpose of stopping the motor(s) which provide power to the recirculation system, jet system, and water feature systems shall be installed at a point readily accessible to the users and not less than five feet (1.5 meters) away, adjacent to, and within sight of the spa. Non-lifeguarded pools shall have an audible alarm sound when this emergency shutoff is used.

R392-302-32. Special Purpose Pools: Wading Pools.

(1) Wading pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of wading pools.

(a) Wading pool projects require consultation with the local health department having jurisdiction.

(2) Wading pools shall be separated from other pools. Wading pools may not share common circulation, filtration, or chemical treatment systems, or walls.

(3) A wading pool may not exceed a maximum water depth of 2 feet, 60.96 centimeters.

(4) The deck of a wading pool may be included as part of adjacent pool decks.

(5) A wading pool must have a minimum of one turnover per hour and have a separate circulation system.

(6) A wading pool that utilizes wall inlets shall have a minimum of two equally spaced inlets around its perimeter at a minimum of one in each 20 feet, 6.10 meters, or fraction thereof.

(7) A wading pool shall have drainage to waste through a quick opening valve to facilitate emptying the wading pool should accidental bowel discharge or other contamination occur.

R392-302-33. Special Purpose Pools: Hydrotherapy Pools.

(1) Hydrotherapy pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of hydrotherapy pools.

(a) Hydrotherapy pool projects require consultation with the local health department having jurisdiction.

(2) A hydrotherapy pool shall at all times comply with R392-302-27 Disinfection and Quality of Water, R392-302-28 Cleaning of Pools and R392-302-29 Supervision of Pools unless it is drained cleaned, and sanitized after each individual use.

(3) A hydrotherapy pool is exempt from all other requirements of R392-302, only if use of the hydrotherapy pool is restricted to therapeutic uses and is under the continuous and direct supervision of licensed medical or physiotherapy personnel.

(4) Local health departments may enter and examine the use of hydrotherapy pools to respond to complaints, to assure that use of the pool is being properly supervised, to examine records of testing and sampling, and to take samples to assure that water quality and cleanliness are maintained.

(5) A local health officer may grant an exception to section R392-302-31(4)(a) if the operator of the hydrotherapy pool can demonstrate that the exception will not compromise pool sanitation or the health or safety of users.

R392-302-34. Special Purpose Pools: Water Slides.

(1) Water slides must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of water slides.

(a) Water slide projects require consultation with the local health department having jurisdiction.

(2) Slide Flumes.

(a) The flumes within enclosed slides must be designed to prevent accumulation of hazardous concentrations of toxic chemical fumes.

(b) All curves, turns, and tunnels within the path of a slide flume must be designed so that body contact with the flume or tunnel does not present an injury hazard. The slide flume must be banked to keep the slider's body safely inside the flume.

(c) The flume must be free of hazards including joints and mechanical attachments separations, splinters, holes, cracks, or abrasive characteristics.

(d) Wall thickness of flumes must be thick enough so that the continuous and combined action of hydrostatic, dynamic, and static loads and normal environmental deterioration will not cause structural failures which could result in injury. The facility operator or owner shall insure that repairs or patchwork maintains original designed levels of safety and structural integrity. The facility operator or owner shall insure that repairs or patchwork is performed in accordance with manufacturer's guidelines.

(e) Multiple-flume slides must have parallel exits or be constructed, so that the projected path of their centerlines do not intersect within a distance of less than 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

(f) A slide flume exit must provide safe entry into the splash pool. Design features for safe entry include a water backup, and a deceleration distance adequate to reduce the slider's exit velocity to a safe speed. Other methods may be acceptable if safe exiting from the slide flume is demonstrated to the Department.

(3) Flume Clearance Distances.

(a) A distance of at least 4 feet, 1.22 meters, must be provided between the side of a slide flume exit and a splash pool side wall.

(b) The distance between nearest sides of adjacent slide flume exits must be at least 6 feet, 1.83 meters.

(c) A distance between a slide flume exit and the opposite end of the splash pool, excluding steps, must be at least 20 feet, 6.10 meters.

(d) The distance between the side of the vehicle flume exit and the pool side wall must be at least 6 feet, 1.83 meters.

(e) The distance between nearest sides of adjacent vehicle slide flume exits must be at least 8 feet, 2.44 meters.

(f) The distance between a vehicle slide flume exit and the opposite end of the splash pool, excluding steps, must be long enough

to provide clear, unobstructed travel for at least 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

(4) Splash Pool Dimensions.

(a) The depth of a water slide splash pool at the end of a horizontally oriented slide flume exit must be at least 3 feet, 9.14 centimeters, but may be required to be deeper if the pool design incorporates special features that may increase risks to bathers as determined by the Department.

(b) The depth must be maintained in front of the flume for a distance of at least 20 feet, 6.10 meters, from which point the splash pool floor may have a constant slope upward. Slopes may not be designed or constructed steeper than a 1 to 10 ratio.

(c) The operating water depth of a vehicle slide splash pool, at the flume exit, must be a minimum of 3 feet 6 inches, 1.07 meters. This depth must be maintained to the point at which forward travel of the vehicle ends. From the point at which forward travel ends, the floor may have a constant upward slope to the pool exit at a ratio not to exceed 1 to 10.

(d) The Department may waive minimum depth and distance requirements for a splash pool and approve a special exit system if the designer can demonstrate to the Department that safe exit from the flume into the splash pool can be assured.

(e) A travel path with a minimum width of 4 feet, 1.22 meters, must be provided between the splash pool deck and the top of the flume.

(5) General Water Slide Requirements.

(a) Stairways serving a slide may not retain standing water. Stairways must have non-slip surfaces and shall conform to the requirements of applicable building codes.

(b) Vehicles, including toboggans, sleds, inflatable tubes, and mats must be designed and manufactured of materials which will safeguard the safety of riders.

(c) Water slides shall meet the bather load requirements of R392-302-7(1)(d).

(6) Water Slide Circulation Systems.

(a) Splash pool overflow reservoirs must have sufficient volume to contain at least two minutes of flow from the splash pool overflow. Splash pool overflow reservoirs must have enough water to insure that the splash pool will maintain a constant water depth.

(b) The circulation and filtration equipment of a special purpose pool must be sized to turn over the entire system's water at least once every hour.

(c) Splash pool overflow reservoirs must circulate water through the water treatment system and return when flume supply service pumps are turned off.

(d) Flume pumps and motors must be sized, as specified by the flume manufacturer, and must meet all NSF/ANSI 50-2015, which is incorporated by reference, Section 6. Centrifugal Pumps, standards for pool pumps.

(e) Flume supply service pumps must have check valves on all suction lines.

(f) The splash pool and the splash pool overflow reservoir must be designed to prohibit bather entrapment as water flows from the splash pool to the overflow reservoir.

(g) Perimeter overflow gutter systems must meet the requirements of Section R392-302-19, except that gutters are not required directly under slide flumes or along the weirs which separate splash pools and splash pool overflow reservoirs.

(h) Pump reservoir areas must be accessible for cleaning and maintenance.

(7) Slide Signs.

NOTICES OF PROPOSED RULES

(a) Signs that meet the requirements in R392-302-39(1), (2) and (3)(c) and reflecting the slide manufacturer's recommendations must be mounted adjacent to the entrance to a water slide and at other appropriate areas in accordance with R392-302-39(1). The heading of the signs shall be, "SLIDE INSTRUCTIONS, WARNINGS, AND REQUIREMENTS". The body of the signs shall state at least the following:

- (i) Instructions including:
 - (A) proper riding position,
 - (B) expected rider conduct,
 - (C) dispatch procedures,
 - (D) exiting procedures, and
 - (E) obeying slide attendants or lifeguards.
- (ii) Warnings to include:
 - (A) slide characteristics such as speed, and
 - (B) depth of water in splash zone.

(iii) Requirements which include that riders being free of medical conditions identified by the manufacturer such as pregnancy, heart conditions, back conditions, or musculoskeletal conditions.

R392-302-35. Special Purpose Pools: Interactive Water Features.

(1) Interactive water features must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of interactive water features.

(a) Interactive water feature projects require consultation with the local health department having jurisdiction.

(2) All parts of the interactive water feature shall be designed, constructed, maintained, and operated so there are no slip, fall, or other safety hazards, and shall meet the standards of the State Construction Code Title 15a, State Construction and Fire Codes Act.

(3) Interactive water feature nozzles that spray from the ground level shall be flush with the ground, with openings no greater than one-half inch in diameter. Spray devices that extend above ground level shall be clearly visible.

(4) Areas adjacent to the water feature collection zones shall be sloped away at a minimum of two percent from the interactive water feature to deck drains or other approved surface water disposal systems. A continuous deck at least 3 feet, 0.91 meters, wide as measured from the edge of the collection zones must extend completely around the interactive water feature.

(5) Water discharged from all interactive water feature fountain or spray features shall freely drain by gravity flow through a main drain fitting to a below grade sump or collection system which discharges to a collector tank.

(6) All interactive water feature foggers and misters that produce finely atomized mists shall be supplied directly from a potable water source and not from the underground reservoir.

(7) The interactive water feature shall have an automated oxidation reduction potential (ORP) and pH controller installed and in operation whenever the feature is open for use. The controller shall be capable of maintaining disinfection and pH levels within the requirements for special purpose pools listed in Table 6. In addition, an approved secondary disinfection system that meets the requirements of in R392-302-38(4)(c) through (4)(f)(iii) shall be installed and in operation whenever the feature is open for use.

(8) A sign that meets the requirement R392-302-39(1), (2) and (3)(c) stating:

- (a) The word "CAUTION" centered at the top of the sign.
- (b) No running on or around the interactive water feature.
- (c) Children under the age of 12 must have adult supervision.

(d) No food, drink, glass or pets are allowed on or around the interactive water feature.

(e) For the health of all users restrooms shall be used for the changing of diapers.

(9) If the interactive water feature is operated at night, five foot-candles of light shall be provided in the all areas of the water feature. Lighting shall be installed in accordance with manufacturer's specifications and approved for such use by UL or NSF.

(10) Hydraulics.

(a) The interactive water feature filter system shall be capable of filtering and treating the entire water volume of the water feature within 30 minutes.

(b) The interactive water feature filter system shall draft from the collector tank and return filtered and treated water to the tank via a minimum of 4 equally spaced inlet fittings. Inlet spacing shall also meet the requirements of section R392-302-17.

(c) The interactive water feature circulation system shall be on a separate loop and not directly interconnected with the interactive water feature pump.

(d) The suction intake of the interactive water feature pump in the underground reservoir shall be located adjacent to the circulation return line and shall be located to maximize uniform circulation of the tank.

(e) An automated water level controller shall be provided for the interactive water feature, and the drinking water line that supplies the feature shall meet the requirements of R392-302-4.

(f) The water velocity through the feature nozzles of the interactive water features shall meet manufacturer's specifications and shall not exceed 20 feet per second.

(g) The minimum size of the interactive water feature sump or collector tank shall be equal to the volume of 3 minutes of the combined flow of all feature pumps and the filter pump. Access lids or doors shall be provided to the sump and collector tank. The lids or doors shall be sized to allow easy maintenance and shall provide security from unauthorized access. Stairs or a ladder shall be provided as needed to ensure safe entry into the tank for cleaning and inspection.

(h) The suction intake from the interactive water feature circulation pump shall be located in the lowest portion of the underground reservoir.

(i) A means of vacuuming and completely draining the interactive water feature tank shall be provided.

(11) An interactive water feature is exempt from:

(a) The wall requirement of section R392-302-10;

(b) The ladder, recessed step, stair, and handrail requirements of section R392-302-12;

(c) The fencing and access barrier requirements of section R392-302-14;

(d) The outlet requirements of section R392-302-18 except any submerged outlet that may create an entrapment hazard to users of the feature shall meet the requirements of R392-302-18(1)(a);

(e) The overflow gutter and skimming device requirements of section R392-302-19;

(f) The safety and lifesaving requirements of section R392-302-22, except that an interactive water feature shall be equipped with a first aid kit as required by subsection R392-302-22(3);

(g) The restroom and shower facility requirements of section R392-302-25 as long as toilets, lavatories and changing tables are available within 150 feet;

(h) The pool water clarity and temperature requirements of subsection R392-302-27(5);

(i) The diving area requirement of R392-302-11 except R392-302-11(4)(a) and (b) may be required by the Local Health Officer if the Local Health Officer determines that a diving risk exists;

(j) The depth marking and safety rope requirements of R392-302-15;

(k) The underwater lighting requirements of R392-302-23(1),(2), and (3);

(l) The supervision of bathers requirements of R392-302-30;

(m) The bather load requirements of R392-302-7; and

(n) The pool color requirements of R392-302-6(5).

(12) All interactive water features shall be constructed with a collection zone that meets the requirements of R392-302-6. Vinyl liners that are not bonded to a collection zone surface are prohibited. A vinyl liner that is bonded to a collection zone shall have at least a 60 millimeter thickness. Sand, clay, or earth collection zones are prohibited.

(a) The collection zone material of an interactive water feature must withstand the stresses associated with the normal uses of the interactive water feature and regular maintenance. The collection zone structure and associated tanks shall withstand, without any damage to the structure, the stresses of complete emptying of the interactive water feature and associated tanks without shoring or additional support.

(b) The collection zone of an interactive water feature must be designed and constructed in a manner that provides a smooth, easily cleanable, non-abrasive, and slip resistant surface. The collection zone surfaces must be free of cracks or open joints with the exception of structural expansion joints or openings that allow water to drain to the collector tank. Openings that drain to the collector tank shall not pass a one-half inch sphere. The owner of a non-cementitious interactive water feature shall submit documentation with the plans required in R392-302-8 that the surface material has been tested and passed by an American National Standards Institute (ANSI) accredited testing facility using one of the following standards that is appropriate to the material used:

(i) for pools built with prefabricated pool sections or pool members, the ISO 19712-1:2008 - Plastics -- Decorative solid surfacing materials -- Part 1: Classification and specifications, which is incorporated by reference; or

(ii) a standard that has been approved by the Department based on whether the standard is applicable to the surface and whether it determines compliance with the requirements of Section R392-302-6.

R392-302-36. Special Purpose Pools: Instructional Pools.

(1) The Department shall undertake to investigate the public health related experiences and science of instructional pools operating with the exemptions in this section. That investigation shall be completed on June 30th, 2021, after which time this section will expire and may be replaced with minimum requirements based on the findings of the investigation. The Department will make those findings public 90 days prior to the expiration date.

(a) This investigation shall include periodic testing of the pool's water balance, disinfection level, total coliform, and heterotrophic plate count.

(2) An instructional pool is exempt from all requirements of R392-302.

(a) Pools operating under this exemption shall post a prominent sign stating that the pool does not conform to a standard design and is under evaluation to determine applicable standards to be implemented in the future. The lettering in this sign shall be no less than one centimeter in height.

(b) Pools operating under this exemption shall require parents of participating children to sign an acknowledgment that they have read and understand the notice required in R392-302-36(2)(a).

R392-302-37. Advisory Committee.

(1) An advisory committee to the Department regarding regulation of public pools is hereby authorized.

(2) The advisory committee shall be appointed by the Executive Director. Representatives from local health departments, pool engineering, construction or maintenance companies and pool owners may be represented on the committee.

(3) Consistent with R380-1, the Executive Director may seek the advice of the advisory committee regarding interpretation of this rule, the granting of exemptions and related matters.

R392-302-38. Cryptosporidiosis Watches and Warnings.

(1) The Executive Director or local health officer may issue cryptosporidiosis watches or cryptosporidiosis warnings as methods of intervention for likely or indicated outbreaks of cryptosporidiosis. The Executive Director or local health officer may issue a cryptosporidiosis watch if there is a heightened likelihood of a cryptosporidiosis outbreak. The Executive Director or local health officer may issue a cryptosporidiosis warning if there have been reports of cryptosporidiosis above the background level reported for the disease. The Executive Director or local health officer shall include the geographic area and pool type covered in the warning and may restrict certain persons from using public pools.

(2) If a cryptosporidiosis watch or a cryptosporidiosis warning has been issued, the operator of any public pool shall post a notice sign meeting at a minimum the ANSI Z535.2-2011, which is incorporated by reference, requirements for NOTICE signs with a 10-foot viewing distance and approved by the local health officer. An Adobe Acrobat .pdf version of the sign that meets the requirements of this section shall be made available from the Department or the local health department. The notice sign shall be placed so that all patrons are alerted to the cryptosporidium-targeted requirements prior to deciding whether to use the swimming pool. The sign shall be at least 17 inches, 43 centimeters, wide by 11 inches, 28 centimeters, high.

(a) Centered immediately below the blue panel shall appear the words "CRYPTO DISEASE PREVENTION" in capital letters.

(b) The body of the notice sign shall be in upper case letters at least 0.39 inches, 1.0 centimeters, high and include the following four bulleted statements in black letters:

-All with diarrhea in the past 2 weeks shall not use the pool.

-All users must shower with soap to remove all fecal material prior to pool entry and after using the toilet or a diaper change.

-All less than 3 yrs or who wear diapers must wear a swim diaper and waterproof swimwear. Diapers may only be changed in restrooms or changing stations.

-Keep pool water out of your mouth.

(3) If a cryptosporidium warning has been issued, each operator of a public pool subject to the warning shall, at a minimum, implement the following cryptosporidium counter measures:

(a) maintain the disinfectant concentration within the range between two mg/l (four mg/l for bromine) and the concentration listed on the product's Environmental Protection Agency mandated label as the maximum reentry concentration, but in no case more than five mg/l (10 mg/l for bromine);

(b) maintain the pH between 7.2 and 7.5; and

(c) maintain the cyanuric acid level that meets the requirement of R392-302-27(3), except the maximum level shall be reduced to 30 mg/l.

(4)(a) If a cryptosporidium warning has been issued, in addition to the requirements listed in R392-302-38(3), the owner or operator of a public pool shall implement any additional

NOTICES OF PROPOSED RULES

cryptosporidium countermeasures listed in subsection below sufficient to achieve at least a 99.9 percent destruction or removal of cryptosporidium oocysts twice weekly, except as provided in R392-302-38(4)(b).

(b) Hyperchlorination using sodium hypochlorite or calcium hypochlorite to achieve a concentration multiplied by time (CT) value of 15,300 mg/l minutes. Table 7 lists examples of chlorine concentrations and time periods that may be used to achieve the required CT value. The operator shall not allow anyone to use the pool if the chlorine concentration exceeds the Environmental Protection Agency maximum reentry concentration listed on the product's label, but in no case if the concentration exceeds five mg/l. The operator of any public pool not required to have a lifeguard by R392-302-30(2) shall hyperchlorinate at least once weekly.

(c) A full flow ultraviolet treatment system that meets the requirements of standard NSF/ANSI 50-2015, which is incorporated by reference, for ultraviolet light process equipment. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99.9 percent inactivation of cryptosporidium or the bacteriophage MS2 at the pool design flow rate and during normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(d) An ozone treatment system that achieves a CT value of 7.4 and a flow-through rate at least four times the volume of the pool every three and a half days. The system shall meet the requirements of standard NSF/ANSI 50-2015, which is incorporated by reference, for ozone process equipment. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations.

(e) A cryptosporidium oocyst-targeted filter system installed and operated according to the manufacturer's recommendations. The filter shall meet the requirements of R392-302-20. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99 percent reduction of particles in the range of 4 to 6 microns or cryptosporidium oocysts at the pool design flow rate and normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(f) A system approved by the local health officer. The health officer's approval of a system for use as an alternative shall be based on the system's documented ability to:

- (i) achieve cryptosporidium removal or inactivation to a level at least equivalent to the requirements in R392-302-38(4)(a);
- (ii) assure safety for swimmers and pool operators; and
- (iii) comply with all other applicable rules and federal regulations.

