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

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the Bulletin should be addressed to the contact person for the rule. Questions about the Bulletin or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

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

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

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

EXECUTIVE ORDER

2020-58

Wildland Fire Management

WHEREAS, the danger from wildland fires is high throughout the State of Utah;
WHEREAS, wildfires are currently burning in some areas of the State;
WHEREAS, fire restrictions and wildfire warnings are in place across the State;
WHEREAS, extreme dry conditions have occurred and are forecasted throughout the State;
WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;
WHEREAS, we have seen fires that are not immediately extinguished soon after ignition have grown to large fires;
WHEREAS, COVID-19 has exhausted State and Local resources and will increase the complexity of wildfire response;
WHEREAS, immediate action will be required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources, and the environment should these dangerous conditions escalate to active wildfires;
WHEREAS, these conditions do create the potential for a disaster emergency within the scope of the Disaster Response and Recovery Act of 1981;

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

It is found, determined and declared that a “State of Emergency” exists Statewide due to the threat to public safety, property, critical infrastructure, natural resources, and the environment, effective for the month of September 2020, requiring aid, assistance, and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 1st day of September 2020.

(State Seal)
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, on August 20, 2020, Executive Order 2020-1 expired and I issued Executive Order 2020-51, declaring a state of emergency due to the ongoing COVID-19 pandemic;

WHEREAS, on August 20, 2020, I issued Executive Order 2020-56, requiring the use of face coverings by any individual while in a state facility to mitigate the spread of COVID-19;

WHEREAS, the facts and conditions necessitating the use of face coverings in state facilities persist;

WHEREAS, COVID-19 has been characterized by the World Health Organization as a worldwide pandemic caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, COVID-19 can spread between individuals in close proximity through respiratory droplets produced when an infected individual speaks, coughs, or sneezes;

WHEREAS, an infected individual can transmit COVID-19 even if the individual does not present symptoms or know that the individual is infected;

WHEREAS, the United States Centers for Disease Control and Prevention and the Utah Department of Health have recommended the use of face masks or other face coverings to mitigate the transmission of COVID-19;

WHEREAS, the Utah Department of Health and I have determined that it is appropriate to continue to require individuals, including employees and members of the public, to wear face coverings while in state facilities to protect public health;

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the “full force and effect of law”;

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. "Face covering" means a face mask or a face shield.
   b. "Face mask" means a mask that:
      i. covers the nose and mouth without openings that can be seen through;
      ii. is made of synthetic or natural fabrics;
      iii. secures under the chin;
      iv. fits snugly against the nose and sides of the face; and
      v. does not have an exhalation valve or vent.
   c. "Face shield" means a shield that:
      i. covers the entire face;
      ii. protects the eyes of the wearer;
      iii. is made of clear plastic or similar nonpermeable transparent material;
      iv. secures around the top of the head;
      v. does not secure under the chin;
      vi. does not fit snugly against the nose or sides of the face; and
      vii. can be used in conjunction with a mask for enhanced protection.
   d. "State facility" means a building or structure, or part thereof, that is owned, leased, occupied, or controlled by the state or a state governmental entity.
   e. "State facility" does not mean:
      i. a state prison or state community correctional center;
      ii. a detention facility or secure facility operated by the Division of Juvenile Justice Services; or
      iii. a building or structure, or part thereof, that is owned, leased, occupied, or controlled exclusively by:
         a. the legislative branch of the state;
         b. the judicial branch of the state;
         c. the Attorney General's Office;
         d. the State Auditor's Office;
         e. the State Treasurer's Office; or
         f. an independent entity as defined in Utah Code § 63E-1-102.
   f. "State governmental entity" means any department, board, commission, institution, agency, or institution of higher education of the state.
2. Each individual in a state facility shall wear a face mask, except as provided in Section (3).
3. Section (2) does not apply to:
   a. a child who:
      i. is in a childcare setting;
      ii. is younger than three years old; or
      iii. is three years old or older if the parent, guardian, or individual responsible for caring for the child cannot place the face mask safely on the child's face;
   b. an individual with a medical condition, mental health condition, or disability that prevents wearing a face mask, including an individual with a medical condition for whom wearing a face mask could cause harm or obstruct breathing, or who is unconscious, incapacitated, or otherwise unable to remove a face mask without assistance;
   c. an individual engaged in an activity where the ability to see the mouth is essential for communication, including an individual who is deaf or hard of hearing while communicating with others or an individual communicating with an individual who is deaf or hard of hearing, in which case a the individual shall wear a face shield without a mask or use alternative protection such as a plexiglass barrier;
   d. an individual who is receiving or providing a service involving the nose or face for which temporary removal of the face mask is necessary to perform the service;
   e. an individual who is outdoors;
   f. an individual in a vehicle;
   g. an individual who is actively engaged in any of the following activities while maintaining a physical distance of at least six feet from any other individual who is not from the same household or residence:
      i. using an indoor recreational facility; or
      ii. eating or drinking; or
      h. a state employee who is not speaking in person with any other individual and who:
         i. is the sole occupant of a fully enclosed room or office; or
         ii. is the sole occupant of a partially enclosed room, office, or similar space, including a cubicle, that is enclosed on at least three sides by walls or other physical barriers or dividers of a height that reaches no lower than the top of the employee's head when the employee is seated; or
         iii. is seated or stationary, and maintains a physical distance of at least six feet from any other individual.
   4.a. Except as provided in Subsections (4)(b) and (4)(c), a state governmental entity may not require an individual to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
b. A state governmental entity may require an individual employed by the state governmental entity to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).

c. A state institution of higher education may require an individual who is enrolled as a student of the state institution of higher education to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).

5. A state governmental entity may refuse to provide in-person service to any individual who does not wear a mask in a state facility of the state governmental entity if:

- an alternative means of service is available;
- the state governmental entity specifies to the individual how to access the alternative means of service; and
- the state governmental entity determines that the individual has reasonable access to the alternative means of service.

6. The Utah Department of Corrections shall implement requirements regarding the wearing of face coverings in a state prison or state community correctional center.

7. The Division of Juvenile Justice Services shall implement requirements regarding the wearing of face coverings in a detention facility or secure facility operated by the Division of Juvenile Justice Services.

8. This Order rescinds and replaces EO 2020-56.

This Order shall take effect immediately shall remain in effect until the state of emergency declared in EO 2020-51 terminates, or until otherwise lawfully modified, amended, rescinded, or superseded.

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 4th day of September, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/059/EO

EXECUTIVE ORDER
2020-60

Updating the Utah COVID-19 Level of Restriction

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, on August 20, 2020, the state of emergency declared in Executive Order 2020-1 expired, and I issued Executive Order 2020-51, declaring a state of emergency due to the ongoing COVID-19 pandemic;

WHEREAS, COVID-19 has been characterized by the World Health Organization as a worldwide pandemic caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;
WHEREAS, the Utah Department of Health has released and updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system (hereinafter, "Utah COVID-19 Level of Restriction"), to guide economic engagement while still protecting public health;

WHEREAS, on August 20, I issued Executive Order 2020-57, extending the Utah COVID-19 Level of Restriction to mitigate the spread of COVID-19;

WHEREAS, the facts and conditions necessitating the extension of the Utah COVID-19 Level of Restriction persist;

WHEREAS, the Utah Department of Health has determined that Salt Lake City should move to Low Level of Restriction (Yellow) and Sevier County should move to Minimal Level of Restriction (Green);

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the “full force and effect of law”;

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. "Person" means the same as that term is defined in Utah Code § 68-3-12.5(18).