TABLE 7

Chlorine Concentration and Contact Time to Achieve CT = 15,300

Chlorine Concentration	Contact Time
1.0 mg/l	15,300 minutes (255 hours)
10 mg/l	1,530 minutes (25.5 hours)
20 mg/l	765 minutes (12.75 hours)

(5) If the Executive Director or local health officer issues a restriction on the use of public pools by certain persons as part of the cryptosporidium warning the operator shall restrict persons within that segment of the population from using the facility.

(6) If the Executive Director or local health officer determines that a pool is a cryptosporidiosis threat to public health, he may order the pool to close. The owner or operator of the pool may not reopen until the person issuing the order has rescinded it.

R392-302-39. Signs.

(1) Signs required in R392-302 shall be placed to alert and inform patrons in enough time that the patrons may take appropriate actions.

(2) Signs shall be written in a lettering style, stroke width, spacing, and contrast with the background such that the sign is clearly visible.

(3) As required in different subsections of this rule, sign lettering shall meet one or more, if stated, of the following minimum size standards:

(a) "4 Inch Safety Sign" shall be written in all capital letters that are at least four inches, 10.2 centimeters in height.

(b) "2 Inch Safety Sign" shall be written in all capital letters that are at least two inches, 5.1 centimeters, in height.

(c) "Rule Signs" shall be written with any required signal word, warning or caution, as the sign heading in letters at least two inches, 5.1 centimeters, in height and the body or bulleted rules in letters at least 0.5 inches, 1.27 centimeters, in height.

(i) If the sign can only be viewed from more than a distance of ten feet, 3.048 meters, the letter height shall be larger in the same proportion as the required viewing distance is to ten feet, 3.048 meters.

(ii) The Local Health Officer may approve smaller letter sizes than those required in R392-302-39(3)(c) if the sign will always be viewed from less than a ten foot, 3.048 meters, distance and if the Local Health Officer agrees that the sign meets the requirements of R392-302-39(1) and (2).

KEY: pools, spas, swimming, water

Date of Enactment or Last Substantive Amendment: 2020 | ~~February 26, 2020~~

Notice of Continuation: November 7, 2016

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-30; 26-15-2

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R414-516	Filing No. 52632	

Agency Information

1. Department:	Health
Agency:	Health Care Financing, Coverage and Reimbursement Policy
Building:	Cannon Health Building
Street address:	288 North 1460 West
Mailing address:	PO Box 143102
City, state, zip:	Salt Lake City, UT 84114-3102
Contact person(s):	
Name:	Phone: Email:

Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program

3. Purpose of the new rule or reason for the change:
The purpose of this change is to clarify which health care practitioners must provide mobility services to residents within the Quality Improvement (QI) Program.

4. Summary of the new rule or change:
This amendment clarifies which health care practitioners must provide mobility services to residents within the QI Program. It also clarifies provisions for residents who participate in mobility exercises and makes other technical changes.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget because this change only clarifies provisions within the QI Program.

B) Local governments:
There is no impact on local governments because this change only clarifies provisions within the QI Program.

C) Small businesses ("small business" means a business employing 1-49 persons):
There is no impact on small businesses because this change only clarifies provisions within the QI Program.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses because this change only clarifies provisions within the QI Program.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):
There is no impact on Medicaid providers and residents because this change only clarifies provisions within the QI Program.

F) Compliance costs for affected persons:

There are no compliance costs to a single Medicaid provider or to a resident because this change only clarifies provisions within the QI Program.

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 Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:
Businesses will see neither revenue nor costs as this amendment only clarifies provisions within the QI Program.

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

Joseph K. Miner, MD, 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 26-1-5	Section 26-18-3
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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:	05/15/2020
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10. This rule change MAY become effective on:	05/22/2020
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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:	Joseph K. Miner, MD, Executive Director	Date:	03/26/2020
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R414. Health, Health Care Financing, coverage and Reimbursement Policy.

R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program.

R414-516-6. Direct Resident Services.

(1) A program may earn QI points by providing the following ~~direct~~ resident services, as follows: "Resident" means the same as that term is defined in Section R414-516-2:

(1)a) ~~Providing a denture replacement policy.~~ The program may earn one QI point by providing a denture replacement policy where in which the program will replace lost or damaged dentures for a resident[s] within 90 days of the loss or damage.

(2)b) ~~Providing optional dining services.~~ The program may earn up to three QI points for dining service options provided in the categories below:

(a)i) The program may earn one QI point by providing a menu option of at least five meal choices outside of the planned meal;

~~(b)ii) The program may earn one QI point by providing a cook-to-order menu;~~

~~(c)iii) The program may earn three QI points by providing a five-meal program for the entire calendar year; or~~

~~(d)iv) The program may earn one QI point by providing a four-meal program for the entire calendar year.~~

(3) ~~Providing a Preferred Snack Program with 80 percent compliance.~~ The program may earn two QI points by providing distinct resident preferences for snacks through a preferred-snack program that shows 80% compliance in providing resident preferences.

(a) The program shall provide a snack survey including that includes food and beverage options, snack time options, the date of the survey, and the name of the person completing who completes the survey.

(b) The program shall complete the survey within two weeks of the admission date or by March 31, 2018, whichever is later.

(c) The program shall provide the snack and beverage at each resident's preferred time.

(d) If a resident requires feeding assistance, ~~for feeding,~~ the facility shall provide a dining assistant during the snack.

(e) The program shall complete a snack survey quarterly for each distinct resident quarterly or as requested by the resident.

(f) The program shall calculate compliance by dividing the number of distinct residents who complete a preferred snack survey (numerator) by the number of distinct residents during the quarter, who desired to complete a snack survey (denominator).

(4) ~~Providing a Preferred Bedtime Program with 80 percent compliance.~~ The program may earn two QI points through a preferred-bedtime program that shows 80% compliance in providing resident preferences for bedtime.

(a) The program shall provide a bedtime survey, in which the resident was is asked about preferred bedtime options and preferred rituals. The program must include the date of the survey and the name of the person who complete[s] it.

(b) The program shall complete the survey within two weeks of the admission date or by March 31, 2018, whichever is later.

(c) The program shall provide each resident their the resident's preferred bedtime options and preferred rituals.

(d) The program shall complete a bedtime survey annually or as requested by the resident.

(e) The program shall calculate compliance by dividing the number of distinct residents who complete a bedtime survey (numerator) by the number of distinct residents during the calendar year, subtracted by the distinct residents who declined to complete a bedtime survey (difference is denominator).

(5) ~~Providing consistent CNA or nursing staff assignments to residents with 80 percent compliance.~~ The program may earn up to five QI points by providing consistent CNA or nursing staff assignments to residents that show 80% compliance in providing consistent CNA or nursing staff assignments. The program may earn points may be earned by providing the same CNA or nurse for a distinct resident for 32 waking hours during a standard Sunday through Saturday week.

(a) The program may earn one QI point for having a staffing schedule providing that provides consistent CNA[s] and nurses for the entire program.

(b) The program may earn one QI point by providing consistent CNA assignment to a distinct hall containing at least 10 residents.

(c) The program may earn two QI points by providing consistent CNA assignment to an entire program.

(d) The program may earn one point by providing consistent nurse assignment to a hall containing that contains at least 10 residents.

(e) The program may earn two QI points by providing consistent nurse assignment to an entire program.

(f) The program shall provide the consistent CNA or nursing staff assignment for 40 of 52 weeks during the calendar year.

(g) The program shall calculate compliance by dividing the number of [distinct]-residents who [have]receive consistent CNA or nursing staff assignment in the hall or program (numerator) by the number of [distinct]-residents during the calendar year in the hall or program (denominator).

(6) ~~[Providing a Range of Motion (ROM) program to residents with 80 percent compliance. A]~~The program may earn four QI points by providing a range of motion (ROM) program semi-annually to residents [semi-annually by]through a qualified clinician; or, may earn two QI points by providing a ROM program semi-annually to residents [semi-annually by]through a restorative nurse aid under the direct supervision of a qualified clinician. The program must show 80% compliance to a ROM program.

(a) The program shall include a ROM assessment, completed by a qualified clinician, for passive range of motion (PROM) or active range of motion (AROM) for shoulder, elbow, wrist, digits of the hand, hip, knee, and ankle joints. The program shall also include a ROM assessment of [which]any joint [has]with a limitation[s], the reduced anatomical motion to the joint, how the restriction limits function, the job title and name of the person [completing]who completes the plan of care (POC), and the date of the POC.

(b) If the clinician finds a reduction in ROM [is found] and [the clinician] recommends a ROM POC, the POC [shall]must include:

(i) a goal to return the resident to the highest practicable level of function;

(ii) the frequency and duration of the POC;

(iii) the title and name of the [person]qualified clinician or restorative nurse aid [completing]who completes the POC; and

(iv) the date of the POC.

(c) If [the program]a qualified clinician develops a POC for a resident, a qualified clinician or [another qualified professional]restorative nurse aid shall complete the POC under the supervision of a qualified clinician.

(d) If a resident qualifies for a ROM POC, but desires not to participate, the qualified clinician shall document the refusal and provide a ROM assessment semi-annually.

(e) The program shall calculate compliance by dividing the number of [distinct]-residents who receive~~[d]~~ a ROM assessment semi-annually plus the number of residents [refusing]who refuse to complete a ROM assessment semi-annually (sum is numerator) by the number of [distinct]-residents during the calendar year (denominator).

(7) ~~[Providing a One on One Activity program with 80% compliance. A]~~The program may earn up to four QI points by providing a one-on-one activity program. ~~[A]~~The one-on-one activity program shall provide at least a 30-minute [minimum] individual activity onsite or within the community each month for each resident~~[; and]~~.

(a) ~~[A]~~The program may earn one QI point by providing a schedule for one-on-one activity participation for residents [desiring]who desire to participate~~[;]~~.

(b) ~~[A]~~The program may earn three QI points if [compliant with]it provides[ing] one-on-one activities~~[;]~~.

(c) A qualified activity professional shall complete an activity interest (AI) survey for each resident [including]that includes recreational, educational, physical, arts and crafts, and any additional activity options preferred by the resident. The AI survey shall include the name and job title of the person who completes the survey[or] and the date the survey [was]is completed~~[;]~~.

(d) The following provisions are required to[For] each resident who desires to participate in a one-on-one activity program:

(e) A qualified activity professional shall develop a POC [including]that includes the preferred list of activities and a method of

[grading]ranking the importance of the activities to the resident. The activity POC [shall]must include:

(i) the activities to be completed during the one-on-one activity;

(ii) the goal of the activity;

(iii) what the activity is promoting;

(iv) the date the POC was completed; and

(v) the job title and name of the person [completing]who completes the POC.

(f) The person who completes the activity with the resident shall document:

(i) the preferred activity completed;

(ii) the duration of the activity;

(iii) the goal of the activity;

(iv) which quality of life measures were promoted; and

(v) any relevant comments made by the resident.

(g) The qualified activity professional shall modify the POC as appropriate or when requested by the resident.

(h) If a resident who desires to participate in the one-on-one activity program cannot participate in a given month, the [nursing facility] program shall document the refusal.

(i) If a resident refuses to participate in the one-on-one activity program, the qualified activity professional shall document the refusal and continue to complete an AI survey with the resident, and offer the one-on-one activity program annually.

(j) If a resident [who] initially refuses to participate in [a]the one-on-one activity program and desires to participate before the annual AI survey, the qualified activity professional shall complete the steps noted for residents desiring to participate in a one-on-one activity program.

(k) The program shall calculate compliance by adding the number of [distinct]-residents who participated in but declined a monthly one-on-one activity, the number of [distinct]-residents who completed the program, and the number of [distinct]-residents who declined to complete the program (distinct sum is numerator) divided by the number of [distinct]-residents during the calendar year (denominator).

(8) ~~[Providing a Mobility Program to qualifying residents with 80 percent compliance. A]~~The program may earn four QI points by providing a mobility program to qualifying residents that shows 80% compliance in a mobility program. The [nursing facility] program shall offer residents who qualify for a walking program a walking activity five of seven days in a standard week for 40 out of 52 weeks during the calendar year.

(a) A nurse or qualified [physician]clinician shall complete Section GG0170 Mobility of the [MDS]Minimum Data Set Version 3.0 for each [Medicaid] resident.

(b) A resident who achieves a score of 04, 05, or 06 on [S]sections D and J qualifies to participate in a walking program.

(c) The nurse or qualified [physician]clinician who completes the mobility section shall establish a POC for the walking program to determine:

(i) the distance of the walk;

(ii) duration of the walk; and

(iii) the amount of assistance required by [the]a resident, including mobility devices to be provided by the staff.

(d) The [nursing facility] program shall provide weekly documentation to illustrate program completion, including any modification~~[s]~~ to a resident's walking program.

(e) If a resident qualifies for, but refuses to participate in [a]the walking program, the nurse or qualified clinician shall document the refusal and complete the [mobility, sit stand, and one step command] survey~~[s]~~ annually.

(f) If a resident initially declines to participate in [a]the walking program and then requests to engage in [a]the walking program before the annual follow-up survey~~[s]~~, the [program]nurse or qualified clinician shall complete the survey and develop a walking POC for the resident.

(g) The ~~[nursing facility]~~ program shall calculate compliance by adding the number of ~~[distinct]~~ residents who completed the walking program with the ~~[distinct]~~ residents who qualified for, but requested limited participation in the program~~[-]~~. The program shall also add the number of ~~[and]~~ residents who qualified for, but declined participation in the walking program (distinct sum is numerator) by the number of ~~[distinct]~~ residents who qualified for a walking program during the calendar year (denominator).

R414-516-7. Quality Metrics.

(1) A program may earn up to six QI points for demonstrating quality metric scores equal to or better than the industry average noted.

(a) ~~[Quality metrics shall include]~~ The industry average used to calculate the QI points for Subsections R414-516-7(b) and (c) are determined in accordance with the following data:

(i) CMS 5-Star quality measure rating, for long-stay residents, obtained from CMS online data sources. The industry average is 3.62. To qualify, the ~~[nursing facility]~~ program must equal or exceed the industry average~~[-]~~;

(ii) CASPER Quality Measures for urinary tract infections obtained from CMS online data sources. The industry average is 6.68%. To qualify, the ~~[nursing facility]~~ program must have less than or equal to the industry average~~[-]~~;

(iii) CASPER Quality Measures for pressure ulcers obtained from CMS online data sources. The industry average is 6.15%. To qualify, the ~~[nursing facility]~~ program must have less than or equal to the industry average~~[-]~~;

(iv) CASPER Quality Measures for falls with a major injury obtained from CMS online data sources. The industry average is 4.17%. To qualify, the ~~[nursing facility]~~ program must have less than or equal to the industry average~~[-]~~;

(v) Nurse staffing hours per resident day obtained from CMS online data sources. The industry average is 3.81. To qualify, the ~~[nursing facility]~~ program must equal or exceed the industry average~~[-]~~; or

(vi) Survey deficiency scope and severity obtained from the Utah Bureau of ~~[Health Facility Licensing, Certification and Resident Assessment]~~ Licensing and Certification. The industry average is 3.57. To qualify, the nursing facility program must have less than or equal to the industry average.

(b) ~~[A]~~ The program may earn QI points as follows:

(i) The program may earn ~~[F]~~ four QI points ~~[may be earned for]~~ by achieving metrics scores equal to or superior to the industry average in greater than four of six targets;

(ii) The program may earn ~~[T]~~ three QI points ~~[may be earned for]~~ by achieving metrics scores equal to or superior to the industry average in four of six targets; or

(iii) The program may earn ~~[F]~~ two QI points ~~[may be earned for]~~ by achieving metrics scores equal to or superior to the industry average in three of six targets.

(c) ~~[A]~~ The program may earn QI points from demonstrating metrics score improvement as follows:

(i) The program may earn ~~[F]~~ two QI points ~~[may be earned]~~ by demonstrating metrics score improvement in greater than four of six targets; or

(ii) The program may earn ~~[Θ]~~ one QI point ~~[may be earned]~~ by demonstrating metrics score improvement in four of six targets.

(2) The program may earn ~~[Θ]~~ one QI point ~~[may be earned]~~ by demonstrating a 20% improvement in two specific quality metrics scores on the CASPER report at the end of the 12-month data, ~~[c]~~ October through September~~[-]~~, period as compared to the prior 12-month data period.

R414-516-9. Exceptions and Holdings.

(1) A program that does not earn the minimum required QI points during a calendar year shall:

(a) earn the number of QI points not achieved from that calendar year in addition to the required QI points the subsequent calendar year; and

(b) submit to the Division a plan of correction that details how the program will come into compliance with the QI Program.

(c) The program must mail electronically ~~[A]~~ a plan of correction ~~[must be mailed electronically]~~ to the correct address found at <https://health.utah.gov/stplan/longtermcarenfqi.htm>.

(2) The Division shall remove from the UPL Seed Contract, a program that fails to earn the minimum QI points for a second consecutive year as ~~[required by]~~ in accordance with Subsection R414-516-9(1)(a).

(a) Once the Division determines that the program failed to meet QI program qualifications, the Division shall send the program a notice of failure to meet the requirements.

(b) The program shall have the opportunity to appeal the determination in accordance with Rule R410-14, or shall waive the right of appeal.

(c) If the program does not file an appeal or the Division~~[-s]~~ upholds its determination, ~~[is upheld]~~, the Division shall amend the UPL seed contract to remove the program effective the last day of the quarter in which the determination ~~[was]~~ is made.

(3) If a program that has been removed from the UPL Seed Contract desires to be added back to the contract prospectively, the program shall demonstrate compliance ~~[to]~~ in accordance with Subsection R414-516-3(1)(c) for one full year, ~~[c]"trial period"[-]~~, after the effective date of the removal.

(a) The program shall submit the following to the Division within 30 days of the trial period:

(i) the current compliance form completed; and

(ii) documentation of compliance with all QI programs in which points were earned.

(b) If the Division determines that the program was compliant during the trial period, the Division may ~~[add]~~ include the program ~~[back to]~~ in the UPL Seed Contract effective the first day of the quarter following the date compliance was determined.

(4) The Division may audit a program at any time to ensure compliance.

(a) The Division shall provide notice that indicates the period of the audit and the QI programs being audited.

(b) When an audit is performed, all documentation requested by the Division shall be postmarked or demonstrate proof of delivery to the Division within ~~[40 business]~~ 30 calendar days of the request.

(c) Failure to submit the requested documentation ~~[in a timely manner]~~ within 30 calendar days, shall result in the program forfeiting the QI points for the specific QI program category being audited.

(d) ~~[If an audit is completed, as applicable, the findings of the audit]~~ Audit results shall supersede the program's reported QI points.