2. The Utah COVID-19 Level of Restriction is:
   a. Minimal Level of Restriction (Green) in Beaver County, Daggett County, Duchesne County, Emery County, Garfield County, Kane County, Millard County, Piute County, Sevier County, Uintah County, and Wayne County; and
   b. Low Level of Restrictions (Yellow) in each area of the State not identified in Subsection (2)(a).

3. The provisions of the Phased Guidelines apply as follows:
   a. Each person in an area identified in Subsection (2)(a) shall comply with the Minimal Level of Restriction (Green) provisions of the Phased Guidelines;
   b. Each person in an area identified in Subsection (2)(b) shall comply with the Low Level of Restrictions (Yellow) provisions of the Phased Guidelines; and
   c. Notwithstanding any other provision of Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
      i. as an order for:
         A. each individual who is acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
         B. each individual in a healthcare setting; and
      ii. as a strong recommendation for any individual not identified in Subsection (3)(c)(i).

4. A political subdivision desiring an exception to this Order or the Phased Guidelines or desiring to move to a different level of restriction shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.

5. Notwithstanding Subsections (3) or (4), a political subdivision desiring to adopt a mandatory face covering requirement may do so without prior approval from the Utah Department of Health by notifying the Utah Department of Health of their intent to adopt the requirement.

6. To the extent that any provision of this Order conflicts with a provision of Executive Order 2020-59 or Utah Public Health Order 2020-11, the provision of Executive Order 2020-59 or Utah Public Health Order 2020-11 shall control.

7. This Order rescinds and replaces EO 2020-57.

8. Nothing in this Order shall be construed to revoke or terminate the authorization of an exception to the Phased Guidelines or mask mandate authorized by the Utah Department of Health and effective as of September 4, 2020.

This Order shall take effect immediately and shall remain in effect through September 18, 2020, or until otherwise lawfully modified, amended, rescinded, or superseded.
EXECUTIVE ORDER 2020-61

Declaring a State of Emergency Due to Severe Weather

WHEREAS, as of September 8, 2020, a State of Emergency exists in Utah due to severe weather conditions and unseasonably cold temperatures typical of late October, with sustained winds of 50 to 75 mph in Northern Utah, including wind gusts in excess of 85 mph in Davis County;

WHEREAS, strong, gusty downslope/canyon winds also impacted the Uinta Basin, Castle Country, the canyons of Washington County, and parts of Western Utah, including the San Rafael Swell;

WHEREAS, the National Weather Service (NWS) issued high wind warnings, wind advisories, and winter weather advisories, with hard freeze watches in the higher elevations of Northern Utah and expected light snow as an arctic cold front moves across the region;

WHEREAS, the NWS forecasts high winds in Davis County, Salt Lake County, and Weber County from Tuesday evening into Wednesday morning;

WHEREAS, the ongoing severe weather event has caused significant damage in multiple counties in Utah, including downed trees, widespread power outages, utility water breaks, gas leaks, damage to homes and vehicles, and wind- and debris-impacted roadways;

WHEREAS, the conditions have led to 2,524 power outages affecting over 180,000 customers, as well as internet outages across multiple counties, with some outages expected to last 2 or 3 days;

WHEREAS, the Utah Department of Transportation has restricted high profile vehicles in Weber County, Davis County, and Box Elder County, and has reported more than 45 overturned vehicles and that roadways have been impacted by storm debris;

WHEREAS, COVID-19 testing centers, Mass Transit TRAX service, and several schools have been suspended due to the severe weather impacts, including school cancelations in Davis, Ogden, and Salt Lake School Districts, and a two hour delay in Cache School District;

WHEREAS, impacts from the severe weather event are a threat to public safety;

WHEREAS, many of the communities affected by the severe weather event are also responding to the COVID-19 pandemic emergency, the March 2020 Magna Earthquake, and ongoing floods and wildfires, limiting resources;
WHEREAS, numerous local communities have declared local states of emergency due to the COVID-19 pandemic, the Magna Earthquake, and ongoing wildfires, and are now declaring local states of emergencies for the severe weather event, and have requested resources and support from State departments and agencies to assist them in addressing these emergencies;

WHEREAS, the Utah Division of Emergency Management has activated the State Emergency Operations Center to Level 1 and resources have been deployed;

WHEREAS, declaring a state of emergency will facilitate the protection of persons and property from the impacts of the severe weather event and expedite the use of state level resources, as well as the deployment of federal and interstate resources, if required;

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

WHEREAS, under the provisions of the Disaster Response and Recovery Act found in Title 53, Chapter 2a of the Utah Code Annotated 1953, as amended, I find that conditions of extreme peril to the safety of persons and property exist in the State of Utah due to the severe weather event;

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

1. the continued execution of the State Emergency Operations Plan;
2. assistance from State government to political subdivisions as needed;
3. coordination with local authorities and the private sector to maximize response and recovery; and
4. the Division of Emergency Management to ensure adequate state staffing to expedite disaster response and recovery efforts.

This State of Emergency is declared and effective immediately and shall remain in effect until I find the threat or danger has passed or the disaster reduced to the extent that emergency conditions no longer exist.

IN 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 9th day of September, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/061/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 August 15, 2020, 12:00 a.m., and September 01, 2020, 11:59 p.m., are included in this, the September 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 October 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 January 13, 2021, 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.): R82-1 Filing No. 53013

Agency Information
1. Department: Alcoholic Beverage Control
Agency: Administration
Street address: 1625 S 900 W
City, state: Salt Lake City, UT 84104-1630
Mailing address: PO Box 30408
City, state, zip: Salt Lake City, UT 84130-0408
Contact person(s):
Name: Phone: Email:
Vickie Ashby 801-977-6801 vickieashby@utah.gov
Angela Micklos 801-977-6800 afmicklos@utah.gov

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

General Information
2. Rule or section catchline:
R82-1. General

3. Purpose of the new rule or reason for the change:
This amendment is necessary to implement provisions of H.B. 157 passed in the 2020 General Session. The proposed amendment removes the administrative fee and the requirement for the Department of Alcoholic Beverage Control (DABC) permission for someone bringing alcohol when moving to Utah. It also removed the requirement for someone inheriting alcohol to pay a fee to DABC, although they must still provide proof of inheritance.

4. Summary of the new rule or change:
This amendment is necessary to implement provisions of H.B. 157 passed in the 2020 General Session. H.B.157 modified Section 32B-4-414 by removing the administrative fee and the requirement for DABC permission for someone bringing alcohol when moving to Utah. It also removed the requirement for someone inheriting alcohol to pay a fee to DABC, although they must still provide proof of inheritance.