(e) The program shall have the opportunity to appeal the determination in accordance with Rule R410-14, or shall waive the right of appeal.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~2020|August 29, 2019]~~

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R515-1	Filing No. 52633	

Agency Information

1. Department:	Human Services		
Agency:	Child Protection Ombudsman (Office of)		
Building:	MASOB		
Street address:	195 N 1950 W		
City, state:	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	
Jonah Shaw	801-538-4219	jshaw@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R515-1. Processing Complaints Regarding the Utah Division of Child and Family Services
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to update this rule to reflect practice changes that facilitate further efforts by the Office of Child Protection Ombudsman (OCPO) to resolve complaints. This rule outlines an additional step to assist OCPO in expediting the complaint resolution process.
4. Summary of the new rule or change:
The changes reflect additional efforts by OCPO to resolve complaints prior to a formal investigation and written report. The change provides OCPO an opportunity to complete case reviews and complaint resolution prior to a formal investigation.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:			
Amending the receiving and processing of complaints portion of this rule will not result in an increased fiscal cost or savings to the state budget. The additional efforts by the OCPO to resolve complaints reflect practice changes that are currently in place and have not contributed to any fiscal cost or savings.			
B) Local governments:			
Local governments are not fiscally impacted by the changes to the receiving and processing of complaints that are being made through this amendment. These changes only impact the OCPO's processes.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
Small businesses are not fiscally impacted by the changes to the receiving and processing of complaints that are being made through this amendment. These changes only impact the OCPO's processes.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
Non-small businesses are not fiscally impacted by the changes to the receiving and processing of complaints that are being made through this amendment. These changes only impact internal OCPO's processes.			
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>):			
Persons other than small businesses, non-small businesses, state, or local government entities are not fiscally impacted by the changes to the receiving and processing of complaints through this amendment. These changes only impact internal OCPO's processes.			
F) Compliance costs for affected persons:			
There are no compliance costs attributed to this amendment. These changes only impact internal OCPO's processes.			
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

NOTICES OF PROPOSED RULES

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 Human Services, Ann Williamson, 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 this proposed rule amendment will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Ann Williamson, 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	62A-4a-208	

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:	05/15/2020
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:	Ann Williamson, Executive Director	Date:	03/27/2020
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R515. Human Services, Child Protection Ombudsman (Office of). R515-1. Processing Complaints Regarding the Utah Division of Child and Family Services.

R515-1-1. Purpose.

(1) The purpose of this rule is to outline the processing of complaints regarding the Utah Division of Child and Family Services.

R515-1-2. Statutory Authority.

(1) Pursuant to Section 62A-4a-208, the Office of Child Protection Ombudsman is authorized to receive and investigate complaints regarding the Utah Division of Child and Family Services and develop rules relating to Office procedures.

R515-1-3. Definitions.

(1) "Ombudsman's Office" means the Office of Child Protection Ombudsman.

(2) "Complainant" means a [P]erson who files a complaint with the Ombudsman's Office.

(3) "Division" means the Utah Division of Child and Family Services.

(4) "Services Review Analyst" means an employee of the Ombudsman's Office assigned to conduct investigations of complaints.

(5) "Complaint" means a grievance filed with the Ombudsman's Office regarding the Division or its employees.

R515-1-4. Receiving and Processing Complaints.

(1) The complainant may file a written, oral, or electronic complaint with the Ombudsman's Office no later than 18 months from the date of the alleged circumstances giving rise to the complaint.

(2) The complaint shall include:

(a) [A] a summary of the alleged circumstances giving rise to the complaint[-];

(b) [F] the names of persons involved in the complaint[-];

(c) [A] a summary of the actions taken by the complainant to resolve the complaint[-];

(d) [F] the anticipated outcome the complainant is seeking[-]; and

(e) [F] the complainant may request that the Ombudsman's Office conduct an investigation of the complaint.

(3) If there has been no attempt to resolve the complaint with the Division, the Ombudsman's Office may refer the complaint to the Division for a response.

~~[(4) The Ombudsman's Office will notify the complainant in writing of the decision made to accept or deny an investigation request.]~~ (4) If the complaint remains unresolved after referral back to the Division, the Ombudsman's Office may review the records and may contact the involved parties. The Ombudsman's Office shall make reasonable efforts to facilitate resolution with the Division and the complainant.

~~(5) If the complaint remains unresolved after efforts by the Ombudsman's Office to facilitate resolution, the Ombudsman's Office shall determine whether to investigate the complaint, and shall notify the complainant in writing of the decision made to accept or deny the investigation request.~~

~~[(5)6] If an investigation request is accepted the Services Review Analyst shall:~~

(a) [F] interview the complainant and gather information as necessary to determine the validity of the complaint[-];

(b) [D] document the findings of the investigation[-]; and

(c) [M] make recommendations to the Division to address the complaints found to be valid as needed. The Division must respond ~~as per~~ in accordance with Section R512-75-4.

~~[(6)7] The investigation will be completed within 180 days from the date of filing the complaint, taking into consideration extenuating circumstances such as the complexity of the case or workload.~~

~~[(7)8] The Ombudsman's Office will notify the complainant in writing upon the completion of the investigation.~~

~~[(8)9] If a complaint indicates there is an immediate risk to the safety of a child or children, the Ombudsman's Office will immediately notify the Division.~~

KEY: complaint, DCFS, ombudsman, investigation
Date of Enactment or Last Substantive Amendment:
2020~~February 1, 2006~~
Notice of Continuation: June 30, 2015
Authorizing, and Implemented or Interpreted Law: 62A-4a-208(4)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R649-1	Filing No.	52641

Agency Information

1. Department:	Natural Resources
Agency:	Oil, Gas and Mining; Oil and Gas
Building:	Department of Natural Resources
Street address:	1594 W North Temple

City, state:	Salt Lake City, UT	
Mailing address:	1594 W North Temple, Suite 1210	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-538-5328	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R649-1. Definitions
3. Purpose of the new rule or reason for the change:
The purpose of the rule is to establish definitions of terms utilized with the Title R649 Oil and Gas Program rules. The rule change will amend three definitions as the result of S.B. 191, which passed during the 2017 General Session, and H.B. 419, which passed during the 2018 General Session.
4. Summary of the new rule or change:
Rule R649-1 establishes definitions for terms used within the Title R649 Oil and Gas Program rules. The change amends the definitions for "authority for expenditure," "joint operating agreement," and "notice of opportunity to participate."

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Oil and Gas program, as well as the Board, is expected to encounter a small on-going savings in staff time through a reduction in compulsory pooling hearings heard by the Board. A total savings cannot be estimated as there is no way of knowing the number of hearings being reduced by this rule amendment.
B) Local governments:
No costs or savings are anticipated for local governments since this rule impacts oil and gas companies, the Division of Oil, Gas and Mining; Oil and Gas (Division), and the Board.
C) Small businesses ("small business" means a business employing 1-49 persons):

There are 303 small business oil and gas operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the Division) in the . It is anticipated that this rule change will decrease the number of hearings by the Board for horizontal drilling and compulsory pooling. A total savings cannot be estimated as there is no way of knowing which companies will file a hearing with the Board and other costs associated with Board hearings (attorney fees, travel, etc.).

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

There are four non-small businesses in the Oil and Gas industry (for a complete listing of NAICS codes used in this analysis, please contact the Division) in the . It is anticipated that this rule change will decrease the number of hearings by the Board for horizontal drilling and compulsory pooling. A total savings cannot be estimated as there is no way of knowing which companies will file a hearing with the Board and other costs associated with Board hearings (attorney fees, travel, etc.).

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 not affect persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:

There will be no compliance costs for oil and gas operators.

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 Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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

The Division anticipates a small on-going savings in staff time through a reduction in compulsory pooling hearings and also anticipate that businesses will see a small savings from the decrease in hearings for horizontal drilling and compulsory pooling matters.

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

Brian Steed, 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 40-6-1 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:	05/22/2020
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10. This rule change MAY become effective on: 05/29/2020

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:	John Baza, Director	Date:	03/31/2020
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-1. Oil and Gas Definitions.

R649-1-1. Definitions.

"Authorized Agent" means a representative of the director as authorized by the board.

"Aquifer" means a geological formation including a group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Artificial Liner" means a pit liner made of material other than clay or other in-situ material and ~~which~~ that meets the requirements of Section R649-9-3, Permitting of Disposal Pits.

"Authority for Expenditure" or "AFE" is a detailed written statement made in good faith by an operator memorializing the total estimated costs to be incurred in the drilling, testing, completion and equipping of a well for oil and gas operations.

"Barrel" means 42 ~~(US)~~ gallons at 60 degrees Fahrenheit at atmospheric pressure.

"Board" means the Board of Oil, Gas and Mining.

"Carrier, Transporter or Taker" means any person moving or transporting oil or gas away from a well or lease or from any pool.

"Casing Pressure" means the pressure within the casing or between the casing and tubing at the wellhead.

"Central Disposal Facility" means a facility that is used by one or more producers for disposal of exempt E and P wastes and ~~for which~~ that the operator of the facility receives no monetary remuneration, other than operating cost sharing.

"Class II Injection Well" means a well that is used for:

1. ~~[F]~~ the disposal of fluids that are brought to the surface in connection with conventional oil or natural gas production and that may be commingled with wastewater produced from the operation of a gas

plant that is an integral part of production operations, unless that wastewater is classified as a hazardous waste at the time of injection, or

2. ~~[E]~~ enhanced recovery of oil or gas, or

3. ~~[S]~~ storage of hydrocarbons that are liquids at standard temperature and pressure conditions.

"Closed System" means but is not limited to, the use of a combination of solids control equipment [~~i.e.,~~ including a shale shaker[s], flowline cleaner[s], desanders, desilters, mud cleaners, centrifuges, agitators, and any necessary pumps and piping~~}]~~ incorporated in a series on the rig's steel mud tanks, or a self contained unit that eliminates the use of a reserve pit for the purpose of dumping and dilution of drilling fluids for the removal of entrained drill solids. A closed system for the purpose of these rules may with Division approval include the use of a small pit to receive cuttings, but does not include the use of trenches for the collection of fluids of any kind.

"Coalbed Methane" means natural gas that is produced, or may be produced, from a coalbed[s] and rock strata associated with the coalbed.

"Commercial Disposal Facility" means a disposal well, pit or treatment facility whose owner~~(s)~~ or operator~~(s)~~ receives compensation from others for the temporary storage, treatment, and disposal of produced water, drilling fluids, drill cuttings, completion fluids, and any other exempt E and P wastes, and whose primary business objective is to provide these services.

"Completion of a Well" means that the well has been adequately worked to be capable of producing oil or gas or that well testing as required by the division has been concluded.

"Confining Strata" refers to a body of material that is relatively impervious to the passage of liquid[s] or gas[es] and that occurs either below, above, or lateral to a more permeable material in such a way that it confines or limits the movement of liquids or gases that may be present.

"Correlative Rights" means the opportunity of each owner in a pool to produce his just and equitable share of the oil and gas in the pool without waste.

"Cubic Foot" of gas means the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 psia and a standard temperature base of 60 degrees Fahrenheit.

"Day" means a period of 24 consecutive hours.

"Development Wells" means all oil and gas producing wells other than wildcat wells.

"Director" means the executive and administrative head of the division.

"Disposal Facility" means an injection well, pit, treatment facility or combination thereof that receives E and P Wastes for the purpose of disposal. This includes both commercial and noncommercial facilities.

"Disposal Pit" means a lined or unlined pit approved for the disposal ~~and~~ for storage of E and P Wastes.

"Division" means the Division of Oil, Gas and Mining.

"Drilling Fluid" means a circulating fluid usually called mud, that is introduced in a drill hole to lubricate the action of the rotary bit, remove the drilling cuttings, and control formation pressures.

"E and P Waste" means Exploration and Production Waste, and is defined as ~~those~~ waste[s] resulting from the drilling of and production from an oil and gas well[s] as determined by the Environmental Protection Agency (EPA), prior to January 1, 1992, to be exempt from Subtitle C of the Resource Conservation and Recovery Act (RCRA).

"Emergency Pit" means a pit used for containing any fluid[s] at an operating well during an actual emergency or for a temporary period of time.

NOTICES OF PROPOSED RULES

"Enhanced Recovery" means the process of introducing fluid or energy into a pool for the purpose of increasing the recovery of hydrocarbons from the pool.

"Enhanced Recovery Project" means the injection of liquids or hydrocarbon or non-hydrocarbon gases directly into a reservoir for the purpose of augmenting reservoir energy, modifying the properties of the fluids or gases in the reservoir, or changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores.

"Entity" means a well or a group of wells that have identical division of interest, have the same operator, produce from the same formation, have product sales from a common tank, LACT meter, gas meter, or are in the same participating area of a properly designated unit. Entity number assignments are made by the division in cooperation with other state government agencies.

"Field" means the general area underlaid by one or more pools.

"Gas" means natural gas or natural gas liquids or other gas or any mixture thereof defined as follows:

1. "Natural Gas" means those hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form. Natural gas includes coalbed methane.

2. "Natural Gas Liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.

3. "Other Gas" means hydrogen sulfide (H₂S), carbon dioxide (CO₂), helium (He), nitrogen (N), and other nonhydrocarbon gases that occur naturally in the gaseous phase in the reservoir or are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

"Gas-Oil Ratio" means the ratio of the number of cubic feet of natural gas produced to the number of barrels of oil concurrently produced during any stated period. The term GOR is synonymous with gas-oil ratio.

"Gas Processing Plant" means a facility in which liquefiable hydrocarbons are removed from natural gas, including wet gas or casinghead gas, and the remaining residue gas is conditioned for delivery for sale, recycling or other use.

"Gas Well" means any well capable of producing gas in substantial quantities that is not an oil well.

"Ground Water" means water in a zone of saturation below the ground surface.

"Hearing" means any matter heard before the board or its designated hearing examiner.

"Horizontal Well" means a well bore drilled laterally at an angle of at least eighty (80) degrees to the vertical or with a horizontal projection exceeding one hundred [(100)]feet measured from the initial point of penetration into the productive formation through the terminus of the lateral in the same common source of supply.

"Illegal Oil or Illegal Gas" means oil or gas that has been produced from any well within the state in violation of Title 40, Chapter 6 [of Title 40], or any rule or order of the board.

"Illegal Product" means any product derived in whole or in part from illegal oil or illegal gas.

"Incremental Production" means that part of production that is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.

"Injection or Disposal Well" means any Class II Injection Well used for the injection of air, gas, water or other substance into any underground stratum.

"Interest Owner" means a person owning an interest, which may include [(working interest, royalty interest, payment out of production, or any other interest)], in oil or gas, or in the proceeds thereof.

"Joint Operating Agreement" or "JOA" is an agreement for the exploration, development, and production for oil, gas or other minerals between parties entitled to participate pursuant to the ownership of said minerals or leaseholds covering said minerals, which are subject to the contract area, which may be inclusive of a drilling unit, described therein.

"Load Oil" means any oil or liquid hydrocarbon that is used in any remedial operation in an oil or gas well.

"Log or Well Log" means the written record progressively describing the strata, water, oil or gas encountered in drilling a well with such additional information as is usually recorded in the normal procedure of drilling including electrical, radioactivity, or other similar conventional logs, a lithologic description of samples and drill stem test information.

"Multiple Zone Completion" means a well completion in which two or more separate zones, mechanically segregated one from the other, are produced simultaneously from the same well.

"Notice of Opportunity to Participate" means the written notice of opportunity to participate in a well for oil and gas operations required under Section 40-6-2(11) to be provided to an owner and which includes an offer to lease if the owner is an unleased owner, and an offer for the owner to directly participate financially, in proportion to the owner's interest in the drilling, testing, completion, equipping and operation of the subject well and which includes:

1. the approximate surface and, bottom hole location of the subject well by county, township, range, section, quarter-quarter section or substantially equivalent lot, and footages from directional section lines;

2. the proposed well name;

3. the proposed total distance from the surface of the ground to the terminus measured along the vertical and lateral components if the well is a horizontal well;

4. the proposed total depth;

5. the objective productive zone and the approximate depth and locations of producing intervals in the borehole;

6. the approximate date upon which the subject well was or will be spud;

7. a joint operating agreement proposed in good faith by the operator for operation of the drilling unit upon which the subject well is to be drilled;

8. an AFE for the subject well;

9. a statement that a refusal to agree to either lease or participate in the subject well may result in the imposition of the statutory risk compensation award allowed under Section 40-6-6.5(4)(d)(i)(D) of between 150% and 400% as determined by the board; and

10. a statement that any initial compulsory pooling order may apply to subsequent wells within the drilling unit including any statutory risk compensation award imposed under Utah law pursuant to Section 40-6-6.5(12).

"Oil" means crude oil or condensate or any mixture thereof, defined as follows:

1. "Crude Oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

2. "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the well bore or at the surface in field separators.

3. "Oil and Gas" shall not include gaseous or liquid substances derived from coal, oil shale, tar sands or other hydrocarbons classified as synthetic fuel.

"Oil and Gas Field" means a geographical area overlying an oil and gas pool.

"Oil Well" means any well capable of producing oil in substantial quantities.

"Operator or Designated Agent" means the person who has been designated by the owners or the board to operate a well or unit.

"Owner" means the person who has the right to drill into and produce from a reservoir and to appropriate the oil and gas that he produces, either for himself or for himself and others.

"Person" means and includes any natural person, bodies politic and corporate, partnerships, associations and companies.

"Pit" means an earthen surface impoundment constructed to retain fluids and oil field wastes.

"Pollution" means such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, or the discharge of any liquid, gaseous or solid substance into any waters of the state in such manner as will create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life.

"Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

"Pressure Maintenance" means the injection of gas, water or other fluids into a reservoir, either to increase or maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

"Produced Water" means water produced in conjunction with the conventional production of oil and/or gas.

"Producer" means the owner or operator of a well capable of producing oil or gas.

"Producing Well" means a well capable of producing oil or gas.

"Product" means any commodity made from oil and gas.

"Production Facilities" means all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells or injection wells, prior to any processing plant or refinery.

"Purchaser or Transporter" means any person who, acting alone or jointly with any other person, by means of his own, an affiliated, or designated carrier, transporter or taker, shall directly or indirectly purchase, take or transport by any means whatsoever, or who shall otherwise remove from any well or lease, oil or gas produced from any pool, excepting royalty portions of oil or gas taken in kind by an interest owner who is not the operator.

"Recompletion" means any completion in a new perforated interval or pool within an established wellbore and approved as a recompletion by the division.

"Refinery" means a facility, other than a gas processing plant, where controlled operations are performed by which the physical and

chemical characteristics of petroleum or petroleum products are changed.

"Reserve Pit" means a pit used to retain fluid during the drilling, completion, and testing of a well.

"Seismic Operator" means a person who conducts seismic exploration for oil or gas, whether for himself or as a contractor for others.

"Shut-in Well" means a well that is completed, is shown to be capable of production in paying quantities, and is not presently being operated.

"Spud In" means the first boring of a hole in the drilling of a well by any type of rig.

"State" means the State of Utah.

"Stratigraphic Test or Core Hole" means any hole drilled for the sole purpose of obtaining geological information. The general rules applicable to the drilling of a well will apply to the drilling of a stratigraphic test or core hole.

"Temporarily Abandoned Well" means a well that is completed, is shown not capable of production in paying quantities, and is not presently being operated.

"Temporary Spacing Unit" means a specified area of land designated by the board for purposes of determining well density and location. A temporary spacing unit shall not be a drilling unit as provided for in U.C.A. 40-6-6, Drilling Units, and does not provide a basis for pooling the interest therein as does a drilling unit.

"Underground Source of Drinking Water" (~~(or~~]-USDW) means a fresh water aquifer or a portion thereof that supplies drinking water for human consumption or that contains less than 10,000 mg/l total dissolved solids and that is not an exempted aquifer under Section R649-5-4.

"Waste" means:

1. The inefficient, excessive or improper use or the unnecessary dissipation of oil or gas or reservoir energy.

2. The inefficient storing of oil or gas.

3. The locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations, or that causes unnecessary wells to be drilled, or that causes the loss or destruction of oil or gas either at the surface or subsurface.

4. The production of oil or gas in excess of:

4.1. Transportation or storage facilities.

4.2. The amount reasonably required to be produced in the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.

5. Underground or above ground waste in the production or storage of oil or gas.

"Waste Crude Oil Treatment Facility" means any facility or site constructed or used for the purpose of wholly or partially reclaiming, treating, processing, cleaning, purifying or in any manner making non-merchantable waste crude oil marketable.

"Well" means an oil or gas well, injection or disposal well, or a hole drilled for the purpose of producing oil or gas or both. The definition of well shall not include water wells, or seismic, stratigraphic test, core hole, or other exploratory holes drilled for the purpose of obtaining geological information only.

"Well Site" means the areas that are directly disturbed during the drilling and subsequent use of, or affected by production facilities directly associated with any oil well, gas well or injection well.

"Wildcat Wells" means oil and gas producing wells that are drilled and completed in a pool in which a well has not been previously completed as a well capable of producing in commercial quantities.

NOTICES OF PROPOSED RULES

"Working Interest Owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

"Workover" means any operation designed to sustain, to restore, or to increase the production rate, the ultimate recovery, or the reservoir pressure system of a well or group of wells and approved as a workover, a secondary recovery, a tertiary recovery, or a pressure maintenance project by the division. The definition shall not include operations that are conducted principally as routine maintenance or the replacement of worn or damaged equipment.

KEY: oil and gas law

Date of Enactment or Last Substantive Amendment: ~~2020 June 2, 1998~~

Notice of Continuation: August 26, 2016

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R649-2	Filing No. 52642	

Agency Information

1. Department:	Natural Resources		
Agency:	Oil, Gas and Mining; Oil and Gas		
Building:	Department of Natural Resources		
Street address:	1594 W North Temple		
City, state:	Salt Lake City, UT		
Mailing address:	1594 W North Temple, Suite 1210		
City, state, zip:	Salt Lake City, UT 84114		
Contact person(s):			
Name:	Phone:	Email:	
Natasha Ballif	801-538-5328	natashaballif@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R649-2. General Rules
3. Purpose of the new rule or reason for the change:
The purpose of the rule is to establish definitions of terms utilized with the Title R649 Oil and Gas Program rules. The rule change will amend three definitions as the result of S.B. 191, which passed during the 2017 General Session, and H.B. 419, which passed during the 2018 General Session.
4. Summary of the new rule or change:
Rule R649-2 establishes requirements for the permitting,

reporting, and inspecting of oil and gas drilling operations in Utah. The rule changes include consent to participate in a well, revision of existing force pooling hearing, notice to unlocatable and unidentified owners, imposition of statutory risk compensation award and application of a compulsory pooling order to subsequently drilled wells in a drilling unit.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Oil and Gas program, as well as the Board, is expected to encounter a small on-going savings in staff time through a reduction in compulsory pooling hearings heard by the Board. A total savings cannot be estimated as there is no way of knowing the number of hearings being reduced by this rule amendment.
B) Local governments:
No costs or savings are anticipated for local governments since this rule impacts oil and gas companies, the Division of Oil, Gas and Mining; Oil and Gas (Division), and the Board.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are 303 small business oil and gas operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the Division) in the . It is anticipated that this rule change will decrease the number of hearings by the Board for horizontal drilling and compulsory pooling. A total savings cannot be estimated as there is no way of knowing which companies will file a hearing with the Board and other costs associated with Board hearings (attorney fees, travel, etc.).
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are four non-small businesses in the Oil and Gas industry (for a complete listing of NAICS codes used in this analysis, please contact the Division) in the . It is anticipated that this rule change will decrease the number of hearings by the Board for horizontal drilling and compulsory pooling. A total savings cannot be estimated as there is no way of knowing which companies will file a hearing with the Board and other costs associated with Board hearings (attorney fees, travel, etc.).
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 not affect persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:
 There will be no compliance costs for oil and gas operators.

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 Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:
 The Division anticipates a small on-going savings in staff time through a reduction in compulsory pooling hearings and also anticipate that businesses will see a small savings from the decrease in hearings for horizontal drilling and compulsory pooling matters.

B) Name and title of department head commenting on the fiscal impacts:
 Brian Steed, 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 40-6-1 et seq.	Subsection 63G-3-201(7)(a)(iv)	Subsection 63G-3-201(7)(b)
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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)	Table 5A of the API/ASTM D-1250, Chapter 11.1
Publisher	Manual of Petroleum Measurement
Date Issued	1980

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

	Second Incorporation
Official Title of Materials Incorporated (from title page)	Table 6A of the API/ASTM D-1250, Chapter 11.1
Publisher	Manual of Petroleum Measurement
Date Issued	1980

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

	Third Incorporation
Official Title of Materials Incorporated (from title page)	Model Form Operating Agreement
Publisher	A.A.P.L.
Date Issued	2015
Issue, or version	Form 610-2015

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:	05/22/2020
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10. This rule change MAY become effective on:	05/29/2020
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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:	John Baza, Director	Date:	03/31/2020
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-2. General Rules.

R649-2-1. Scope of Rules.

1. The following general rules adopted by the board pursuant to Chapter 6 of Title 40 shall apply to all lands in the state in order to conserve the natural resources of oil and gas in the state, to protect human health and the environment, to prevent waste, to protect the correlative rights of all owners and to realize the greatest ultimate recovery of oil and gas.

2. Special rules and orders have been and will be issued by the board when required and shall prevail as against the general rules and orders of the board if in conflict~~[therewith]~~.

3. Exceptions to the general rules may ~~[also]~~ be granted by the director or authorized agent for good cause shown and shall prevail as against the general rules.

4. No exceptions granted by the board, director, or authorized agent to the rules applicable to the Underground Injection Control Program will be effective without the consent of the federal Environmental Protection Agency.

R649-2-2. Application of Rules to Lands Owned or Controlled By the United States.

These general rules shall apply to all lands in the state including lands of the United States and lands subject to the jurisdiction of the United States to the extent lawfully subject to the state's power.

R649-2-3. Application of Rules to Unit Agreements.

1. The board may suspend the application of the general rules or orders or any part thereof, with regard to any unit agreement approved

by an ~~[duly]~~ authorized officer of the appropriate federal agency, so long as the conservation of oil or gas and the prevention of waste is accomplished~~[thereby]~~.

2. Such suspension shall not relieve any operator from making such reports as are otherwise required by the general rules or orders, or as may reasonably be requested by the board or the division in order to keep the board and the division fully informed as to operations under such unit agreements.

R649-2-4. Designation of Agent or Operator.

1. A designation of agent or operator shall be submitted to the division prior to the commencement of operations.

2. A designation of agent or operator will, for purposes of the general rules and orders, be accepted as evidence of authority of agent to fulfill the obligations of the owner, to sign any required documents or reports on behalf of the owner, and to receive all authorized orders or notices given by the board or the division.

3. All changes of address and any termination of the designated agent's or operator's authority shall be promptly reported in writing to the division, and in the latter case a designation of a new agent or operator shall be promptly made.

R649-2-5. Right to Inspect.

1. The director or authorized agent shall have the right at all reasonable times to go upon and inspect any oil or gas properties and wells for the purpose of making any investigations or tests reasonably necessary to ensure compliance with the provisions of the statutes, the general rules and orders of the board or any special field rules and orders. The director or authorized agent shall report any observed violation to the board.

2. The documentation of off lease transportation of crude oil required by Section R649-2-6, Access to Records, shall be carried in the motor vehicle during transportation and shall be available for examination and inspection by the director or an authorized agent upon request.

R649-2-6. Access to Records.

1. Any person who produces, operates, sells, purchases, acquires, stores, transports, refines, or processes oil or gas or who injects fluids for cycling, pressure maintenance, secondary or enhanced recovery, or disposal of salt water or oil field waste within the state, shall make and keep appropriate books and records covering his operations in the state from which he shall be able to make and substantiate all reports required by the board or the division.

1.1. Such books and records, together with copies of all reports and notices submitted to the board or the division shall be kept on file and available for inspection by the director or an authorized agent at all reasonable times for a period of at least six years.

1.2. The director or the authorized agent shall also have access to all pertinent well records wherever located.

2. Each owner or operator shall permit the director or authorized agent at his sole risk and expense, in the absence of negligence on the part of the owner or operator, to come upon any lease, property or well operated or controlled by him; to inspect the records pertaining to and the manner of operation of such property or well; and to have access at all reasonable times to any and all records pertaining to such well. All information so obtained by the director or authorized agent shall be kept confidential and shall be reported only to the division or its authorized agent, unless the owner or operator gives written permission to the director to release such information.

3. All off lease transportation of oil by motor vehicle shall be accompanied by a run ticket or equivalent document. The

documentation shall identify the name and address of the transporter, the name of the operator, the lease or facility from which the oil was taken, the date of removal, the API gravity of the oil, the calculated percentage of BS and W, the volume of oil or the opening and closing tank gauges or meter readings, and the destination of the oil.

R649-2-7. Naming of Oil and Gas Fields or Pools.

1. The division shall name oil and gas fields or pools within the state in cooperation with a Fields Names Advisory Committee and with due regard and consideration for any recommendation from the owners or operators of such fields or pools. The Field Names Advisory Committee shall be composed of a representative of the United States Bureau of Land Management and representatives of appropriate state agencies and the oil and gas industry.

R649-2-8. Measurement of Production.

1. The volume of oil production shall be computed in barrels of clean oil, on the basis of acceptable meter measurements, tank measurements, or with such greater accuracy as may be required by the division. Computations of the volume of oil production shall be subject to the following corrections:

1.1. The gross volume of oil shall be corrected to exclude the entire volume of impurities not constituting a natural component part of the oil.

1.2. The observed volume of oil after correction for impurities shall be further corrected to the standard volume at 60 degrees Fahrenheit, in accordance with Table 6A of the API/ASTM D-1250, Chapter 11.1, Manual of Petroleum Measurement (1980), which is incorporated by this reference.~~[or any revisions or supplements, or any alternative publication or tables approved by the division.]~~

1.3. The observed gravity of oil shall be corrected to the standard API gravity at 60 degrees Fahrenheit in accordance with Table 5A of API/ASTM, D-1250, Chapter 11.1, Manual of Petroleum Measurement (1980), which is incorporated by this reference.~~[or any revisions or supplements, or any alternative publication or tables approved by the division.]~~

2. All gas shall be measured by an orifice type meter unless otherwise authorized by the division.

2.1. In computing the volumes of all gas produced, sold, or injected, the standard pressure base shall be 14.73 pounds per square inch absolute (psia), and the standard temperature base shall be 60 degrees Fahrenheit.

2.2. All measurements of gas shall be adjusted by computation to these standards, regardless of the pressure and temperature at which the gas was actually measured, unless otherwise authorized by the division.

R649-2-8a. Consenting to Participate in a Well.

1. Except as provided in Subsection (2), an owner shall be determined by the board to be a "Nonconsenting owner" as defined in Utah Code 40-6-2 if, within 30 days from the date the notice of opportunity to participate is received, the owner has failed to:

1.1. Execute and deliver to the operator an executed AFE for the well; and

1.2. Execute and deliver to the operator a JOA to govern the drilling and operation of the well and applicable drilling unit with the operator, and subject the owner to the risk compensation award under Section 40-6-6.5 as may be determined by the board.

2. If, within 30 days from the date the notice of opportunity to participate is received or such later date as provided for by the notice of opportunity to participate, or by separate written agreement, an owner has delivered to the operator an executed AFE, and subject to Subsection

(5) below, written objections, addressing the specific provisions of the operator's proposed JOA to which the owner in good faith objects, the reasoning for each objection, and modifications or alternative provisions the owner proposes in lieu thereof, the owner shall be deemed a "Consenting owner" as defined in Utah Code 40-6-2(4).

3. Failure of an owner to comply with the requirements of Subsection (2) shall result in the determination by the board that the owner is a Nonconsenting owner and subject the owner to the risk compensation award under Section 40-6-6.5 as may be determined by the board.

4. An owner who complies with the requirements of Subsection (2) or an operator who in good faith rejects said owner's proposed modifications or alternate provisions to the JOA may request that the board determine the terms of the JOA in accordance with the provisions of Subsection 40-6-6.5(2) as follows:

4.1. if the operator has filed a request for agency action for compulsory pooling of owners in the well and associated drilling unit has been filed, either the owner or the operator may move the board to determine the reasonableness of the costs charged and the terms of the JOA between the owner and operator as part of the proceeding, and

4.2. if no request for agency action has been filed for the compulsory pooling of owners in the well and associated drilling unit, then either the owner or the operator may file a request for agency action within 60 days of the receipt by the operator of the owner's written objections.

4.3. if neither (4.1) or (4.2) timely occurs, then the actual costs incurred shall be deemed by the board as just and reasonable, and the terms of the JOA as proposed by the operator in the notice of opportunity to participate shall be deemed by the board to govern as between the operator and the owner in any subsequent hearing before the board.

4.4. if a hearing is held before the board regarding disputed provisions or terms of a JOA, the scope of the hearing shall be limited to addressing only the terms at issue within the proposed JOA. Any JOA approved and adopted by the board shall include all undisputed terms and conditions of the JOA proposed by the operator and govern as between the operator and the owner. If the board determines the owner's objections to the costs charged are justified, the operator shall apply the amounts over and above those found to be reasonable charges as credit against the owner's proportionate share of future operational expenses.

5. Articles VII.A through D of the standard and unmodified A.A.P.L. Form 610-2015 Model Form Operating Agreement, which are incorporated by this reference, are deemed just and reasonable under all circumstances, and shall be adopted by the board in any JOA dispute under Subsection 4 above retroactively effective to the date the AFE is signed by the consenting owner pursuant to Subsection (2) above; provided that, as to Article VII. D.3, the applicable "risk penalty" referred to therein shall be set by the board. If these provisions are contained in the JOA proposed by the operator without modification, any objection to them shall be summarily rejected by the board.

R649-2-9. Refusal to Agree.

~~[1. An owner shall be deemed to have refused to agree to bear his proportionate share of the costs of the drilling and operation of a well under Section 40-6-6.5 if:~~

~~1.1. The operator of the proposed well has, in good faith, attempted to reach agreement with such owner for the leasing of the owner's mineral interest or for that owner's voluntary participation in the drilling of the well;~~

~~1.2. The owner and the operator have been unable to agree upon terms for the leasing of the owner's interest or for the owner's participation in the drilling of the well. For purposes of Utah Code~~

NOTICES OF PROPOSED RULES

Sections 40-6-2(4) and 2(11), the consent and agreement required of an owner shall be manifested by the owner agreeing in writing, within thirty (30) days from the date the notice required by Utah Code Section 40-6-2(11) is received, to bear that owner's proportionate share of the costs of drilling, testing, completion, equipping and operation of the well.

2. If the operator [of the proposed well] and owner negotiating in good faith [shall fail to attempt, in good faith,] fail to reach agreement [with the owner] for the leasing of that owner's mineral interest or for voluntary participation by that owner in the proposed well prior to the filing of a [R]request for [A]agency [A]action for [involuntary]compulsory pooling of interests in the drilling unit under Section 40-6-6.5 then, [upon written request and after notice and hearing,]the duly-noticed hearing on the [R]request for [A]agency [A]action for [involuntary]compulsory pooling may, at the discretion of the board or its designated hearing examiner, be delayed for a period not to exceed 30 days, to allow for continued good faith negotiations between the operator and the owner.

R649-2-9a. Notice of Unlocatable and Unidentified Owners.

1. Either an owner who is not identifiable, but may claim ownership by, through, or under the estate of a deceased owner of record, or an owner who is not locatable, may be determined by the board to be a "Nonconsenting owner" as defined under Section 40-6-2 if:

1.1. the operator, concurrent with the filing of a request for agency action for compulsory pooling, files with the board an ex parte motion for notice by publication in a newspaper of general circulation in the county where the well is located for two (2) consecutive weeks prior to the hearing date, which motion shall be accompanied by a proposed form of such notice to be published, and an affidavit outlining in sufficient detail the operator's reasonable diligent and good faith efforts to identify and locate such owners including at a minimum:

1.1.1. a listing of all such owners; provided, if such owners are unknown, then identifying them as parties not already leased or participating in the well at issue and claiming by, through or under the estate of the deceased owner of record;

1.1.2. the name, address, email address and telephone number of a contact person for the operator to respond to the notice; and

1.1.3. all of the information set forth in notice of opportunity to participate, in lieu of an AFE and a JOA, a statement that an AFE for the subject well and a proposed JOA agreement shall be provided by the operator to the owner if a response to the notice is received before the hearing.

1.2. the board finds the operator has exercised such reasonable, diligent and good faith efforts to identify and locate such owners and further finds the proposed form of notice is acceptable, and issues an order granting the motion, and proof of such publication is supplied by said newspaper publisher and filed with the board, and

1.3. no response, either agreeing to lease or to otherwise participate in the subject well, is received by the operator from any such owner prior to the hearing.

R649-2-9b. Imposition of Statutory Risk Compensation Award.

In determining the level of any risk compensation award imposed within the range of 150% to 400% specified under Subsection 40-6-6.5(4)(d)(i)(D), the board may consider, among other factors, the geologic and engineering uncertainties and difficulties in drilling the well, the availability of information from prior and current drilling and development in the area, and the unique specified costs of the well.

R649-2-10. Notification of Lease Sale or Transfer.

The owner of a lease shall provide notification to any person with an interest in such lease, when all or part of that interest in the lease is sold or transferred.

R649-2-11. Confidentiality of Well Log Information.

1. Well logs marked confidential shall be kept confidential for one year after the date on which the log is required to be filed with the division, unless the operator gives written permission to release the log at an earlier date.

2. Information on a newly permitted well will be held confidential only upon receipt by the division of a written request from the owner or operator.

3. The period of confidentiality may begin at the time the APD is submitted for approval if a request for confidentiality is received at that time. The information on the application itself will not be considered confidential.

4. Information that shall be held confidential includes well logs, electrical or radioactivity logs, electromagnetic, electrical, or magnetic surveys, core descriptions and analysis, maps, other geological, geophysical, and engineering information, and well completion reports that contain such information.

5. The owner or operator shall clearly mark documents as confidential. Such marking shall be in red and be clearly visible.

6. Confidential wells or information shall be reported separately from wells or information that is not in confidential status.

R649-2-12. Tests and Surveys.

1. When deemed necessary or advisable the Director or authorized agent can require that tests or surveys be made to determine the presence of waste of oil, gas, water, or reservoir energy; the quantity of oil, gas or water; the amount and direction of deviation of any well from the vertical; formation, casing, tubing, or other pressures; or any other test or survey deemed necessary to carry out the purposes of the Oil and Gas Conservation Act.

2. Directional, deviation, [and/or] measurements-while-drilling (MWD) surveys or a combination of these surveys must be run on horizontal wells in order to identify the well's path and submitted in accordance with Section R649-3-21, Well Completion and Filing of Well Logs, as amended for horizontal wells.

R649-2-13. Application of a Compulsory Pooling Order to Subsequently Drilled Wells in a Drilling Unit.