Fiscal Information
5. Aggregate anticipated cost or savings to:

A) State budget:
None--Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 157 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

B) Local governments:
None--Any anticipated cost or savings to local governments are a result of statutory requirements of H.B. 157 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

C) Small businesses ("small business" means a business employing 1-49 persons):
None--Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 157 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
None--Any anticipated cost or savings are a result of statutory requirements of H.B. 157 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

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):
Any anticipated cost or savings are a result of statutory requirements of H.B. 157 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.
F) Compliance costs for affected persons:

There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 157 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

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.)

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<th>FY2022</th>
<th>FY2023</th>
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</tbody>
</table>

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Alcoholic Beverage Control, Salvador Petilos, 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 fiscal impact for this amendment was accounted for in H.B. 157 (2020), so there will be no anticipated cost or savings to businesses because of this amendment.

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

Salvador Petilos, 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 32B-2-202 | Section 32B-4-414

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: 10/15/2020

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

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: | Salvador Petilos, Executive Director | Date: 08/14/2020 |

R82. Alcoholic Beverage Control, Administration.
R82-1. General.
R82-1-101. Scope and Effective Date.

These rules are adopted pursuant to section 32B-2-202 and shall be interpreted so as to be consistent with the Alcoholic Beverage Control Act. These rules shall govern the Department and all licensees and permittees of the Commission.
the Department on a "cash only" basis. The determination of whether the person, or entity that applied for or held a temporary special event beer permit may, at the discretion of the Department, require that the person or entity that applied for or held the permit be on "cash only" status for any future events requiring permits from the Commission.

(9) In addition to the remedies established in this rule, the Department may pursue any legal remedies to effect collection of any returned check.

(6) Administrative Handling Fee.

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

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

(c) The administrative handling fee to process any request for Department approval referenced in subparts (3)(a) and (3)(b) of this rule is $20.

(7) Case Handling Markup

(10) For purposes of the "Landed case cost" defined in [s]Section 32B-2-304, "[the cost of the product]" includes a case handling markup determined by the Department.

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

(12) The Department shall collect and remit the case handling markup as outlined in [s]Section 32B-2-304.

(13) [Listing and Delisting Product: Pursuant to [s]Section 32B-2-202, this rule authorizes the director to make internal Department policies in accordance with [s]Section 32B-2-206 for Department duties as defined by [s]Section 32B-2-204 for listing and delisting products to include a program to place orders for products not kept for sale by the Department.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [February 25, 2020]

Authorizing, and Implemented or Interpreted Law: 32B-2-202
NOTICES OF PROPOSED RULES

City, state: Salt Lake City, UT 84104-1630
Mailing address: PO Box 30408
City, state, zip: Salt Lake City, UT 84130-0408

Contact person(s):

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vickie Ashby</td>
<td>801-977-6801</td>
<td><a href="mailto:vickieashby@utah.gov">vickieashby@utah.gov</a></td>
</tr>
<tr>
<td>Angela Micklos</td>
<td>801-977-6800</td>
<td><a href="mailto:afmicklos@utah.gov">afmicklos@utah.gov</a></td>
</tr>
</tbody>
</table>

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

General Information

2. Rule or section catchline:
R82-1-208. Percentage Lease Agreements

3. Purpose of the new rule or reason for the change:
This section is necessary to implement provisions of H.B. 399 passed in the 2020 General Session. This new section establishes the maximum percentage of revenue from alcohol sales a percentage lease may require; and the procedure for submitting a percentage lease agreement. At the 20% level it seems appropriate for the landlord to fulfill the obligations of ownership including a background check.

4. Summary of the new rule or change:
This section is necessary to implement provisions of H.B. 399 (2020). This new section establishes the maximum percentage of revenue from alcohol sales a percentage lease may require; and the procedure for submitting a percentage lease agreement. At the 20% level it seems appropriate for the landlord to fulfill the obligations of ownership including a background check.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
None—Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

B) Local governments:
None—Any anticipated cost or savings to local governments are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

C) Small businesses ("small business" means a business employing 1-49 persons):
None—Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
None—Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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):
Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

F) Compliance costs for affected persons:
There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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.)

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
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<th>FY2022</th>
<th>FY2023</th>
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</thead>
<tbody>
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<tr>
<td>Businesses</td>
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</table>
Additionally, association having not fewer than ten members.
receives requests from ten interested persons or from an
agency. The agency is required to hold a hearing if it
request a hearing by submitting a written request to the
agency identified in box 1.

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.)

(1) The authority for this rule is Section 32B-1-208
(2) This rule establishes the following:
(a) the maximum percentage of revenue from alcohol sales
a percentage lease agreement may require; and
(b) the procedure for submitting a percentage lease to the
department.
(3) As used in this section, "Percentage lease" means the
same as in Section 32B-1-208.
(a) The maximum percentage of revenue from alcohol
sales allowed in a percentage lease is 20 percent, whether that
percentage is:
(i) described through a rent-sharing or profit-sharing
agreement;
(ii) calculated in part on the gross sales or profits of the
licensee, including profits from the sale of alcoholic beverages; or
(iii) described in the percentage lease in some other
manner.
(b) Parties to a percentage lease must submit a copy to the
department for review as part of the application for licensing.
(c) If during the review process the Department is unable to
determine how alcohol sales in a percentage lease agreement are being
shared, based on the language in the percentage lease agreement, the
department staff shall return the lease agreement and license application,
and the Commission may decline to act on the application.
(d) An applicant may resubmit a lease once the language
in the lease is sufficiently clear for the Department to determine that
no more than 20% of profits from the sale of alcoholic beverages will
be distributed to a lessor.
(e) The lessor cannot control or acquire an ownership
interest in the business of the lessee.
(f) An industry representative is prohibited from profit
sharing and ownership of retail license operations.
NOTICES OF PROPOSED RULE

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

**Utah Admin. Code:** R82-1-304
**Filing No.:** 53015

**Agency Information**

1. **Department:** Alcoholic Beverage Control
2. **Agency:** Administration
3. **Street address:** 1625 S 900 W
4. **City, state:** Salt Lake City, UT 84104-1630
5. **Mailing address:** PO Box 30408
6. **City, state, zip:** Salt Lake City, UT 84130-0408
7. **Contact person(s):**
   - **Name:** Vickie Ashby
     - **Phone:** 801-977-6801
     - **Email:** vickieashby@utah.gov
   - **Name:** Angela Micklos
     - **Phone:** 801-977-6800
     - **Email:** afmicklos@utah.gov

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

**General Information**

2. **Rule or section catchline:**
   - R82-1-304. Background Checks for Resort Licensees

3. **Purpose of the new rule or reason for the change:**
   This section is necessary to implement provisions of H.B. 399 passed in the 2020 General Session. H.B. 399 (2020) modified Subsection 32B-1-304(7) to exempt resort licensee employees from background checks except those that engage in the management of the resort as the commission defines in rule. This new section defines “engages in the management” of a resort for purposes of determining which individuals must undergo a background check as part of the application process for a resort license.