1. An initial board order compulsory pooling all interests in a drilling unit, including the terms and conditions of a JOA as adopted by the board, shall apply to any subsequently drilled well in the drilling unit as authorized under Subsection 40-6-6.5(12), subject to compliance with the following:

1.1. The operator has filed with the board a motion to modify the initial order to apply its terms to an additional well in the drilling unit which sets forth by affidavit:

1.1.1. The docket and cause numbers of said initial board order;

1.1.2. The location, identification, and description of the well drilled to which the order is to apply;

1.1.3. An identification of those owners who the operator asserts have no consented to participate in the subsequent well after having been provided a notice of an opportunity to participate and failing to consent or make objections as allowed by Subsection R649-2-8a, and those owners who are either locatable, unlocatable, or cannot be identified; and

1.1.4. Certification that the operator has made reasonable efforts to locate and provide notice to the alleged Nonconsenting owner which shall include:

1.1.4.1. Copies of the written notice of opportunity to participate sent to them together with a proof of service; or

1.1.4.2. Proof of notice by publication as required by Subsection R649-2-9a(1.2) if any such alleged Nonconsenting owner is unlocatable or not identified; and

1.1.5. A statement that the average weighted landowner's royalty for the drilling unit remains the same as that provided for in the initial board order or a calculation of the average weighted landowner's royalty for the drilling unit at the time of commencement of the drilling of the subsequent well as provided in Subsection 40-6-6.5(6);

1.1.6. The anticipated costs of plugging the well; and

1.1.7. The risk compensation award as determined by the board in the original order; and

1.2. The motion to modify the initial board order has been mailed by the operator, together with copies of the initial board order and a recitation of the provisions of Subsection 40-6-6.5(12) and Subsection R649-2-8a to all such alleged nonconsenting owners, with a certification of service evidencing the same executed and filed with the board; and

1.3. Within 30 days of the mailing of the motion, no party has filed any objection to the motion to modify the initial board order to apply to the subsequently drilled well in the drilling unit, including, without limitation, any objection to said party's alleged nonconsent status, the applicable risk compensation percentage or the reasonableness of the actual costs incurred for the subsequently drilled well.

2. Upon a written notice filed with the board stating the foregoing conditions have been satisfied, the board may enter an order declaring its initial compulsory pooling order to be applicable to such subsequently drilled well, with modifications for the matters addressed in the motion to modify the order.

3. If an owner or other person with an interest affected by the motion shall have filed an objection within 30 days of the mailing of the motion to modify the order including, but not limited to, an objection to said person's alleged nonconsent status, the applicable risk compensation percentage, or the reasonableness of the costs of the well, then the board shall set a time for a hearing in accordance with Rules of Practice Before the Board in Section R641-100 et. seq.

3.1. The hearing shall be limited to addressing the objections to the motion to modify the order as asserted by any party.

3.2. The operator shall have the burden to satisfy the requirements under Section 40-6-6.5 for the granting of the motion and the objecting owner shall have the burden of establishing the merit to its objections.

3.3. The board shall enter an order determining the application of the initial order to the subsequent well as to any party who filed objections, and how the initial order will apply to others who have not objected.

4. If there are no objections made to the motion to modify the initial compulsory pooling order, the initial order shall apply to the subsequent well as requested.

5. The terms of any JOA adopted by the board in an initial compulsory pooling order and applicable to any subsequent order may not be in the contravention of the provisions under Section 40-6-6.5, including providing that an owner shall be entitled to receive notice of opportunity to participate in any subsequent well proposed in the drilling unit regardless of the owner's prior consent or nonconsent status on a prior well in the drilling unit.

KEY: consenting, nonconsenting, oil, pooling

Date of Enactment or Last Substantive Amendment: 2020[September 21, 2017]

Notice of Continuation: August 26, 2016

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

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.

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

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R51-7	Filing No. 52623

Agency Information

1. Department:	Agriculture and Food	
Agency:	Administration	
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
Kelly Pehrson	801-538-7102	kwpehrson@utah.gov

General Information

2. Rule or section catchline:
R51-7. Open and Public Meetings Act Electronic Meetings
3. Effective Date:
03/19/2020
4. Purpose of the new rule or reason for the change:
This new rule allows public bodies organized under Title 4 or by the Department of Agriculture and Food (Department) rule to hold public meetings, and is required by Section 52-4-207.
5. Summary of the new rule or change:
This rule provides guidelines for public bodies organized under Title 4 or Department rule to hold electronic meetings consistent with the Utah Open and Public Meetings Act. The rule details when, how, and where electronic meetings can be held, and how members and the public can participate.

6. Regular rulemaking would:	
X	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 current COVID-19 pandemic and related executive order requires public bodies establish guidelines for electronic meetings as soon as possible so that public bodies can continue to meet without causing risk to public health and welfare.	

Fiscal Information

7. Aggregate anticipated cost or savings to:	
A) State budget:	
This rule should not create any anticipated cost or savings to the state budget because the Department can hold electronic meetings without requiring purchase of any additional equipment.	
B) Local governments:	
This rule should not create any anticipated cost or savings to local governments because they are not members of public bodies created under Title 4 or Department rule.	
C) Small businesses ("small business" means a business employing 1-49 persons):	
This rule should not create any anticipated cost or savings to small businesses because they can still participate in electronic public meetings.	
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):	
This rule should not create any anticipated costs or savings to others because they can still participate in electronic public meetings.	
8. Compliance costs for affected persons:	
There are no compliance costs for affected persons because they continue to be able to participate in public meetings free of charge.	
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:	
This rule will allow public bodies organized under Title 4 or Department rule to hold electronic meetings consistent with state law as the need arises and will not have a fiscal impact on businesses.	

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 52-4-207	Section 63G-3-201	Section 4-2-103

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	03/19/2020
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R51. Agriculture and Food, Administration.

R51-7. Open and Public Meetings Act Electronic Meetings.

R51-7-1. Authority and Purpose.

(1) Utah Code Section 52-4-207 requires a state public body that holds electronic meetings to have a rule governing the use of electronic meetings. This rule establishes procedures for conducting electronic meetings by each public body created by statute within Utah Code, Title 4 or by Department rule, except for any public body that has adopted its own rule.

(2) A public body with rule making authority may adopt a separate rule governing its electronic meetings.

(3) This rule is authorized by Sections 52-4-207, 63G-3-201 and 4-2-103.

R51-7-2. Definitions.

The definitions found in Section 52-4-103 apply to this rule. In addition, the following definitions apply:

(1) "Meeting" means a meeting of the public body that is required to be public by the provisions of the Open and Public Meetings Act, Utah Code Title 52, Chapter 4.

(2) "Electronic meeting" includes any meeting where at least one member of the public body participates in the public meeting by telephonic or other electronic means.

(3) "Presiding officer" means the member of the public body designated by statute, rule, or vote of the public body to preside at a meeting of the public body.

(4) "Business day" means a day that the Department is open to the public for the conduct of business, exclusive of weekends and state holidays.

R51-7-3. Designation of Electronic Meetings.

(1) The presiding officer may schedule any meeting as an electronic meeting upon the presiding officer's discretion or upon request of any member of the public body.

(a) A member of the public body may request that the member's participation in the meeting be allowed electronically up to 48 hours, but no less than two business days, prior to the commencement of the meeting. The presiding officer may refuse a member's request to hold a meeting electronically.

(b) If the Department cannot technically arrange for the meeting to be held electronically, the presiding officer's decision to allow electronic participation the Department may deny the request.

(c) The presiding officer or the Department may restrict the number of connections for members to participate in the meeting based on available equipment capability.

(d) If budget constraints do not allow the Department to provide an electronic connection at no charge to the member, the member who chooses to participate electronically may be required to do so at his or her own cost.

(2) No vote of the public body is necessary to include other members of the public body to join the meeting through an electronic connection.

R51-7-4. Anchor Location.

(1) Unless otherwise designated in the posted public notice of the meeting, the anchor location for an electronic meeting held by the public body is the Utah Department of Agriculture and Food located at 350 North Redwood Road, Salt Lake City, Utah.

(2) The person presiding at the meeting may restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability.

(3) The Department shall provide a meeting room for an anchor location for any meeting that is held electronically.

R51-7-5. Quorum, Member Participation.

(1) A quorum is not required to be present at the anchor location.

(2) A member of the public body who participates in the meeting via electronic means shall be counted as present at the meeting for quorum, participation, and voting requirements.

R51-7-6. Public Participation.

Interested persons and the public may attend and monitor the open portions of the meeting at the anchor location.

KEY: electronic meetings, Open and Public Meetings Act
Date of Enactment or Last Substantive Amendment: March 19, 2020
Authorizing, and Implemented or Interpreted Law: 52-4-207; 63G-3-201; 4-2-103

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R68-24	Filing No. 52634

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
Kelly Pehrson	801-538-7102	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:
R68-24. Industrial Hemp License for Growers
3. Effective Date:
03/27/2020
4. Purpose of the new rule or reason for the change:
These changes allow for industrial hemp growers to extend their license beyond the original term to store or sell industrial hemp product.
5. Summary of the new rule or change:
In addition to allowing industrial hemp growers to extend their licenses to sell unused product, the changes also make updates to the industrial hemp program to be consistent with United States Department of Agriculture (USDA) proposed rules, remove burdensome and unnecessary requirements, and make confirming changes based on recently passed legislation.
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:
These changes need to be made using emergency rulemaking because industrial hemp growers have unsold product and requiring them to pay a license fee for an entire additional year when they are not continuing to grow product would be unduly burdensome and damaging to the industrial hemp industry in Utah. Additionally, changes are necessary to conform the Utah industrial hemp program with USDA guidelines.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:	
No additional costs are anticipated to the state budget because industrial hemp growers that operate under an extended license will not require additional inspections by the Department of Agriculture and Food. Additionally, this rule change should not change the number of growers that apply and pay for a full year license.	
B) Local governments:	
No anticipated cost or savings for local governments because they do not operate as industrial hemp growers or regulate industrial hemp growers.	
C) Small businesses ("small business" means a business employing 1-49 persons):	
There is an anticipated cost savings to a small number of industrial hemp growers (small businesses) who choose to apply for an extended license that includes the difference between the current license fee (\$500) and the license fee extension (proposed at \$50).	
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 anticipated costs or savings to other persons that do not operate as industrial hemp growers.	
8. Compliance costs for affected persons:	
The cost of a industrial hemp grower license extension is planned to be \$50.	
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:	
This rule change will have a positive fiscal impact on small businesses by allowing them to continue to sell or store industrial hemp product for 90 days without paying for a full year license extension.	
B) Name and title of department head commenting on the fiscal impacts:	
Kelly Pehrson, Deputy 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 4-41-103(4)	

Agency Authorization Information

Agency head	Kelly Pehrson,	Date:	03/27/2020
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or designee, and title:	Deputy Commissioner		
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R68. Agriculture and Food, Plant Industry.

R68-24. Industrial Hemp ~~[Research Pilot Program]~~ License for Growers.

R68-24-1. Authority and Purpose.

Pursuant to Section 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp ~~[Research Pilot]~~ Program for the growing and cultivation of industrial hemp.

R68-24-2. Definitions.

1) "Acceptable hemp THC level" means a total composite tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the total composite tetrahydrocannabinol concentration of 0.3 %.

2) "Community Location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

~~[4]~~3) "Department" means the Utah Department of Agriculture and Food.

~~[2]~~4) "Growing Area" means a contiguous area on which hemp is grown whether inside or outside.

~~[3]~~5) "Handle" or "handling" ~~[means possessing, transporting or storing industrial hemp for any period of time.]~~ means the action of cultivating or storing hemp plants or hemp plant parts prior to the delivery of the plants or plant parts for processing.

6) "Harvesting" means removing industrial hemp plants from final growing condition and physically or mechanically preparing plant material for storage or wholesale.

~~[4]~~7) "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]~~8) "Licensee" means a person authorized by the department to grow industrial hemp.

9) "Measurement of Uncertainty" means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonable be attributed to the particular quantity subject to measurement.

~~[6]~~10) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol and tetrahydrocannabinolic acid.

R68-24-3. Grower License Application Requirements.

1) The applicant shall be a minimum of ~~[eighteen-]~~18 years old.

2) The applicant is not eligible to receive a license if they have~~[-~~

- ~~_____~~ a) been convicted of a felony or its equivalent; or
- ~~_____~~ b) been convicted of a drug-related misdemeanor within the last ten (10) years] been convicted of a felony or its equivalent within the last ten years.

3) An applicant seeking an industrial hemp cultivation license shall submit the following to the department:

- a) a completed application form provided by the department;
- b) the legal description of the growing area;
- c) the global positioning coordinates for the center of the outdoor growing area;

- d) maps of the growing area in acres or square feet, and the location of different varieties within the growing area;
 - e) a statement of the intended end use or disposal for all parts of the hemp plant grown; and
 - f) a plan for the storage of seed or clone and harvested industrial hemp material as specified in R68-24-7.
- 4) An applicant shall submit a nationwide criminal history from the FBI completed within three ~~(3)~~ months of their application.
- 5) The applicant shall submit a fee as approved by the legislature in the fee schedule.
- 6) The department shall deny any applicant who does not submit all required information.

R68-24-4. Growing Area.

- 1) A licensee shall not plant or grow industrial hemp on any site not listed on the grower license application and shall take immediate steps to prevent the inadvertent growth of industrial hemp outside of the authorized grow area.
- 2) A licensee shall not grow hemp in any structure used for residential purposes.
- 3) A licensee shall not handle or store leaf, viable seed, or floral material from hemp in a structure used for residential purposes.
- 4) A licensee shall not grow industrial hemp outdoors within 1,000 feet of a community location ~~[school or a public recreational area]~~.
- 5) The licensee shall post signage at the plot location's entrance and where the plot is visible to a public roadway in a manner that would reasonably be expected to be seen by a person in the area.
- 6) The signage shall include the following information:
- a) the statement, "Utah Department of Agriculture Industrial Hemp ~~[Research Pilot]~~ Program";
 - b) the name of the licensee;
 - c) the Utah Department of Agriculture and Food licensee number; and
 - d) the department's telephone number.

R68-24-5. Reporting Requirements.

- ~~[1] Prior to planting the growing area, the licensee shall submit a Pre Planting Report, on a form provided by the department, which includes:~~
- ~~a) a description of the industrial hemp varieties to be planted;~~
 - ~~b) a description of all other plant material being grown in the growing area;~~
 - ~~c) the number of acres to be planted or the amount of seed or clone to be planted in the growing area, and~~
 - ~~d) the source of the seed or clone being planted.~~
- ~~[2] Within ten ~~(10)~~ days of planting the licensee shall submit a Planting Report, on a form provided by the department, which includes:~~
- ~~a) a list of all industrial hemp varieties and other plants in the growing area which were planted;~~
 - ~~b) the actual acres planted or the seeding rate or number of clones planted in the growing area;~~
 - ~~c) adjusted maps and global position coordinates for the area planted; and~~
 - ~~d) the amount of seed that was not used.~~
- ~~[3] Within ~~(30)~~ days prior to harvest the licensee shall submit a Harvest Report, on a form provided by the department, which includes:~~
- ~~a) any contracts entered into between the grower and an industrial hemp processor or a statement of the intended use of all industrial hemp cultivated in the growing area;~~

- ~~b) any intended storage areas for industrial hemp or industrial hemp material; and~~
 - ~~c) the harvest dates and location of each variety cultivated in the growing areas;~~
 - ~~i) the licensee shall immediately inform the department of any changes in the reported harvest date which exceeds five ~~(5)~~ days.~~
- ~~[4] ~~(Thirty)~~ ~~(30)~~ days after completion of harvest the licensee shall submit a Production Report, on a form provided by the department, which includes:~~
- ~~a) yield from the growing area;~~
 - ~~b) THC testing reports, if any, conducted at the licensee's request;~~
 - ~~c) water application rates;~~
 - ~~d) report of any pest infestations or problems; and~~
 - ~~e) a statement on the final disposition of the all industrial hemp product in the growing area.~~
- ~~[5] Failure to submit the required reports may result in the revocation of the grower license.~~

R68-24-6. Inspection and Sampling.

- 1) The growing area shall be subject to random sampling to verify the THC concentration does not exceed ~~[0.3% on a dry weight basis]~~ the acceptable hemp THC levels by department officials.
- 2) The department shall have complete and unrestricted access to all industrial hemp plants and seeds whether growing or harvested, all land, buildings and other structures used for the cultivation or storage of industrial hemp.
- 3) Samples of each variety of industrial hemp shall be randomly sampled from the growing area by department officials.
- 4) The department shall conduct the laboratory testing on the sample to determine the THC concentration on a dry weight basis ~~[by gas chromatography]~~.
- 5) The sample taken by the department shall be the official sample.
- 6) The department shall test the growing area within ~~(thirty)~~ ~~[(30)]~~ days prior to harvest.
- 7) The department shall notify the licensee of the test results from the official sample within a reasonable amount of time.
- 8) The test results from the department shall contain a measurement of uncertainty.
- ~~[8] Any laboratory test ~~[result greater than 0.3% THC]~~ that exceeds the acceptable hemp THC level may be considered a violation of the terms of the license and may result in ~~[a]~~ license revocation and issuance of a citation.~~
- ~~[9] Upon a test result with greater than ~~[0.3% THC]~~ the acceptable hemp THC level, the department shall notify the grower.~~
- ~~[10] The department will coordinate with the appropriate law enforcement agency regarding ~~[A]~~ any laboratory test result with 1% THC or greater, ~~[will be turned over to the appropriate law enforcement agency]~~ and revocation of the license for the remaining calendar year will be immediate.~~

R68-24-7. Storage of Industrial Hemp and Hemp Material.

- 1) A licensee may store hemp and hemp material provided:
- a) the licensee notifies the department, in writing, of the location of the storage facility;
 - b) the licensee informs the department of the type and amount of product being stored in the storage facility;
 - ~~c) the storage facility is owned by the licensee; and~~
 - ~~[4] the storage facility is outside of the public view[-];~~
 - ~~[e] the storage facility is secured with physical containment and reasonable security measures[-]; and~~

NOTICES OF 120-DAY (EMERGENCY) RULES

_____ e) the storage facility is not within 1,000 feet of a community location.
2) The storage area is subject to random inspection by department officials.

R68-24-8. Transportation of Industrial Hemp Materials.

1) A licensee shall not transport any industrial hemp materials, except to a storage facility~~[owned by the licensee]~~, until the department has notified the licensee of the test results from the growing area.

~~[_____ 2) A licensee may move nonviable hemp products without an industrial hemp transportation permit.]~~

~~[3]2)~~ An industrial hemp transportation permit is required for each day and each vehicle used to move industrial hemp or industrial hemp products.

~~[4]3)~~ The licensee shall submit an industrial hemp transportation permit request form provided by the department.

~~[5]4)~~ Requests for an industrial hemp transportation permit shall be submitted to the department at least five ~~[(5)]~~ business days prior to movement.

~~[6]5)~~ An industrial hemp transportation permit authorizes the transportation of industrial hemp materials only within the borders of the state.

~~[7]6)~~ The department may deny any application for a movement permit that is not completed in accordance with this rule.

R68-24-9. Restrictions on the Sale and Transfer of Industrial Hemp and Hemp Materials.

1) A licensee shall not sell or transfer living plants, viable plants, viable seeds, leaf material, or floral material to any person not licensed by the department or to any person outside the state who is not authorized by the laws of that state or United States Department of Agriculture.

2) The licensee may sell or transfer stripped stalks, fiber, and nonviable seed to the general public provided the ~~[product's THC level is less than 0.3%.]~~ hemp material has an acceptable hemp level.

R68-24-10. Renewal.

1) A licensee shall resubmit all documents required in R68-24-3, with updated information, before December 31st of the current year.

2) The department may deny a renewal for an incomplete application.

3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

R68-24-11 Extension.

1) The department may extend the term of a license for up to 90 days, provided that:

a) the licensee requests an extension prior to the end of the original license term; and

b) the licensee reports to the department;
i) the amount of industrial hemp they possess at the end of the original license term; and

ii) the planned disposition of the remaining industrial hemp.

2) Under an extended license, the licensee shall not grow or process industrial hemp, but may store and sell industrial hemp harvested during the previous growing season.

3) The licensee shall submit a license extension fee as approved by the legislature in the fee schedule.

4) The licensee continues to be subject to inspection by the department.

R68-24-1[1]2. Destruction of Industrial Hemp Material.

~~[_____ 1) The licensee shall be responsible for the destruction any plant material which tests greater than 0.3% THC by dry weight.]~~

1) The department shall be responsible for the destruction of any plant material which tests above the acceptable hemp THC level.

2) The licensee shall work with the department on an approved plan for the destruction of the plant material.

3) The department may destroy the plant material at cost to the licensee.

4) The department may inspect the growing area to verify the destruction of all plant material.

R68-24-1[2]3. Violations.

1) A licensee shall not grow industrial hemp that tests ~~[greater than 0.3% THC]~~ greater than the acceptable hemp THC level on a dry weight basis.

2) A licensee shall not sell or transfer industrial hemp material that tests greater than ~~[0.3%]~~ the acceptable hemp THC level on a dry weight basis.

3) It is a violation of the grower license to grow or store industrial hemp or industrial hemp material on a site not approved by the department as part of the license.

4) A licensee shall not allow unsupervised public access to hemp plots.

5) A licensee shall not deny an official of the department access for sampling or inspection purposes.

6) A licensee shall not violate any portion of this rule or state law.

7) It is a violation of this rule to grow, cultivate, handle, or possess industrial hemp or viable industrial hemp materials without a license from the department.

9) It is a violation to grow industrial hemp material on a site not approved by the department as listed on the license.

10) It is a violation to grow industrial hemp outdoors within 1,000 feet of a community location~~[school or public recreational area].~~

KEY: industrial hemp cultivation

Date of Enactment or Last Substantive Amendment: March 27, 2020

Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R68-31	Filing No. 52622

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
Kelly Pehrson	801-538-7102	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:
R68-31. Cannabis Licensing Process
3. Effective Date:
03/19/2020
4. Purpose of the new rule or reason for the change:
This rule change allows for the Cannabis Production Establishment Licensing Board to meet electronically as needed.
5. Summary of the new rule or change:
The rule provides guidelines, consistent with Section 52-4-207 of the Utah Open and Public Meetings Act, to allow the Cannabis Production Establishment Licensing Board to meet electronically.
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 type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:
During emergency or exigent circumstances, it is important that the Cannabis Production Establishment Licensing Board be able to meet electronically so that public health and welfare can be protected while cannabis production establishments are still able to be licensed to keep their businesses going.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
Allowing electronic meetings does not create any new costs for the Department of Agriculture and Food (Department) because the Department currently possesses the required equipment.

B) Local governments:
Allowing the board to meet electronically should not affect any local governments because they do not operate as or regulate cannabis production establishments.
C) Small businesses ("small business" means a business employing 1-49 persons):
Electronic meetings should not create additional costs or savings for small businesses because they will continue to be able to participate in meetings as usual.
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 <i>agency</i>):
Electronic meetings should not create additional costs or savings for other persons because they will still have the option to participate as usual.
8. Compliance costs for affected persons:
No additional compliance costs are created with this rule change.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This rule change will allow the Cannabis Production Establishment Licensing Board to meet electronically to continue to license producers even when exigent circumstances make meeting in person impossible or unwise. There are no negative fiscal impacts associated with the change because the Department currently maintains the equipment necessary to hold electronic meeting.
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):		
Subsection 4-41a-201(2)(iii)	Section 4-2-103	

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	03/19/2020
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R68. Agriculture and Food, Plant Industry.

R68-31. Cannabis Licensing Process.

R68-31-1. Authority and Purpose.

Pursuant to sections 4-41a-201(2)(iii) and 4-2-103, this rule establishes the Cannabis Establishment Licensing Board and the process for issuing a cannabis production establishment license.

R68-31-2. Definitions.

- 1) "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, a cannabis processing facility, or a medical cannabis research licensee.
- 2) "Cannabis processing facility" means a person that:
 - a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act;
 - b) possesses cannabis with the intent to manufacture a cannabis product;
 - c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- 3) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- 4) "Department" means the Utah Department of Agriculture and Food.
- 5) "Independent cannabis testing laboratory" means a person that:
 - a) conducts a chemical or other analysis of cannabis or cannabis product; or
 - b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

R68-31-3. Cannabis Production Establishment Licensing Board Established.

- 1) The department shall establish a Cannabis Production Establishment Licensing Board to evaluate cannabis production establishment applications and issue cannabis production establishment licenses.
- 2) The Cannabis Production Establishment Licensing Board shall be composed of six members:
 - a) the Commissioner of the department or designee;
 - b) the Deputy Commissioner of the department;
 - c) the Cannabis and Industrial Hemp Division Director;
 - d) the Regulatory Services Division Director;
 - e) the State Chemist and Laboratory Division Director; and
 - f) the Plant Industry Division Director.
- 3) The commissioner or the commissioner's designee shall serve as chair of the Cannabis Production Establishment Licensing Board.
- 4) The commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding vote.
- 5) Attendance of four members of the Cannabis Production Establishment Board shall constitute a quorum.

R68-31-4. Duties of the Cannabis Production Establishment Licensing Board.

- 1) The Cannabis Production Establishment Licensing Board is responsible for the issuing of any type of cannabis production establishment license.
- 2) The Cannabis Production Establishment Board shall:
 - a) review the application for compliance with:
 - i) Utah Code Title 4, Chapter 41a;
 - ii) R68-30; and
 - iii) R68-27;
 - iv) R68-28; or
 - v) R68-29;
 - b) conduct a public hearing to consider the applications;
 - c) approve the department's license application forms and checklists; and
 - d) make a determination on the application.
- 3) The commissioner shall schedule a public hearing of the Cannabis Production Establishment Licensing Board as necessary based on the recommendation of the department.
- 4) The department's licensing authority is plenary and is not subject to review pursuant to Utah Code 4-41a-201(13).

R68-31-5. Cannabis Production Establishment Licensing Board Electronic Meetings.

- 1) The following provisions govern any meeting at which at least four Cannabis Production Establishment Licensing Board members appear at an anchor location, by telephone, or electronically pursuant to Section 52-4-207.
 - a) If at least four members intend to participate electronically or by telephone, public notice of the meeting shall be posted.
 - b) The notice shall specify the anchor location where the members of the Cannabis Production Establishment Licensing Board not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.
 - c) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.
 - d) Notice of the possibility of an electronic meeting shall be given to the Cannabis Production Establishment Licensing Board members at least 24 hours before the meeting. The notice shall describe how a member may participate in the meeting electronically or by telephone.
 - e) When notice is given of the possibility of a member appearing electronically or by telephone, any member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Cannabis Production Establishment Licensing Board.
 - f) At the commencement of the meeting, or at such time as any member initially appears electronically or by telephone, the chair shall identify for the record all those who are appearing by telephone or electronically.
 - g) Votes by members of the Cannabis Production Establishment Licensing Board who are not at the physical location of the meeting shall be confirmed by the chair.
 - h) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food.
 - i) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.

ii) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

R68-31-[5]6. Application for Cannabis Processing Facility and Independent Cannabis Testing Laboratory.

1) No cannabis processing facility or independent cannabis testing laboratory license application shall be recommended to the Cannabis Production Establishment Licensing Board for consideration until:

a) a complete application including all documents and supplemental materials on the department's application checklist have been submitted to the department;

b) a department official has inspected the premises; and

c) a department official has conducted an investigation as described in R68-31-7.

2) An incomplete application will be returned to the applicant.

3) The department shall forward to the Cannabis Production Establishment Licensing Board the information and recommendation to aid in the license determination.

R68-31-[6]7. Cannabis Cultivation Facility Application.

1) The department shall accept application for a cannabis cultivation facility license in January, April, July, and October of each year.

2) Applications for a cannabis cultivation facility will be considered as needed based on the market need and available licenses.

3) Applications shall be voided at the end of December each year.

4) The application fee shall be paid for each application submitted for review.

R68-31-[7]8. Department Review.

1) The department's investigation shall:

a) verify all required documents and supplemental materials have been submitted with the application;

b) confirm the information in the application is correct;

c) conduct the criminal background check required in Utah Code Title 4, Chapter 41a, Section 202; and

d) confirm that operating and business plans comply with all state laws and administrative rule.

2) The department may require additional information from an applicant.

3) The department shall submit the cannabis processing facility or independent cannabis testing laboratory application to the Cannabis Production Establishment Licensing Board with information and a recommendation within 30 days of receiving a completed cannabis processing facility or independent cannabis testing laboratory application.

4) The department shall submit a cannabis cultivation facility application to the Cannabis Production Establishment Licensing Board when the department finds a need based on market needs and available licenses.

R68-31-[8]9. Public Hearing.

1) The Cannabis Production Establishment Licensing Board shall make licensing determination during a public hearing where the application was considered.

2) The Cannabis Production Establishment Licensing Board shall allow prospective applicants to make a presentation at the public hearing in which their application is considered.

3) The Cannabis Production Establishment Licensing Board shall notify the prospective applicant a minimum of 10 business days in advance of the public hearing where their application is being considered.

4) The Cannabis Production Establishment Licensing Board may limit the time available for presentations by the applicants.

KEY: cannabis, cannabis production, licensing, Cannabis Production Establishment Licensing Board

Date of Enactment or Last Substantive Amendment: March 19, 2020

Authorizing, and Implemented or Interpreted Law: 4-2-103; 4-41a-201(2)(iii)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R277-101	Filing No. 52624

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state, zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-101. Public Participation in Utah State Board of Education Meetings
3. Effective Date:
03/20/2020
4. Purpose of the new rule or reason for the change:
Section 52-4-207 requires an agency to adopt a rule to enable the agency to conduct electronic meetings. This includes meetings where a quorum is physically present, but some members wish to participate electronically. Utah

State Board of Education Board leadership directed staff to prepare a rule complying with Section 52-4-207 to formally allow the Board to conduct electronic meetings.	
5. Summary of the new rule or change:	
The rule amendments specifically allow a provision to permit a quorum to participate electronically at the discretion of the Board chair in the event of a pandemic and health emergency given the current health concerns nationwide.	
6. Regular rulemaking would:	
X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
	place the agency in violation of federal or state law.
Specific reason and justification:	
These amendments to Rule R277-101 are on an emergency basis in accordance with Subsection 63G-3-304(1)(a) to allow immediate implementation considering the COVID-19 virus.	

Fiscal Information

7. Aggregate anticipated cost or savings to:	
A) State budget:	
This rule change is not expected to have material fiscal impact on state government revenues or expenditures.	
B) Local governments:	
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures.	
C) Small businesses ("small business" means a business employing 1-49 persons):	
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures.	
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):	
This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.	
8. Compliance costs for affected persons:	
There were no compliance costs for affected persons.	
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:	

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.
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B) Name and title of department head commenting on the fiscal impacts:

The Superintendent of the Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

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):		
Article X, Section 3	Section 52-4-207	Subsection 53E-3-401(4)
Title 52, Chapter 4		

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	3/20/2020
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R277. Education, Administration.

R277-101. Public Participation in Utah State Board of Education Meetings.

R277-101-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Title 52, Chapter 4, Open and Public Meetings Act, which directs that the deliberations and actions of the Board be conducted openly;
 - (c) Section 52-4-207, which allows the Board to adopt a rule governing the use of electronic meetings; and
 - (~~e~~d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to describe procedures to be followed by the Board in its conduct of the public's business in order to:
 - (a) hear from those who desire to be heard on public education matters in the state;
 - (b) effectively and efficiently utilize the time of the Board;

[~~and~~]

(c) balance desire for public information with other demands on the Board's time[-]; and

(d) allow the Board to conduct electronic meetings as needed.

R277-101-2. Definitions.

(1)(a) "Anchor location" means the physical location from which an electronic meeting originates.

(b) The anchor location for an electronic meeting of the Board, unless otherwise designated in the meeting notice, shall be the offices of the Utah State Board of Education, 250 East 500 South, Salt Lake City, Utah 84114.

(2) "Chair" means:

(1) a the duly elected Chairperson of the Board;

(2) b a Vice-chair when conducting a meeting of the Board; or

(3) c the Chair of a Board standing committee.

(3) "Electronic meeting" has the same meaning as defined in Section 52-4-103.

R277-101-3. Public Participation.

(1) The general public may attend meetings of the Board, unless a meeting is closed in accordance with Section 52-4-204.

(2) The general public may speak to the Board regarding any issue when acknowledged and recognized by the Board Chair during scheduled public comment.

(a) The chair may give priority to an individual or group who submits a written request to address the Board prior to the meeting, including a brief description of the issue to be addressed.

(b) The Board may not take action during the public comment portion of a meeting.

(c) A Board member may request that an item raised during public comment be placed on a future agenda for possible action in accordance with Board bylaws.

(d)(i) The Chair may limit the time available for individual comments.

(ii) The Chair may request groups to designate a spokesperson.

(iii) The Board shall include in its meeting agenda the amount of time set aside for public comment and the restrictions on individual speakers or group spokespersons.

(3)(a) A member of the general public may speak to items on the agenda:

(i) during the time designated for public comment; or

(ii) at the discretion of and as invited by the Chair, when the item is properly before the Board or a committee.

(b) The Chair may request that public comment be provided in writing.

(4) All presentations to the Board or one of its committees shall exemplify courteous behavior and appropriate language.

(5) The Chair may invite additional comment to the Board or a committee in the Chair's discretion.

(6) In accordance with Subsection 52-4-202(6)(b), at the discretion of the Chair, the Board may discuss a topic raised by the public in an open meeting even if the item was not included in the public meeting notice.

(7) At the discretion of the Chair, a member of the public may request to comment in the committee meeting by raise of hand.

R277-101-4. Electronic Meetings.

(1) The Board may conduct electronic meetings in accordance with the requirements set forth in Subsection 52-4-207(3).

(2)(a) The Board may allow a member of the Board or member of the public to participate in a Board meeting electronically consistent with available equipment capability.

(b) The chair shall announce the participation of an individual participating in an electronic meeting and the Board secretary shall note the individual's participation in the meeting minutes.

(3) If the Board conducts an electronic meeting a quorum of the Board shall be present at a single anchor location for the meeting.

(4) Notwithstanding Subsection (3), the Board chair may waive the requirement that a quorum be present at a single anchor location in the event of a pandemic or other public emergency so long as a quorum is present, either physically at the anchor location, or electronically, for the meeting.

(5) If the Board conducts an electronic meeting, any member may participate and vote electronically, so long as the Board meets quorum requirements.

KEY: school boards, open government, electronic meetings
Date of Enactment or Last Substantive Amendment: March 20, 2020

Notice of Continuation: June 6, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 52-4-1; 53E-3-401(4); 52-4-207

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R539-5-5	Filing No. 52643

Agency Information

1. Department:	Human Services	
Agency:	Services for People with Disabilities	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Kelly Thomson	(435) 669-4855	kthomson@utah.gov
Jonah Shaw	(801) 538-4219	jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R539-5-5. Employee Requirements

3. Effective Date:	
04/01/2020	
4. Purpose of the new rule or reason for the change:	
The Centers for Medicare and Medicaid Services will waive restrictions on payment to legally responsible caregivers and guardians when requested by the state through Appendix K. The Division of Services for People with Disabilities (DSPD) must also revise a current rule that restricts payment. In anticipation of Appendix K approval with a retroactive start date of January 1, 2020, DSPD is filing a temporary rule change to permit payment.	
5. Summary of the new rule or change:	
Addition of an exception that allows legally responsible caregivers and spouses to be paid support staff during the COVID-19 emergency.	
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 type="checkbox"/>	place the agency in violation of federal or state law.
Specific reason and justification:	
The COVID-19 emergency has reduced the provider network available to people with intellectual/developmental disabilities, acquired brain injuries, and physical disabilities. The people served by DSPD services rely on those services to complete daily tasks, care for themselves, and stay safe. Current state and federal guidance encourage people to stay home and limit contact in order to slow the spread of the virus. Many people receiving services live with a family member who can provide care, but may need to reduce other employment to do so. As the virus spreads, direct support professionals may become ill and unable to work, which will reduce the availability of support staff.	

Fiscal Information

7. Aggregate anticipated cost or savings to:	
A) State budget:	
DSPD estimates that the temporary rule will cost \$1,212,300 over 120 days.	
B) Local governments:	
No fiscal impact to local governments, DSPD services are operated at the state level.	
C) Small businesses ("small business" means a business employing 1-49 persons):	
No fiscal impact to small businesses. Family members will be paid by the state.	

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 <i>agency</i>):	
Family members will be paid by the state through this change. It is estimated that over 120 days, a \$1,212,300 fiscal benefit will be distributed to persons other than small businesses, non-small businesses, state, or local government entities.	
8. Compliance costs for affected persons:	
The exception is permissive and lacks a compliance component. No compliance costs for the person.	
9. 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 this proposed emergency rule amendment will not result in a fiscal impact to businesses.	
B) Name and title of department head commenting on the fiscal impacts:	
Ann Williamson, Executive Director	

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 62A-5-102	Section 62A-5-103

Agency Authorization Information

Agency head or designee, and title:	Ann Williamson, Executive Director	Date:	04/01/2020
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R539. Human Services, Services for People with Disabilities.

R539-5. Self-Administered Services.

R539-5-5. Employee Requirements.

(1) All Employees hired by the Person must be 16 years of age or older. Employees under age 18 must have the Employee Agreement co-signed by their parent/Guardian.

(2) Parents, Guardians, or step-parents shall not be paid to provide services to the Person, nor shall an individual be paid to provide services to a spouse with the exception that spouses who were approved by the Division to provide reimbursed support for a Person in a non-Medicaid funded program prior to May 17, 2005 may continue to be reimbursed. This exception is only valid for support of the current spouse receiving Division services and shall not be allowed by the Division in the event that the spouses divorce or if one spouse dies. A spouse who is approved by the Division to provide support under this provision is limited to a maximum of \$15,000 during the State Fiscal year, which begins on July 1st and ends the following year on June 30th.

- (a) Except during the COVID-19 emergency.
(i) A legally responsible caregiver, guardian, or spouse may be paid to provide services to a person when necessary to prevent the spread of COVID-19 or no other provider is available.
(ii) Any service provided must conform to the person's service plan.
(iii) A legally responsible caregiver, guardian, or spouse must obtain approval from the support coordinator before providing services.
 (3) Employees must complete the following prior to working with the Person and receiving payment from the Fiscal Agent:
 (a) Complete and sign Form W-4;
 (b) Complete and sign Form I-9 (including supporting documentation);
 (c) Complete and sign the Employee Agreement Form;
 (d) Read and sign the Department and Division Code of Conduct (Department Policy 05-03 and Division Directive 1.20); and
 (e) Review the approved and prohibited Behavior Supports as identified in R539-3-10, the Support Book, and other best practice sources recommended by the Division, if applicable. Behavior Supports shall not violate R495-876, R512-202, Sections 62A-3-301 through 62A-3-321, and Sections 62A-4a-402 through 62A-4-412 prohibiting abuse.
 (f) Review the Person's Support Book.
 (g) Complete any screenings and trainings necessary to provide for the health and safety of the Person (i.e., training for any specialized medical needs of the Person).
 (h) If applicable, be trained on the Person's Behavior Support Plan.
 (i) Complete and sign the Application for Certification Form.