4. **Summary of the new rule or change:**
   This section is necessary to implement provisions of H.B. 399 (2020). H.B. 399 (2020) modified Subsection 32B-1-304(7) to exempt resort licensee employees from background checks except those that engage in the management of the resort as the commission defines in rule. The new section defines “engages in the management” of a resort for purposes of determining which individuals must undergo a background check as part of the application process for a resort license.

**Fiscal Information**

5. **Aggregate anticipated cost or savings to:**
   A) **State budget:**
   None—Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   B) **Local governments:**
   None—Any anticipated cost or savings to local government are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   C) **Small businesses** (“small business” means a business employing 1-49 persons):
   None—Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   D) **Non-small businesses** (“non-small business” means a business employing 50 or more persons):
   None—Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   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):
   Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   F) **Compliance costs for affected persons:**
   There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for...
administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
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<th>FY2022</th>
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<td>Local Governments</td>
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Fiscal Benefits

| 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 Alcoholic Beverage Control, Salvador Petilos, 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 fiscal impact for this section was accounted for in H.B. 399 (2020), so there will be no anticipated cost or savings to businesses because of this section.

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

<table>
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<td>32B-2-202</td>
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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: | 10/15/2020 |

10. This rule change MAY become effective on:

| Date | 10/22/2020 |

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: | Salvador Petilos, Executive Director | Date: 08/14/2020 |

R82. Alcoholic Beverage Control, Administration.
R82-1. General.
R82-1-304. Background Checks for Resort Licensees.

(1) The authority for this rule is Subsection 32B-1-304(7).

(2) This rule describes what "engages in the management" of a resort means for purposes of determining which individuals must undergo a background check as part of the application process for a resort license.

(3) As used in this section, "Engages in the management of a resort licensee" means manages or controls:

(a) the daily operations of the business entity of the resort licensee; or

(b) the finances of the resort licensee.
(4) An individual who engages in the management of a resort licensee shall undergo a background check as part of the application process for obtaining or renewing a resort license.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: [February 25, 2020]
Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-304(7)

NOTICES OF PROPOSED RULE

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R82-2-303  Filing No. 53016

Agency Information

1. Department: Alcoholic Beverage Control
Agency: Administration
Street address: 1625 S 900 W
City, state: Salt Lake City, UT 84104-1630
Mailing address: PO Box 30408
City, state, zip: Salt Lake City, UT 84130-0408
Contact person(s):
Name: Phone: Email:
Vickie Ashby 801-977-6801 vickieashby@utah.gov
Angela Micklos 801-977-6800 afmicklos@utah.gov

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

General Information

2. Rule or section catchline:
R82-2-303. Non-Consignment Inventory

3. Purpose of the new rule or reason for the change:
This rule amendment is necessary to correct the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The existing rule incorrectly says the Department owns the inventory.

4. Summary of the new rule or change:
This rule amendment is necessary to correct the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The existing rule incorrectly says the Department owns the inventory.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
None—This amendment corrects the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The amendment does not create additional cost or savings to the state budget.

B) Local governments:
None—This amendment corrects the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The amendment does not create additional cost or savings for local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
None—This amendment corrects the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The amendment does not create additional cost or savings for small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
None—This amendment corrects the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The amendment does not create additional cost or savings 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):
None—This amendment corrects the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The amendment does not create additional cost or savings.

F) Compliance costs for affected persons:
None—This amendment corrects the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5. The amendment does not create additional cost or savings 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.)
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<td><strong>Net Fiscal Benefits</strong></td>
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</tbody>
</table>

**H) Department head approval of regulatory impact analysis:**
The Executive Director of the Department of Alcoholic Beverage Control, Salvador Petilos, 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 amendment corrects the non-consignment inventory status to reference the package agency as the owner of the inventory for Types 1, 4, and 5 so there will be no anticipated cost or savings because of this rule amendment.

**B) Name and title of department head commenting on the fiscal impacts:**
Salvador Petilos, 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 32B-2-202

**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:**
10/15/2020

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

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: | Salvador Petilos, Executive Director | Date: 08/14/2020 |

**R82. Alcoholic Beverage Control, Administration.**
**R82-2. Administration.**
**R82-2-303. Non-Consignment Inventory.**

(1) This rule is [made] adopted pursuant to [s] Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.

(2) Type 1, 4 and 5 package agencies shall be on a non-consignment inventory status where the Department of package agency owns the inventory.

KEY: alcoholic beverages

**Date of enactment or last substantive amendment:** [February 25,] 2020

**Authorizing, and implemented or interpreted law:** 32B-2-202

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

| Utah Admin. Code Ref (R no.): | R82-5-101 | Filing No.: 53017 |

**Agency Information**

| 1. Department: | Alcoholic Beverage Control |
| Agency: | Administration |
| Street address: | 1625 S 900 W |
NOTICES OF PROPOSED RULES

General Information

2. Rule or section catchline:
R82-5-101. Definitions

3. Purpose of the new rule or reason for the change:
This rule amendment is necessary to remove the subsection that defines what a banquet contract must require. Section 32B-6-605 doesn't grant specific rulemaking authority to make rules defining banquet contracts.

4. Summary of the new rule or change:
This rule amendment is necessary to remove the subsection that defines what a banquet contract must require. Section 32B-6-605 doesn't grant specific rulemaking authority to make rules defining banquet contracts.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
None—This amendment is necessary to remove the subsection that defines what a banquet contract must require so does not create additional cost or savings.

B) Local governments:
None—This amendment is necessary to remove the subsection that defines what a banquet contract must require so does not create additional cost or savings.

C) Small businesses ("small business" means a business employing 1-49 persons):
None—This amendment is necessary to remove the subsection that defines what a banquet contract must require so does not create additional cost or savings.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
None—This amendment is necessary to remove the subsection that defines what a banquet contract must require so does not create additional cost or savings.

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):
None—This amendment is necessary to remove the subsection that defines what a banquet contract must require so does not create additional cost or savings.

F) Compliance costs for affected persons:
None—This amendment is necessary to remove the subsection that defines what a banquet contract must require so does not create additional costs.

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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
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City, state: Salt Lake City, UT 84104-1630
Mailing address: PO Box 30408
City, state, zip: Salt Lake City, UT 84130-0408

Contact person(s):

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<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Vickie Ashby</td>
<td>801-977-6801</td>
<td><a href="mailto:vickieashby@utah.gov">vickieashby@utah.gov</a></td>
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<tr>
<td>Angela Micklos</td>
<td>801-977-6800</td>
<td><a href="mailto:afmicklos@utah.gov">afmicklos@utah.gov</a></td>
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</table>

Please address questions regarding information on this notice to the agency.
H) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Alcoholic Beverage Control, Salvador Petilos, 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 amendment is necessary to remove the subsection that defines what a banquet contract must require so does not create additional cost or savings.