KEY: disabilities, self administered services
Date of Enactment or Last Substantive Amendment: April 1, 2020
Notice of Continuation: July 15, 2019
Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R861-1A-42	Filing No. 52629

Agency Information

1. Department:	Tax Commission	
Agency:	Administration	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state, zip:	Salt Lake City, Ut. 84134	
Mailing address:	210 N 1950 W	
City, state, zip:	Salt Lake City, Ut. 84134	
Contact person(s):		
Name:	Phone:	Email:
Jason Gardner	801-297-3902	jasongardner@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401
3. Effective Date:
03/26/2020
4. Purpose of the new rule or reason for the change:
This change is because of circumstances related to the COVID-19 emergency.
5. Summary of the new rule or change:
This proposed change authorizes the waiver of interest accrued between April 15, 2020, and July 15, 2020, on unpaid 2019 income tax liability.
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 type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:
The reason for the change is to provide economic relief to taxpayers impacted by the COVID-19 emergency.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
This proposed change may result in minimal fiscal impact on state government revenues. The potential impact is limited to forgone interest that could have been collected from taxpayers that would have filed or paid income taxes late regardless of the COVID-19 emergency.
B) Local governments:
This proposed change is not expected to have any fiscal impact on local governments' revenues or expenditures because it only impacts income taxes.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed change is expected to result in savings to certain small businesses who file or pay income taxes after April 15, 2020, but before July 15, 2020, by allowing the interest associated with the late filing or payment to be waived.

<p>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):</p> <p>This proposed change is expected to result in savings to persons other than small businesses or local governments who file or pay income taxes after April 15, 2020, but before July 15, 2020, by allowing the interest associated with the late filing or payment to be waived.</p>
<p>8. Compliance costs for affected persons:</p> <p>This proposed change is expected to result in reduced compliance costs for affected persons by allowing income taxes due on April 15, 2020, to be delayed until July 15, 2020, without the assessment of interest on unpaid amounts.</p>
<p>9. A) Comments by the department head on the fiscal impact this rule may have on businesses:</p> <p>This proposed change is expected to result in savings to persons who file or pay income taxes after April 15, 2020, but before July 15, 2020, by allowing the Tax Commission to waive the interest associated with the late filing.</p>
<p>B) Name and title of department head commenting on the fiscal impacts:</p> <p>Rebecca Rockwell, Commissioner</p>

Citation Information

<p>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):</p>
<p>Section 59-1-401</p>

Agency Authorization Information

<p>Agency head or designee, and title:</p>	<p>Rebecca Rockwell, Commissioner</p>	<p>Date:</p>	<p>03/26/2020</p>
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R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401.

- (1) Procedure.
 - (a) A taxpayer may request a waiver of penalties or interest for reasonable cause under Section 59-1-401 if the following conditions are met:
 - (i) the taxpayer provides a signed statement, with appropriate supporting documentation, requesting a waiver;
 - (ii) the total tax owed for the period has been paid;
 - (iii) the tax liability is based on a return the taxpayer filed with the commission, and not on an estimate provided by the taxpayer or the commission;
 - (iv) the taxpayer has not previously received a waiver review for the same period; and

- (v) the taxpayer demonstrates that there is reasonable cause for waiver of the penalty or interest.
 - (b) Upon receipt of a waiver request, the commission shall:
 - (i) review the request;
 - (ii) notify the taxpayer if additional documentation is needed to consider the waiver request; and
 - (iii) review the account history for prior waiver requests, taxpayer deficiencies, and historical support for the reason given.
 - (c) Each request for waiver is judged on its individual merits.
 - (d) If the request for waiver of penalty or interest is denied, the taxpayer has a right to appeal. Procedures for filing appeals are found in Title 63G, Chapter 4, Administrative Procedures Act, and commission rules.
 - (e) If a taxpayer first requests a waiver of penalties or interest in an appeal to the commission, the taxpayer is not required to meet Subsections (1)(a)(i) through (iv).
 - (2)(a) Reasonable Cause for Waiver of Interest. Grounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, the taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.
 - (b) As a result of the COVID-19 emergency, the commission finds there is reasonable cause to waive interest from April 15, 2020 to July 15, 2020 for:
 - (i) a return due April 15, 2020 under Title 59, Chapter 7;
 - (ii) a payment due April 15, 2020 under Section 59-7-504;
 - or
 - (iii) a return due April 15, 2020 under Subsection 59-10-514(1)(c).
 - (c) The commission may find reasonable cause to waive interest for a return due after April 15, 2020, but on or before July 15, 2020 for a fiscal year filer under Title 59, Chapter 7 or Chapter 10, if the commission finds that the interest accrued as a result of the COVID-19 emergency.
 - (3) Reasonable Cause for Waiver of Penalty. The following clearly documented circumstances may constitute reasonable cause for a waiver of penalty:
 - (a) Timely Mailing:
 - (i) The taxpayer mailed the return with payment to the commission by the due date and it was not timely delivered by the post office through no fault of the taxpayer.
 - (ii) In cases where the taxpayer cannot document a post office error, the penalties may be waived if the taxpayer:
 - (A) has an excellent history of compliance;
 - (B) proves that sufficient funds were in the bank as of the date of payment, and the check was written in numerical order; and
 - (C) presents documentation showing that the return or payment was mailed timely.
 - (b) Wrong Filing Place: The return or payment was filed on time, but was delivered to the wrong office or agency.
 - (c) Death or Serious Illness:
 - (i) The death or serious illness of a taxpayer or a member of the taxpayer's immediate family caused the delay.
 - (ii) With respect to a business, trust or estate, the death or illness must have been of the individual, or the immediate family of the individual, who had sole authority to file the return.
 - (iii) The death or illness must have occurred on or immediately prior to the due date of the return.
 - (d) Unavoidable Absence: The person having sole responsibility to file the return was absent from the state due to circumstances beyond his or her control.

(e) Disaster Relief:

(i) A delay in reporting, filing, or paying was due either to a federal or state declared disaster or to a natural disaster, such as fire or accident, that results in the destruction of records or disruption of business.

(ii) If delinquency or delay is due to a federally declared disaster, federal relief guidelines shall be followed.

(iii) In the absence of federal guidelines, and for other listed disasters, the taxpayer must demonstrate the matter was corrected within a reasonable time, given the circumstances.

(f) Reliance on Erroneous Tax Commission Information:

(i) Underpayments and late filings or payments were attributable to incorrect advice obtained from the commission, unless the taxpayer gave the commission inaccurate or insufficient information.

(ii) Proof of erroneous information may be based on written communication provided by the commission or, if the taxpayer clearly documents, verbal communication. Clear documentation of verbal communication should include the dates, times, and names of commission employees who provided the erroneous information.

(iii) A failure to comply will also be excused if it is demonstrated that the taxpayer requested the necessary tax forms and instructions timely, and the commission failed to timely provide the forms and instructions requested.

(g) Tax Commission Office Visit: The taxpayer proves that before expiration of the time for filing the return or making the payment, the taxpayer visited a commission office for information or help in preparing the return and a commission employee was not available for consultation.

(h) Unobtainable Records: For reasons beyond the taxpayer's control, the taxpayer was unable to obtain records to determine the amount of tax due.

(i) Reliance on Competent Tax Advisor: The taxpayer:

(i) furnishes all necessary and relevant information to a competent tax advisor, and the tax advisor:

(A) incorrectly advises the taxpayer;

(B) fails to timely file a return on behalf of the taxpayer;

or

(C) fails to make a payment on behalf of the taxpayer; and

(ii) demonstrates that the taxpayer exercised ordinary business care, prudence, and diligence in determining whether to seek further advice.

(j) First Time Filer:

(i) It is the first return required to be filed and the taxes were filed and paid within a reasonable time after the due date.

(ii) The commission may also consider waiving penalties on the first return after a filing period change if the return is filed and tax is paid within a reasonable time after the due date.

(k) Bank Error:

(i) The taxpayer's bank has made an error in returning a check, making a deposit or transferring money.

(ii) A letter from the bank verifying its error is required.

(l) Compliance History:

(i) The commission will consider the taxpayer's recent history for payment, filing, and delinquencies in determining whether a penalty may be waived.

(ii) The commission will also consider whether other tax returns or reports are overdue at the time the waiver is requested.

(m) Employee Embezzlement: The taxpayer shows that failure to pay was due to employee embezzlement of the tax funds and the taxpayer was unable to obtain replacement funds from any other source.

(n) Recent Tax Law Change: The taxpayer's failure to file and pay was due to a recent change in tax law that the taxpayer could not reasonably be expected to be aware of.

(4) Other Considerations for Determining Reasonable Cause.

(a) The commission allows for equitable considerations in determining whether reasonable cause exists to waive a penalty. Equitable considerations include:

(i) whether the commission had to take legal means to collect the taxes;

(ii) if the error is caught and corrected by the taxpayer;

(iii) the length of time between the event cited and the filing date;

(iv) typographical or other written errors; and

(v) other factors the commission deems appropriate.

(b) Other clearly supported extraordinary and unanticipated reasons for late filing or payment, which demonstrate reasonable cause and the inability to comply, may justify a waiver of the penalty.

(c) In most cases, ignorance of the law, carelessness, or forgetfulness does not constitute reasonable cause for waiver. Nonetheless, other supporting circumstances may indicate that reasonable cause for waiver exists.

(d) Intentional disregard, evasion, or fraud does not constitute reasonable cause for waiver under any circumstance.

KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: March 26, 2020

Notice of Continuation: November 10, 2016

Authorizing, and Implemented or Interpreted Law: 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition

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.): | R162-2f | Filing No. 50323 |

Agency Information

| | | |
|--|-------------------------------|-----------------------|
| 1. Department: | Commerce | |
| Agency: | Real Estate | |
| Room no.: | 2nd Floor | |
| Building: | Heber M Wells Bldg | |
| Street address: | 160 E 300 S | |
| City, state, zip: | Salt Lake City, UT 84111-2316 | |
| Mailing address: | PO Box 146711 | |
| City, state, zip: | Salt Lake City, UT 84114-6711 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Justin Barney | 801-530-6603 | justinbarney@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

| | |
|---|---|
| 2. Rule catchline: | R162-2f. Real Estate Licensing and Practices Rules |
| 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 was adopted under the statutory provisions of Title 61, Chapter 2f, the Real Estate Licensing and Practices Act (the "Act"). The purpose of the rule was to reorganize the real estate rules in place at the time of adoption into a statutory numbering format and to update |

rules that, given online technologies, no longer tracked with general real estate business practices. Section 61-2f-103 provides that the Real Estate Commission shall make rules for the administration of Chapter 2 that are not inconsistent with the Act. Other sections authorize rulemaking including Sections 61-2f-203, 61-2f-204, 61-2f-206, 61-2f-208, 61-2f-305, 61-2f-307, and 61-2f-401. Numerous changes and updates to this rule have been made since its adoption. This rule provides direction to the staff of the Division of Real Estate (Division) regarding the administration and enforcement of the Act helps guide real estate licensees with regard to their duties and obligations as licensees under the 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:

This rule has been amended numerous times since the last five-year review.

On 03/07/2017, a proposed rule amendment was filed which proposed, among other proposals, to allow a licensed associate broker or a sales agent to simultaneously provide real estate sales services and property management sales services in certain circumstances when affiliated with a licensed dual broker. The Division received one public comment on the proposed amendment. The person enthusiastically supported the proposed amendment. This was the only written comment received by the Division with regard to any of the proposed rule amendments since the last five-year review. The rule amendment was made effective 05/10/2017.

Other proposed amendments were generally supported by the real estate industry and became effective without any written public comment from interested persons being received by the Division.

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 statutory requirements and authorizations found in Title 61, Chapter 2f, remain in effect or have been updated at the time of this five-year review. The rulemaking authority from the statute continues in effect as does the need for rules to implement and administer the statute. Therefore, this rule should be continued.

Agency Authorization Information

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|--|-------------------------------|--------------|------------|
| Agency head or designee, and title: | Jonathan C. Stewart, Director | Date: | 03/26/2020 |
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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|--------------------------------------|-----------------|-------------------------|
| Utah Admin. Code Ref (R no.): | R277-477 | Filing No. 50439 |
|--------------------------------------|-----------------|-------------------------|

Agency Information

| | | |
|--|-------------------------------|----------------------------------|
| 1. Department: | Education | |
| Agency: | Administration | |
| Building: | Board of Education | |
| Street address: | 250 E 500 S | |
| City, state, zip: | Salt Lake City, UT 84114 | |
| Mailing address: | PO Box 144200 | |
| City, state, zip: | Salt Lake City, UT 84114-4200 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Angie Stallings | 801-538-7830 | angie.stallings@schools.utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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| 2. Rule catchline: |
| R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust 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:

This rule is authorized by Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the State Board of Education (Board); Subsection 53F-2-404(2)(d), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and Subsection 53E-3-401(4), which allows the

Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of the Common School Trust; the School for the Deaf Trust; and the School for the Blind Trust.

The Board implements the School LAND Trust Program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Subsection 53G-7-1206(2), Rule R277-491, and this Rule R277-477.

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 were no written comments 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 continues to be necessary because it:

- a) provide financial resources to a public school to implement a component of a school's Teacher and Student Success Plan in order to enhance and improve student academic achievement;
- b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust Program funds allocated to the school;
- c) provide direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404;
- d) provide for appropriate and adequate oversight of the expenditure and use of funds by a designated local board of education, an approving entity, and the Board;
- e) provide for proper allocation of funds as stated in Section 53F-2-404, and the appropriate and timely distribution of the funds;
- f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and
- g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust.

Therefore, this rule should be continued.

Agency Authorization Information

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|--|--|--------------|------------|
| Agency head or designee, and title: | Angie Stallings, Deputy Superintendent | Date: | 03/30/2020 |
|--|--|--------------|------------|

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
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| Utah Admin. Code Ref (R no.): | R277-708 | Filing No. 50522 |

Agency Information

| | | |
|--|-------------------------------|-----------------------------------|
| 1. Department: | Education | |
| Agency: | Administration | |
| Building: | Board of Education | |
| Street address: | 250 E 500 S | |
| City, state, zip: | Salt Lake City, UT 84114 | |
| Mailing address: | PO Box 144200 | |
| City, state, zip: | Salt Lake City, UT 84114-4200 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Angie Stallings | 801-538-7830 | angie.stallings@schools.uta.h.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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| 2. Rule catchline: |
| R277-708. Enhancement for At-Risk Students |
| 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 by Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the State Board of Education (Board); Section 53F-2-410, which directs the Board to manage the Enhancement for At-Risk Students interventions by developing a funding formula; developing performance criteria; supporting LEA implementation of evidence-based interventions; distributing the appropriation; and monitoring and reporting the effectiveness of the evidence-based interventions; and Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law. |
| 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 were no written comments 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 continues to be necessary because it establishes criteria and procedures for distributing Enhancement for At-Risk Students funds to LEAs. The intent of this rule and the legislative appropriation is to improve academic |

achievement of students who are at risk of academic failure. Therefore, this rule should be continued.

Agency Authorization Information

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| Agency head or designee, and title: | Angie Stallings, Deputy Superintendent | Date: | 03/30/2020 |
|--|--|--------------|------------|

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
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| Utah Admin. Code Ref (R no.): | R357-12 | Filing No. 50856 |

Agency Information

| | | |
|--|--------------------------|--------------------|
| 1. Department: | Governor | |
| Agency: | Economic Development | |
| Building: | World Trade Center | |
| Street address: | 60 E South Temple | |
| City, state, zip: | Salt Lake City, UT 84111 | |
| Mailing address: | 60 E South Temple | |
| City, state, zip: | Salt Lake City, UT 84111 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Dane Ishihara | 801-792-8764 | dishihara@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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|--|
| 2. Rule catchline: |
| R357-12. Fiscal Emergency Contingent Management of Federal Lands |
| 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule: |
| In accordance with Section 79-4-1103, this rule establishes the priority for opening and maintaining national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency. |
| 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 office is not aware of any opposition to this rule by any groups or individuals. |

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 79-4-1103 and is necessary to outline the priority of national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency. Therefore, this rule should be continued.

Agency Authorization Information

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| Agency head or designee, and title: | Val Hale,
Executive
Director | Date: | 03/19/2020 |
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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| Utah Admin. Code Ref (R no.): | R392-600 | Filing No. 50931 |
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Agency Information

| | | |
|---------------------------|--|---------------------|
| 1. Department: | Health | |
| Agency: | Disease Control and Prevention, Environmental Services | |
| Building: | Cannon Health Building | |
| Street address: | 288 North 1460 West | |
| City, state, zip: | Salt Lake City, UT 84116 | |
| Mailing address: | PO Box 142104 | |
| City, state, zip: | Salt Lake City, UT 84114-2104 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Mark E. Jones | (801)
538-
6191 | markejones@utah.gov |

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

General Information

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| 2. Rule catchline: |
| R392-600. Illegal Drug Operations Decontamination 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:

Rule R392-600 is authorized under Section 19-6-906. This section authorizes the Department of Health (Department) to adopt rules and enforce minimum standards for testing, sampling and decontamination of interior surfaces, furnishing, outside property soils, and septic tanks, associated with buildings contaminated with hazardous wastes resulting from the illicit production and use of methamphetamine.

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 were no comments received in opposition, to the continuation of Rule R392-600. The last substantive amendment was enacted on 08/24/2018.

Summary of comments received:

- 1) Utah Department of Environmental Quality:
 - a) Solid and Hazardous Waste Control Board is now Waste Management and Radiation Control.
- 2) Certified Decontamination Specialists:
 - a) Remove the definitions for "Highly suggestive of contamination" and "Non-highly suggestive of contamination" and remove all references to the definitions.
 - b) Decontamination Specialist shall conduct confirmation sampling only.
 - c) Specify the size and number ply gauze pad for composite sampling.
 - d) Remove of Ephedrine and Pseudoephedrine.
- 3) Utah Apartment and Realtors Associations:
 - a) The decontamination standard is too low.
 - b) Change how the composite sample result is calculated.
 - c) The housing industry should be involved in the rule making process.
- 4) Local Health Department:
 - a) Define Confirmation, Non-confirmation sampling and Composite sample.
 - b) Revise sampling procedures for Preliminary Assessment.

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 Department recommends the continuation of Rule R392-600 because hazardous chemical materials are used in the production of methamphetamine. The production of methamphetamine generates hazardous chemical wastes. Illicit drug labs produce methamphetamine without controlling for the hazardous chemical contamination of the facilities and properties housing the lab. Owners, future buyers, tenants, and the general public, can be exposed to these hazardous chemical contaminations present on the building surfaces, furnishings, and property soils. This rule provides standards that protect those individuals from exposure to hazardous chemical contaminants associated with illicit drug production and use. This rule establishes procedures for the management and removal of hazardous waste materials from illicit drug lab operations. The Department received no comments in opposition to the continuation of Rule R392-600.