B) Name and title of department head commenting on the fiscal impacts:
Salvador Petilos, 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 32B-2-202 | Section 32B-1-102 | Section 32B-6-605

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: 10/15/2020

10. This rule change MAY become effective on: 10/22/2020
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: Salvador Petilos, Executive Director Date: 08/14/2020

R82. Alcoholic Beverage Control, Administration.
R82-5. General Retail License Provisions.
R82-5-101. Definitions.
(1) [Authority] This rule is [made] adopted pursuant to
[Sections 32B-1-102 and 32B-2-202.
(2) [Definitions.] As used in this rule:
(a) "Dispensing System" means a system or device which dispenses liquor in controlled quantities not exceeding 1.5 ounces and has a meter which counts the number of pours served.
(b) "Resort facility" is a publicly or privately owned or operated commercial recreational facility or area:
(i) that is designed primarily to attract and accommodate people to a recreational or sporting environment;
(ii) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract;
(iii) that has adequate kitchen or culinary facilities on the premises to provide complete meals; and
(iv) that has at least 1500 square feet of function space consisting of meeting and/or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 100 people, provided that in cities of the third, fourth, or fifth class, unincorporated areas of a county, and towns, the Commission shall have the authority to waive the minimum function space size requirements.
(c) "Sports center" is a publicly or privately owned or operated facility:
(i) that is designed primarily to attract people to and accommodate people at sporting events;
(ii) that has a fixed seating capacity for more than 2,000 persons;
(iii) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract;
(iv) that has adequate kitchen or culinary facilities on the premises of the sports center to provide complete meals; and
(v) that has at least 2500 square feet of function space consisting of meeting and/or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 100 people, provided that in cities of the third, fourth, or fifth class, unincorporated areas of a county, and towns, the Commission shall have the authority to waive the minimum function space size requirements.
(d) "Convention center" is a publicly or privately owned or operated facility:
(i) the primary business or function of which is to host conventions, conferences, and food and beverage functions under a banquet contract;
(ii) that has adequate kitchen or culinary facilities on the premises of the convention center to provide complete meals and
(iii) that is in total at least 30,000 square feet.
[ ](2)(a) A "banquet contract" means an agreement between an on premise banquet licensee and a third party host of a banquet to provide alcoholic beverage services at a meal, reception, or other private banquet function at a defined location on a specific date and time for a pre-arranged, guaranteed number of attendees at a negotiated price.
(2)(b) Each "banquet contract" shall:
(i) clearly define the location of the private banquet function;
(ii) require that the private banquet function be separate from other areas of the facility that are open to the general public; and
NOTICES OF PROPOSED RULES

32B-5-310.3

Purpose

This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements in Subsection 32B-5-310(3).

5. Aggregate anticipated cost or savings to:

A) State budget:

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

B) Local governments:

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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):

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

F) Compliance costs for affected persons:

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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.)

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General Information

2. Rule or section catchline:

R82-5-102. Licensing, Ownership, and Transfer of License

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

This rule amendment is necessary to correct the "seller" and "buyer" references in Subsection R82-5-102(5) so that they align with statutory requirements in Subsection 32B-5-310(3).

4. Summary of the new rule or change:

This rule amendment is necessary to correct the "seller" and "buyer" references in Subsection R82-5-102(5) so that they align with statutory requirements in Subsection 32B-5-310(3).

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R82-5-102 Filing No. 53018

Agency Information

1. Department: Alcoholic Beverage Control

Agency: Administration

Street address: 1625 S 900 W

City, state: Salt Lake City, UT 84104-1630

Mailing address: PO Box 30408

City, state, zip: Salt Lake City, UT 84130-0408

Contact person(s):

Name: Vickie Ashby 801-977-6801 vickieashby@utah.gov

Angela Micklos 801-977-6800 afmicklos@utah.gov

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

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

B) Local governments:

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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):

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

F) Compliance costs for affected persons:

None--This rule amendment is necessary to correct the "seller" and "buyer" references so that they align with statutory requirements. This amendment does not create additional cost or savings.

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.)

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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: 10/15/2020

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

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: Salvador Petilos, Executive Director Date: 08/14/2020

R82. Alcoholic Beverage Control, Administration.
R82-5. General Retail License Provisions.
R82-5-102. Licensing, Ownership, and Transfer of License.

(1) This rule is adopted pursuant to [s]Section 32B-5-310, which authorizes the Department to make rules governing requirements for interim alcoholic beverage management agreements.

(2) Licenses are issued to persons. A licensee must communicate any contemplated action or transaction that may alter an organizational structure or ownership interest of the person to whom a license is issued to the Department so staff may ensure there is no violation of [s]Section 32B-5-310.

(3) An interim alcoholic beverage management agreement is required if a buyer will be performing the day-to-day operations of the business before the Commission approves the transfer of the license from seller to buyer.

(4)(a) Before a retail licensee enters into an interim alcoholic beverage management agreement, it shall provide the proposed interim alcoholic beverage management agreement to the Department for its approval.

(b) The Department shall create a checklist of information that an interim alcoholic beverage management agreement must contain.

(c) The Department shall review a proposed interim alcoholic beverage management agreement and, no later than 15 business days after the day on which the agreement is received by the Department:

(i) approve the interim alcoholic beverage management agreement if it contains all the necessary information; or

(ii) return the proposed interim alcoholic beverage management agreement to the licensee, if the agreement is lacking in information or specificity, with guidance on how to remedy any errors or omissions.

(5) Once an interim alcoholic beverage management agreement has been approved by the Department, the seller may

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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 32B-2-202 Section 32B-5-310

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also

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### Agency Authorization Information

Agency head or designee, and title: Salvador Petilos, Executive Director Date: 08/14/2020
allow the buyer to use their license to purchase alcoholic product from the Department, but [all] revenue from the sale of alcohol during the transition period must be retained by the [buyer] seller, less the cost of reimbursing the [seller] buyer for the cost of the alcoholic product paid to the Department.

(6) The seller must maintain the required bond, insurance, and business license during the transition period, as these are statutory requirements to hold a license, but the buyer may agree to reimburse the seller for any necessary costs incurred to maintain the bond, insurance, and business license.

(7) Nothing in this rule authorizes a licensee to close business without approval from the Department or Commission, as required by statute.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [February 25,] 2020

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

**NOTICES OF PROPOSED RULE**

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<td>Ref (R no.):</td>
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**Agency Information**

1. **Department:** Alcoholic Beverage Control
2. **Agency:** Administration
3. **Street address:** 1625 S 900 W
4. **City, state:** Salt Lake City, UT 84104-1630
5. **Mailing address:** PO Box 30408
6. **City, state, zip:** Salt Lake City, UT 84130-0408
7. **Contact person(s):**
   - Vickie Ashby 801-977-6801 vickieashby@utah.gov
   - Angela Micklos 801-977-6800 afmicklos@utah.gov

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

**General Information**

2. **Rule or section catchline:** R82-5-104. Liquor Dispensing Systems

3. **Purpose of the new rule or reason for the change:**
   This rule amendment is necessary to implement provisions of H.B. 399 passed in the 2020 General Session. The amendment establishes rules for dispensing areas of restaurants, bars, and taverns in accordance with the provisions of Title 32B; and prohibits a dispensing system to remain at a patron's table.

4. **Summary of the new rule or change:**
   This rule amendment is necessary to implement provisions of H.B. 399 (2020). The amendment establishes rules for dispensing areas of restaurants, bars, and taverns in accordance with the provisions of Title 32B; and prohibits a dispensing system to remain at a patron's table.

Fiscal Information

5. **Aggregate anticipated cost or savings to:**

   **A) State budget:**
   None—Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

   **B) Local governments:**
   None—Any anticipated cost or savings to local governments are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

   **C) Small businesses** ("small business" means a business employing 1-49 persons):
   None—Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

   **D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):
   None—Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

   **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):
   Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.
F) Compliance costs for affected persons:

There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

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.)

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H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Alcoholic Beverage Control, Salvador Petilos, 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 fiscal impact for this rule was accounted for in H.B. 399 (2020), so there will be no anticipated cost or savings to businesses because of this amendment.

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

Salvador Petilos, 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):

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Section 32B-2-202</th>
<th>Section 32B-5-304</th>
</tr>
</thead>
<tbody>
<tr>
<td>32B-5-301(9)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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: 10/15/2020

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

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

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Salvador Petilos, Executive Director</th>
<th>Date:</th>
<th>08/14/2020</th>
</tr>
</thead>
</table>

R82. Alcoholic Beverage Control, Administration.
R82-5. General Retail License Provisions.
R82-5-104. Liquor Dispensing Systems.

(1) This rule is [made] adopted pursuant to [a]Sections 32B-5-301, which requires retail licensees and retail licensees staff to comply with rules made by the Commission regarding general operational requirements of a retail licensed establishment,] and 32B-
maintain the liquor dispensing system may be grounds for suspension
that it continues to meet the approved specifications. Failure to

(2) [Purpose] This rule describes:
(a) the minimum requirements for a liquor dispensing
system, which is required by [§]Section 32B-5-304[1];
(b) and how the Department approves a liquor dispensing
system[1]; and
(c) where a liquor dispensing system may be used and
stored.

(3) As used in this section:
(a) "Dispensing area" means a fixed structure, area,
counter, or surface where an alcoholic beverage is stored, prepared,
and dispensed.
(b) "Dispensing System" means a device that measures
alcohol and dispenses alcohol in the selected measured amount.

(4) A licensee may not install or use any liquor
dispensing system for the automated mixing or dispensing of
spirits unless the liquor dispensing system has been
approved by the Department.

(b) After the Department's approval, a licensee may only
change its liquor dispensing system with prior approval by the
Department.

(5) A liquor dispensing system may be approved by the
Department if it meets the following minimum requirements:
(a) dispenses spirituous liquor in calibrated quantities not
to exceed 1.5 ounces;
(b) has a meter which counts the number of pours
dispensed; and
(c) the margin of error of the liquor dispensing system for
a one ounce pour size cannot exceed 1/16 of an ounce or two
milliliters.

(6) Dispensing systems may be of various types, including:
(a) gun[2];
(b) a stationary head[3];
(c) a tower[4];
(d) an insertable spout[5];
(e) a ring activator; or
(f) a similar method.

(7) [Licensee Responsibility.
(a) The licensee is responsible for verifying that the
system, when initially installed, meets the specifications in
Subsection (1) [which listed in subpart (1) of this rule]. Once
installed, the licensee shall maintain the dispensing system to ensure
that it continues to meet the approved specifications. Failure to
maintain the liquor dispensing system may be grounds for suspension
or revocation of the licensee's liquor license.

(8) Operational restrictions
(a) A liquor dispensing system must be calibrated to
pour a quantity of spirituous liquor not to exceed 1.5 ounces.
(b) (i) Voluntary consent is given that representatives of the
Department, State Bureau of Investigation, or any law enforcement
officer shall have access to any liquor dispensing system for
inspection or testing purposes.
(ii) A licensee shall furnish to the representatives, upon
request, samples of the alcoholic products dispensed through any
liquor dispensing system for verification and analysis.
(c) Spirituous liquor bottles in use with a liquor dispensing
system at the dispensing location must be affixed to the liquor
dispensing system by the licensee.

NOTICES OF PROPOSED RULES

(d) Spirituous liquor bottles in use with a remote storage
alcoholic beverage dispensing system [defined in R82-5-105, which
has been] approved by the Department must be in a locked storage
area identified on the licensee's floor plan.

(e) Any other primary spirituous liquor not in service must
remain unopened. There shall be no opened primary spirituous liquor
bottles at a dispensing location that are not affixed to an approved
dispensing device.

(f) Liquor dispensing systems shall not be utilized at
patron's table. Liquor dispensing systems may only be used at
approved dispensing structures.

(g) Spirituous liquor bottles shall not be dispensed or
stored at a patron's table.

(h) The liquor dispensing system and spirituous liquor
bottles attached to the liquor dispensing system must be locked or
secured in such a place and manner as to preclude the dispensing of
spirituous liquor at times when liquor sales are not authorized by law.

(i) All dispensing systems and devices must:
(i) avoid an in-series hookup [which] would permit the
contents of liquor bottles to flow from bottle to bottle before reaching
the dispensing spigot or nozzle;
(ii) not dispense from or utilize containers other than
original liquor bottles; and
(iii) prohibit the intermixing of different kinds of products
or brands in the liquor bottles from which they are being dispensed.

(j) Pursuant to federal law, [all] liquor dispensed through a
liquor dispensing system shall be from its original container, and
there shall be no re-use or refilling of liquor bottles with any
substance[whenever]. The Commission adopts federal regulations
27 CFR 31.201 and 26 USC Section 5301 and incorporates them by
reference.

(k) Each licensee shall keep daily records for each
dispensing outlet as follows:
(i) a list of brands of liquor dispensed through the liquor
dispensing system;
(ii) the number of portions of liquor dispensed through the
liquor dispensing system determined by the calculated difference
between the beginning and ending meter readings [and/or] as
electronically generated by the recording software of the dispensing
system;
(iii) number of portions of liquor sold; and
(iv) a comparison of the number of portions dispensed
to the number of portions sold including an explanation of any
variances.

(l) The records described in subpart (4)(g) [Subsection
(8)(k) of this rule:] must be made available for inspection and audit
by the Department or law enforcement.

(m) Licensees shall display in a prominent place on the
premises a list of the types and brand names of spirituous liquor being
served through its dispensing system. This requirement may be
satisfied either by printing the list on an alcoholic beverage menu or
by wall posting or both.

(n) All liquor dispensing systems and devices must
conform to federal, state, and local health and sanitation
requirements. Where considered necessary, the Department may:
(i) require the alteration or removal of any liquor
dispensing system; and
(ii) require the licensee to clean, disinfect, or otherwise
improve the sanitary conditions of any liquor dispensing system.