Agency Authorization Information

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|--|---|--------------|------------|
| Agency head or designee, and title: | Joseph K. Miner, MD, Executive Director | Date: | 03/30/2020 |
|--|---|--------------|------------|

Agency Authorization Information

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|--|---|--------------|------------|
| Agency head or designee, and title: | Joseph K. Miner, MD, Executive Director | Date: | 03/26/2020 |
|--|---|--------------|------------|

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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| Utah Admin. Code Ref (R no.): | R414-59 | Filing No. 51016 |
|--------------------------------------|----------------|-------------------------|

Agency Information

| | | |
|--|--|-----------------------|
| 1. Department: | Health | |
| Agency: | Health Care Financing, Coverage and Reimbursement Policy | |
| Building: | Cannon Health Building | |
| Street address: | 288 North 1460 West | |
| City, state, zip: | Salt Lake City, UT 84116 | |
| Mailing address: | PO Box 143102 | |
| City, state, zip: | Salt Lake City, UT 84114-3102 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Craig Devashrayee | 801-538-6641 | cdevashrayee@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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|---|
| 2. Rule catchline: |
| R414-59. Audiology 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 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules, and Section 26-1-5 authorizes the Department to adopt rules as necessary for the provision of Medicaid services. |
| 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule: |
| The Department did not receive any written or oral comments regarding 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 Department will continue this rule because it implements audiology services for Medicaid members, as described in the Medicaid provider manual and in the Medicaid State Plan. |

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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|--------------------------------------|----------------|-------------------------|
| Utah Admin. Code Ref (R no.): | R501-19 | Filing No. 51199 |
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Agency Information

| | | |
|--|--|---------------------|
| 1. Department: | Human Services | |
| Agency: | Administration, Administrative Services, Licensing | |
| Building: | MASOB | |
| Street address: | 195 N 1950 W | |
| City, state, zip: | Salt Lake City, UT 84116 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Jonah Shaw | 801-538-4219 | jshaw@utah.gov |
| Elisabeth Kitchens | 385-303-2593 | ehkitchens@utah.gov |
| Janice Weinman | 385-321-5586 | jweinman@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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| 2. Rule catchline: |
| R501-19. Residential Treatment Programs |
| 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 Office of Licensing (OL) is statutorily required under Sections 62A-2-101 and 62A-2-106 to write rules pertaining to the license categories as defined for licensure. |
| 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. Out of anticipation for future comments, the OL plans to engage stakeholders to contribute to a significant content re-write. |

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 statutorily required by Sections 62A-2-101 and 62A-2-106. The OL intends to significantly alter this rule's content in a repeal and reenactment within a matter of months, at which time all necessary changes will be made and incorporated into the OL database checklists. Therefore, this rule should be continued.

Agency Authorization Information

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|--|------------------------------------|--------------|------------|
| Agency head or designee, and title: | Ann Williamson, Executive Director | Date: | 03/30/2020 |
|--|------------------------------------|--------------|------------|

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

| | | |
|--------------------------------------|----------------|-------------------------|
| Utah Admin. Code Ref (R no.): | R501-20 | Filing No. 51190 |
|--------------------------------------|----------------|-------------------------|

Agency Information

| | | |
|---------------------------|-------------------------------------|---------------------|
| 1. Department: | Human Services | |
| Agency: | Administration, Services, Licensing | Administrative |
| Building: | MASOB | |
| Street address: | 195 North 1950 West | |
| City, state, zip: | Salt Lake City, UT 84116 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Jonah Shaw | 801-538-4219 | jshaw@utah.gov |
| Elisabeth Kitchens | 385-303-2593 | ehkitchens@utah.gov |
| Janice Weinman | 385-321-5586 | jweinman@utah.gov |

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

General Information

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|---------------------------------|
| 2. Rule catchline: |
| R501-20. Day Treatment Programs |

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 Office of Licensing (OL) is statutorily required to write rules under Sections 62A-2-101 and 62A-2-106 pertaining to the license categories as defined for licensure.

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 OL has not received any written comments since the last five-year review. In anticipation for future comments or concerns, the OL will be assembling a stakeholder group to review it thoroughly in the coming months.

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 statutorily required by Sections 62A-2-101 and 62A-2-106. The OL intends to significantly alter this rule's content within a matter of months, at which time all necessary changes will be made and incorporated into the database. Therefore, this rule should be continued.

Agency Authorization Information

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|--|------------------------------------|--------------|------------|
| Agency head or designee, and title: | Ann Williamson, Executive Director | Date: | 03/30/2020 |
|--|------------------------------------|--------------|------------|

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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|--------------------------------------|----------------|-------------------------|
| Utah Admin. Code Ref (R no.): | R501-21 | Filing No. 51191 |
|--------------------------------------|----------------|-------------------------|

Agency Information

| | | |
|---------------------------|-------------------------------------|---------------------|
| 1. Department: | Human Services | |
| Agency: | Administration, Services, Licensing | Administrative |
| Building: | MASOB | |
| Street address: | 195 North 1950 West | |
| City, state, zip: | Salt Lake City, UT 84116 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Jonah Shaw | 801-538-4219 | jshaw@utah.gov |
| Elisabeth Kitchens | 385-303-2593 | ehkitchens@utah.gov |
| Janice Weinman | 385-321-5586 | jweinman@utah.gov |

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

General Information

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| 2. Rule catchline: |
| R501-21. Outpatient Treatment Programs |

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| 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 Office of Licensing (OL) is statutorily required to write rules under Sections 62A-2-101 and 62A-2-106 pertaining to the license categories as defined for licensure. |
| 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. The last substantive amendment to this rule was in February 2019. As industry practices continue to evolve (particularly in substance abuse treatment), the OL is aware of the need to make further substantive changes following the enactment of legislation from the 2020 General Session. This will require stakeholder input and cannot be done fully at the time of this rule 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: |
| As-is this rule is working well and not facing any opposition. It will only be updated upon consensus from all involved stakeholders after May 2020. Therefore, this rule should be continued. |

Agency Authorization Information

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|--|--|--------------|------------|
| Agency head or designee, and title: | Ann Williamson,
Executive
Director | Date: | 03/30/2020 |
|--|--|--------------|------------|

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
|--|---------|-------------------------|
| Utah Admin. Code Ref (R no.): | R501-22 | Filing No. 51202 |

Agency Information

| | | |
|---------------------------|--|---------------------|
| 1. Department: | Human Services | |
| Agency: | Administration,
Services, Licensing | Administrative |
| Building: | MASOB | |
| Street address: | 195 N 1950 W | |
| City, state, zip: | Salt Lake City, UT 84116 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Jonah Shaw | 801-538-4219 | jshaw@utah.gov |
| Elisabeth Kitchens | 385-303-2593 | ehkitchens@utah.gov |

| | | |
|--|--------------|-------------------|
| Janice Weinman | 385-321-5586 | jweinman@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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| 2. Rule catchline: |
| R501-22. Residential Support Programs |
| 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 Office of Licensing (OL) is statutorily required to write rules under Sections 62A-2-101 and 62A-2-106 pertaining to the license categories as defined for licensure. |
| 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 OL has not received any comments in regard to this rule. Any amendment or change, much like the recent repeal and reenactment, have been out of anticipation of comments that may have been received otherwise. |
| 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 encompasses new populations to be licensed and needs to remain in-place in order to protect vulnerable citizens. Therefore, this rule should be continued. |

Agency Authorization Information

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|--|--|--------------|------------|
| Agency head or designee, and title: | Ann Williamson,
Executive
Director | Date: | 03/30/2020 |
|--|--|--------------|------------|

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
|--|--------|-------------------------|
| Utah Admin. Code Ref (R no.): | R595-1 | Filing No. 51474 |

Agency Information

| | | |
|---------------------------|-----------------------------|--|
| 1. Department: | Judicial Conduct Commission | |
| Agency: | Administration | |
| Room no.: | 143 | |
| Building: | Admin South | |
| Street address: | 1385 S State Street | |
| City, state, zip: | Salt Lake City, UT 84115 | |
| Mailing address: | Same | |
| Contact person(s): | | |

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

| Name: | Phone: | Email: |
|--|--------------|--------------------|
| Alex G. Peterson | 801-468-0021 | apeterson@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

| Contact person(s): | | |
|--|--------------|--------------------|
| Name: | Phone: | Email: |
| Alex G. Peterson | 801-468-0021 | apeterson@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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| 2. Rule catchline: |
| R595-1. General Provisions |
| 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 Utah Code Subsection 78A-11-103(11), the Judicial Conduct Commission is required to make rules "outlining its procedures and the appointment of masters." |
| 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 or 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: |
| Continuation of this rule is necessary in order for the Judicial Conduct Commission to conduct its constitutionally and statutorily mandated obligation to investigate and resolve allegations of judicial misconduct or judicial disability. |

General Information

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| 2. Rule catchline: |
| R595-2. Administration |
| 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 Utah Code Subsection 78A-11-103(11), the Judicial Conduct Commission is required to make rules "outlining its procedures and the appointment of masters." |
| 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 or 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: |
| Continuation of this rule is necessary in order for the Judicial Conduct Commission to conduct its constitutionally and statutorily mandated obligation to investigate and resolve allegations of judicial misconduct or judicial disability. |

Agency Authorization Information

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|--|--------------------------------------|--------------|------------|
| Agency head or designee, and title: | Alex G. Peterson, Executive Director | Date: | 04/01/2020 |
|--|--------------------------------------|--------------|------------|

Agency Authorization Information

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|--|--------------------------------------|--------------|------------|
| Agency head or designee, and title: | Alex G. Peterson, Executive Director | Date: | 04/01/2020 |
|--|--------------------------------------|--------------|------------|

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
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| Utah Admin. Code Ref (R no.): | R595-2 | Filing No. 51471 |

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
|--|--------|------------------|
| Utah Admin. Code Ref (R no.): | R595-3 | Filing No. 51473 |

Agency Information

| | |
|--------------------------|-----------------------------|
| 1. Department: | Judicial Conduct Commission |
| Agency: | Administration |
| Room no.: | 143 |
| Building: | Admin South |
| Street address: | 1385 S State Street |
| City, state, zip: | Salt Lake City, UT 84115 |
| Mailing address: | Same |

Agency Information

| | |
|--------------------------|-----------------------------|
| 1. Department: | Judicial Conduct Commission |
| Agency: | Administration |
| Room no.: | 143 |
| Building: | Admin South |
| Street address: | 1385 S State Street |
| City, state, zip: | Salt Lake City, UT 84115 |

| | | |
|--|---------------|--------------------|
| Mailing address: | Same | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Alex G. Peterson | 801-468-0021 | apeterson@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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| 2. Rule catchline: |
| R595-3. Procedure |
| 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 Utah Code Subsection 78A-11-103(11), the Judicial Conduct Commission is required to make rules "outlining its procedures and the appointment of masters." |
| 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 or 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: |
| Continuation of this rule is necessary in order for the Judicial Conduct Commission to conduct its constitutionally and statutorily mandated obligation to investigate and resolve allegations of judicial misconduct or judicial disability. |

Agency Authorization Information

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|--|--------------------------------------|--------------|------------|
| Agency head or designee, and title: | Alex G. Peterson, Executive Director | Date: | 04/01/2020 |
|--|--------------------------------------|--------------|------------|

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
|--|--------|-------------------------|
| Utah Admin. Code Ref (R no.): | R595-4 | Filing No. 51480 |

Agency Information

| | |
|------------------------|-----------------------------|
| 1. Department: | Judicial Conduct Commission |
| Agency: | Administration |
| Room no.: | 143 |
| Building: | Admin South |
| Street address: | 1385 S State Street |

| | | |
|--|--------------------------|--------------------|
| City, state, zip: | Salt Lake City, UT 84115 | |
| Mailing address: | Same | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Alex G. Peterson | 801-468-0021 | apeterson@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

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|---|
| 2. Rule catchline: |
| R595-4. Sanctions |
| 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 Utah Code Subsection 78A-11-103(11), the Judicial Conduct Commission is required to make rules "outlining its procedures and the appointment of masters." |
| 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 or 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: |
| Continuation of this rule is necessary in order for the Judicial Conduct Commission to conduct its constitutionally and statutorily mandated obligation to investigate and resolve allegations of judicial misconduct or judicial disability. |

Agency Authorization Information

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|--|--------------------------------------|--------------|------------|
| Agency head or designee, and title: | Alex G. Peterson, Executive Director | Date: | 04/01/2020 |
|--|--------------------------------------|--------------|------------|

| FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION | | |
|--|--------|-------------------------|
| Utah Admin. Code Ref (R no.): | R895-2 | Filing No. 52076 |

Agency Information

| | |
|------------------------|---------------------|
| 1. Department: | Technology Services |
| Agency: | Administration |
| Room no.: | 6000 |
| Street address: | 450 N State St, SOB |

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

| | | |
|--|------------------------------------|--------------------|
| 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

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| 2. Rule catchline: |
| R895-2. Americans With Disabilities Act (ADA) Complaint Procedure |
| 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 pursuant to Section 63F-1-206 and Section 63G-3-201 of the State Administrative Rulemaking Act. The Department of Technology Services hereby adopts and defines a complaint procedure to provide for prompt and equitable resolution of complaints filed in accordance with |

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|--|
| Title II of the Americans With Disabilities Act, pursuant to 28 CFR 35.107, 1992 edition. |
| 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule: |
| No written comments were received during and since the last five-year review 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 is needed to define the complaint procedure to provide for prompt and equitable resolution of complaints filed. Therefore, this rule should be continued. |

Agency Authorization Information

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|--|--|--------------|------------|
| Agency head or designee, and title: | Michael Hussey, Executive Director and CIO | Date: | 03/23/2020 |
|--|--|--------------|------------|

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

| NOTICE OF FIVE-YEAR REVIEW EXTENSION | | |
|--------------------------------------|---------|------------------|
| Utah Admin. Code Ref (R no.): | R357-11 | Filing No. 50853 |

Agency Information

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|---------------------------|--------------------------|--------------------|
| 1. Department: | Governor | |
| Agency: | Economic Development | |
| Building: | World Trade Center | |
| Street address: | 60 E South Temple | |
| City, state, zip: | Salt Lake City, UT 84111 | |
| Mailing address: | 60 E South Temple | |
| City, state, zip: | Salt Lake City, UT 84111 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Dane Ishihara | 801-792-8764 | dishihara@utah.gov |

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

General Information

2. Rule catchline:

R357-11. Technology Commercialization and Innovation Program (TCIP)

3. Reason for requesting the extension and the new deadline date:

The extension is requested to thoroughly evaluate if the rule should be continued or repealed. The new deadline is 07/21/2020.

Agency Authorization Information

| | | | |
|--|------------------------------------|--------------|------------|
| Agency head or designee, and title: | Val Hale,
Executive
Director | Date: | 03/20/2020 |
|--|------------------------------------|--------------|------------|

End of the Notices of Five-Year Review Extensions 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.

Commerce

Occupational and Professional Licensing
No. 52505 (Amendment): R156-11a. Cosmetology and
Associated Professions Licensing Act Rule
Published: 02/15/2020
Effective: 03/24/2020

No. 52561 (Repeal): R277-735. Corrections Education
Programs
Published: 03/01/2020
Effective: 04/09/2020

Education

Administration
No. 52547 (Amendment): R277-108. Annual Assurance of
Compliance by Local School Boards
Published: 03/01/2020
Effective: 04/09/2020

Environmental Quality

Waste Management and Radiation Control, Radiation
No. 52562 (Amendment): R313-16. General Requirements
Applicable to the Installation, Registration, Inspection, and
Use of Radiation Machines. Application for Registration of
Inspection Services
Published: 03/01/2020
Effective: 04/13/2020

No. 52556 (Amendment): R277-121. Board Waiver of
Administrative Rules
Published: 03/01/2020
Effective: 04/09/2020

Waste Management and Radiation Control, Waste
Management
No. 52563 (Amendment): R315-15. Standards for
Management of Used Oil. DIYer Reimbursement
Published: 03/01/2020
Effective: 04/13/2020

No. 52576 (Amendment): R277-459. Teacher Supplies and
Materials Appropriation
Published: 03/01/2020
Effective: 04/09/2020

No. 52564 (Amendment): R315-260. Hazardous Waste
Management System
Published: 03/01/2020
Effective: 04/13/2020

No. 52559 (Amendment): R277-702. Procedures for the
Utah High School Completion Diploma
Published: 03/01/2020
Effective: 04/09/2020

No. 52565 (Amendment): R315-262. Hazardous Waste
Generator Requirements
Published: 03/01/2020
Effective: 04/13/2020

No. 52577 (New Rule): R277-714. Unsafe School Choice
Option
Published: 03/01/2020
Effective: 04/09/2020

No. 52566 (Amendment): R315-263. Standards Applicable
to Transporters of Hazardous Waste and Standards
Applicable to Emergency Control of Spills for All Hazardous
Waste Handlers
Published: 03/01/2020
Effective: 04/13/2020

No. 52560 (Amendment): R277-733. Adult Education
Programs
Published: 03/01/2020
Effective: 04/09/2020

NOTICES OF RULE EFFECTIVE DATES

No. 52567 (Amendment): R315-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Published: 03/01/2020
Effective: 04/13/2020

No. 52568 (Amendment): R315-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Published: 03/01/2020
Effective: 04/13/2020

Water Quality

No. 52488 (Amendment): R317-8. Review Procedures
Published: 02/01/2020
Effective: 04/01/2020

No. 52487 (Repeal and Reenact): R317-401. Graywater Systems
Published: 02/01/2020
Effective: 03/26/2020

Governor

Economic Development

(EDITOR'S NOTE: This notice makes a second Rule R357-15a effective. Administrative Rules is working with the Office of Economic Development to work this out because the two rules are different.)

No. 52537 (New Rule): R357-15a. Targeted Business Tax Credit Rule
Published: 02/15/2020
Effective: 03/30/2020

Economic Development, Pete Suazo Utah Athletic Commission

No. 52583 (Amendment): R359-1. Pete Suazo Utah Athletic Commission Act Rule
Published: 03/01/2020
Effective: 04/08/2020

Health

Disease Control and Prevention, Environmental Services

No. 52486 (New Rule): R392-702. Cosmetology Facility Sanitation
Published: 02/01/2020
Effective: 03/30/2020

Health Care Financing, Coverage and Reimbursement Policy

No. 52482 (Amendment): R414-311. Targeted Adult Medicaid
Published: 02/01/2020
Effective: 03/27/2020

No. 52479 (Amendment): R414-312. Adult Expansion Medicaid
Published: 02/01/2020
Effective: 03/27/2020

No. 52528 (Amendment): R414-513. Intergovernmental Transfers
Published: 02/15/2020
Effective: 03/27/2020

Family Health and Preparedness, Emergency Medical Services

No. 52518 (Amendment): R426-5. Epinephrine Auto-Injector Use
Published: 02/15/2020
Effective: 04/08/2020

Family Health and Preparedness, Child Care Licensing

No. 52373 (Amendment): R430-50. Residential Certificate Child Care
Published: 12/15/2019
Effective: 04/03/2020

No. 52374 (Amendment): R430-90. Licensed Family Child Care

Published: 12/15/2019
Effective: 04/03/2020

Human Services

Services for People with Disabilities

No. 52519 (Amendment): R539-1. Non-Waiver Services for People with Intellectual Disabilities or Related Conditions
Published: 03/01/2020
Effective: 04/08/2020

Natural Resources

Parks and Recreation

No. 52477 (Amendment): R651-301. State Recreation Fiscal Assistance Programs
Published: 02/01/2020
Effective: 04/07/2020

Water Resources

No. 52473 (Amendment): R653-2. Financial Assistance from the Board of Water Resources
Published: 02/01/2020
Effective: 03/26/2020

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

No. 52554 (Amendment): R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs
Published: 03/01/2020
Effective: 04/08/2020

Tax Commission

Administration

No. 52377 (Amendment): R861-1a. State Board of Equalization Procedures
Published: 03/01/2020
Effective: 04/09/2020

Auditing

No. 52579 (Amendment): R865-9i. Property Tax Relief For Individuals Pursuant to Utah Code Ann. Sections 59-2-1201 through 59-2-1220
Published: 03/01/2020
Effective: 04/09/2020

No. 52580 (Amendment): R865-19s. Tourist Home, Hotel, Motel, or Trailer Court Accommodations and Services Defined Pursuant to Utah Code Ann. Sections 59-12-103, 59-12-301, 59-12-352, and 59-12-353
Published: 03/01/2020
Effective: 04/09/2020

No. 52581 (Amendment): R865-19s. Transient Room Tax Collection Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-301
Published: 03/01/2020
Effective: 04/09/2020

Property Tax

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End of the Notices of Rule Effective Dates Section