UTAH STATE BULLETIN, September 15, 2020, Vol. 2020, No. 18
KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [February 25, 2020]

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-5-301

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>Filing No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>R82-5-107</td>
<td>53020</td>
</tr>
</tbody>
</table>

Agency Information

1. Department: Alcoholic Beverage Control

2. Agency: Administration

3. Street address: 1625 S 900 W

4. City, state: Salt Lake City, UT 84104-1630

5. Mailing address: PO Box 30408

6. City, state, zip: Salt Lake City, UT 84130-0408

7. Contact person(s):

   a) Name: Vickie Ashby
   b) Phone: 801-977-6801
   c) Email: vickieashby@utah.gov

   a) Name: Angela Micklos
   b) Phone: 801-977-6800
   c) Email: afmicklos@utah.gov

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

General Information

2. Rule or section catchline:
   R82-5-107. Identification

3. Purpose of the new rule or reason for the change:
   This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable to a member of the public, Department of Alcoholic Beverage Control (Department) staff, or law enforcement. The identification requirements in this rule mirror those that are statutorily required for off-premise employees.

4. Summary of the new rule or change:
   This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable to a member of the public, Department staff, or law enforcement.

Fiscal Information

5. Aggregate anticipated cost or savings to:

   A) State budget:
   None—This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable. It does not create additional cost or savings.

   B) Local governments:
   None—This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable. It does not create additional cost or savings.

   C) Small businesses ("small business" means a business employing 1-49 persons):
   None—This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable. It does not create additional cost or savings.

   D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
   None—This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable. It does not create additional cost or savings.

   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):
   None—This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable. It does not create additional cost or savings.

   F) Compliance costs for affected persons:
   None—This rule amendment adds language that applies to off premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable. It does not create additional cost or savings.

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

   Regulatory Impact Table

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2021</th>
<th>FY2022</th>
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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 Alcoholic Beverage Control, Salvador Petilos, 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 amendment adds language that applies to off-premise retail employees and adjusts formatting in order to ensure that all retail licensee employees are easily identifiable. It does not create additional cost or savings.

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

Salvador Petilos, 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 32B-2-202 | Section 32B-5-301

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: 10/15/2020

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

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: Salvador Petilos, Executive Director | Date: 08/14/2020

R82. Alcoholic Beverage Control, Administration.
R82-5. General Retail License Provisions.
R82-5-107. Identification.

(1) This rule is [made] adopted pursuant to [s] Section 32B-5-301.

(2) The purpose of this rule is to ensure that an individual who sells, dispenses, or provides alcoholic beverages is easily identifiable to a member of the public, Department staff, or law enforcement.

(3) Each employee of [the] a retail on-premise licensee who sells, dispenses or provides alcoholic beverages shall wear a unique identification badge:

(a) On the front of the employee's clothing;

(b) visible above the waist;

(c) [bearing] displaying the employee's;

(i) first or last name;

(ii) initials; or

(iii) [or -] a unique identification number in letters or numbers; and

(d) with the unique letters or numbers not less than 3/8 inch high.

(4) Each manager of a retail, on-premise licensee who directly supervises employees who sell, dispense, or provide alcoholic beverages shall wear a unique identification badge that meets the requirements of Subsection (3).

(5) The identification badge must be worn on the front portion of the employee's body. The on-premise retail licensee shall maintain a record of all employee badges assigned, which shall be available for inspection by any peace officer, or representative of the Department. The record shall include the employee's full name and address and a driver's license or similar identification number.
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code R82-6-602 Filing No. 53021

Agency Information
1. Department: Alcoholic Beverage Control
   Agency: Administration
   Street address: 1625 S 900 W
   City, state: Salt Lake City, UT 84104-1630
   Mailing address: PO Box 30408
   City, state, zip: Salt Lake City, UT 84130-0408
   Contact person(s):
   Name: Phone: Email:
   Vickie Ashby 801-977-6801 vickieashby@utah.gov
   Angela Micklos 801-977-6800 afmicklos@utah.gov

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

General Information
2. Rule or section catchline:
   R82-6-602. Reporting Requirement for Banquet Licensees

3. Purpose of the new rule or reason for the change:
   This section is an existing section that needed to be modified to include reporting and record-keeping provisions for the newly created privately sponsored event in H.B. 399 passed in the 2020 General Session. Additionally, this section has been modified to streamline the reporting process to ensure licensee compliance.

4. Summary of the new rule or change:
   This section: a) removes the requirement that banquet catering licensees submit a quarterly report of scheduled banquets; b) requires electronic notice of all banquets at least 14 days in advance of the event; c) requires licensees to provide immediate notice of canceled or modified banquets; d) modifies the type of information required in the event notice; e) specifies what records the banquet catering licensee must retain; and f) adds security/control provisions for large events over 500 people.

Fiscal Information
5. Aggregate anticipated cost or savings to:

   A) State budget:
   None—Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   B) Local governments:
   None—any anticipated cost or savings to local government are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   C) Small businesses ("small business" means a business employing 1-49 persons):
   None—any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
   None—any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   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):
   Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

   F) Compliance costs for affected persons:
   There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.
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.)

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<td>Net Fiscal Benefits</td>
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H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Alcoholic Beverage Control, Salvador Petilos, 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 fiscal impact for this section was accounted for in H.B. 399 (2020), so there will be no anticipated cost or savings to businesses because of this section.

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

Salvador Petilos, 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 32B-6-605 | Section 32B-2-202 |

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: 10/15/2020

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

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: Salvador Petilos, Executive Director | Date: 08/14/2020 |

R82. Alcoholic Beverage Control, Administration.
R82-6. Specific Retail Provisions.
R82-6-602. On Premise Banquet -- Reporting Requirement for Banquet Licensees.

1. [Authority. This rule is pursuant to the Commission’s powers and duties under Section 32B-2-202 to act as a general policymaking body on the subject of alcoholic beverage control and to set policy by written rules that prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored, and pursuant to Section 32B-6-605(3)(a) and 32B-6-605(4)(a).

2. [Purpose] This rule establishes:

(a) the notice that an implements the requirement of section 32B-6-605, which requires the Commission to provide by rule procedures for any-premise banquet licensee[s] or sublicensee[s] must give to the Department in advance of an event[s] to the Department to allow random inspections of banquet[s] by authorized representatives of so that the Commission, the Department, or [by] law enforcement officers may conduct a random inspection of a banquet to monitor compliance with the alcoholic beverage control laws; and
(b) the records to be maintained by an on-premise banquet licensee and sublicensee;

(3) Application of the Rule.

(a) An on-premise banquet licensee and an on-premise banquet sublicense [licensed under Title 32B, Chapter 8 and Chapter 8b shall file with the Department at the beginning of each quarter a report containing advance notice of events that have been scheduled as of the reporting date for that quarter to be held under a banquet contract as defined in R82-5-104-1]

(b)(i) The quarterly reports are due on or before January 1, April 1, July 1, and October 1 of each year and may be hand-delivered, submitted by mail, or submitted electronically.

(ii) If the licensee adds an event for a quarter after the licensee has already turned in the report, as described in subpart (2)(b)(i) of this rule, the licensee shall promptly contact the licensee's compliance officer to supplement the report. [shall provide the Department advance notice of scheduled banquets in an electronic format at least fourteen days prior to the scheduled event or immediately upon booking events with less than fourteen days until the scheduled event. The electronic advance notice must include the following information for each event:]

(a) the name of the host;
(b) the specific location;
(c) the dates;
(d) the beginning and ending times;
(e) the number of attendees expected to attend;
(f) the designation as either a private event or a privately sponsored event, including the specific type of event; and
(g) for banquet events with an anticipated attendance of over 500 people, the control measures that will be implemented to prevent:
   (i) minors from obtaining alcohol;
   (ii) overconsumption of alcohol;
   (iii) the general public or an uninvited guest from entering a private event; and
   (iv) a person who has not paid an admission fee from entering a privately sponsored event.

The licensee or sublicensee shall provide electronic notice of banquet event cancellations or modifications at the time the event is canceled or modified.

(4) The Department shall make accessible to documents listing scheduled banquet events upon request, copies of the reports available to a commissioner, authorized representative of the Department, and any law enforcement officer upon request to be used for use in [the] purpose stated in [subpart (2)] of this rule.

(5) The Department shall maintain a record of the following:

(a) the name and type of each event;
(b) the date and time of each event;
(c) the name of the third-party host of each event;
(d) the number of guests attending each event;
(e) the percentage of ownership interest, if any, the host has in the third-party host of each event;
(f) the annual ratio of food sales to sales of spirituous liquor, wine, heavy beer, and flavored malt beverages sold, served, or provided at each event;
(g) the total sales of spirituous liquor, wine, heavy beer, and flavored malt beverages sold, served, or provided at each event;
(h) the purchase receipts for spirituous liquor, wine, beer, and flavored malt beverages; and
(i) the total sales of food served at each event;
(j) the total number of guests attending each event;
(k) the percentage of ownership interest, if any, the host has in the third-party host of each event;

(6) Failure of an on-premise banquet licensee or sublicensee to timely file a quarterly report advance notice of scheduled banquet events or to retain the records as noted in this rule may result in disciplinary action pursuant to [s]Sections 32B-3-201 to 32B-3-207, and Section R82-3-102 and R82-3-103.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [February 25, 2020]

Authorizing, and Implemented or Interpreted Law: 32B-2-202
Anticipated costs and savings were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

Costs and savings for administering this change are a result of statutory requirements of H.B. 399 (2020). Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

None--Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

None--Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

None--Any anticipated cost or savings to local government are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

None--Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

None--Any anticipated cost or savings to persons are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

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

None--Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

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):

None--Any anticipated cost or savings are a result of statutory requirements of H.B. 399 (2020). Costs and savings for administering this change were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

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.)

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H) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Alcoholic Beverage Control, Salvador Petilos, 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 fiscal impact for this new section was accounted for in H.B. 399 (2020), so there will be no anticipated cost or savings to businesses because of this rule.

B) Name and title of department head commenting on the fiscal impacts:
Salvador Petilos, 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):
Subsections 32B-6-1005(6)(b) and (13) Section 32B-2-202

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: 10/15/2020

10. This rule change MAY become effective on: 10/22/2020
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: Salvador Petilos, Executive Director Date: 08/14/2020

R82. Alcoholic Beverage Control, Administration.
R82-6. Specific Retail Provisions.
R82-6-1005. Hospitality Amenity Licensee Notice and Records.
(1) This rule is adopted under the authority of Subsections 32B-6-1005(6)(b) and 32B-6-1005(13).
(2) The purpose of this rule is to specify:
(a) the notice requirements for providing alcoholic products free of charge or at a reduced rate for a reoccurring event or multiple events;
(b) the records a hospitality amenity must use or maintain; and
(c) the period the records must be retained.
(3) Before holding reoccurring or multiple events where alcoholic products are furnished free of charge or at a reduced rate, a hospitality amenity licensee must provide notice:
(a) at least 14 days in advance of each event; and
(b) that notice for each event includes:
(i) the days, dates, and operating hours; and
(ii) the types of alcoholic products that will be furnished free of charge or at a reduced rate.
(4) A hospitality amenity licensee must create a daily record with the following information:
(a) The name of each hospitality guest over 21 years old and to whom the licensee:
(i) provides lodging for compensation, including money, hotel points, or other means; and
(ii) sells or furnishes an alcoholic product while the person is a guest.
(b) The total number of hospitality guests,
(c) The room number of each hospitality guest,
(d) The arrival and departure dates of each hospitality guest,
(e) The amount of alcohol, wine, or heavy beer sold, served, or furnished to each hospitality guest,
(5) The licensee must maintain the records at the licensed premises for three years to ensure compliance with the hospitality amenity license.
(6) The licensee may keep the record in written or electronic form.
(7) The licensee must make the record available to DABC or law enforcement for inspection.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: [February 25, 2020]
Authorizing, and Implemented or Interpreted Law: 32B-2-202
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.)</th>
<th>R82-7-102</th>
<th>Filing No. 53023</th>
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</thead>
</table>

Agency Information

1. **Department:** Alcoholic Beverage Control
2. **Agency:** Administration
3. **Street address:** 1625 S 900 W
4. **City, state:** Salt Lake City, UT 84104-1630
5. **Mailing address:** PO Box 30408
6. **City, state, zip:** Salt Lake City, UT 84130-0408

**Contact person(s):**

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vickie Ashby</td>
<td>801-977-6801</td>
<td><a href="mailto:vickieashby@utah.gov">vickieashby@utah.gov</a></td>
</tr>
<tr>
<td>Angela Micklos</td>
<td>801-977-6800</td>
<td><a href="mailto:afmicklos@utah.gov">afmicklos@utah.gov</a></td>
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</tbody>
</table>

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

General Information

2. **Rule or section catchline:**

R82-7-102. Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer License

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

After an internal review of this rule, Alcoholic Beverage Control discovered that as previously written, Rule R82-7 could be incorrectly interpreted such that the 10th of the month deadline only applied to master off-premise (OP) licensees and not all OP licensees.

4. **Summary of the new rule or change:**

This rule amendment clarifies that the 10th of the month application deadline applies to both OP beer retailer and master OP beer retailer; and reorganizes the section for simplicity.

Fiscal Information

5. **Aggregate anticipated cost or savings to:**

A) **State budget:**

None—This amendment clarifies the monthly application deadline for OP beer retailer and master OP beer retailer licenses. It does not create additional cost or savings.

B) **Local governments:**

None—This amendment clarifies the monthly application deadline for OP beer retailer and master OP beer retailer licenses. It does not create additional cost or savings.

C) **Small businesses** (“small business” means a business employing 1-49 persons):

None—This amendment clarifies the monthly application deadline for OP beer retailer and master OP beer retailer licenses. It does not create additional cost or savings.

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

None—This amendment clarifies the monthly application deadline for OP beer retailer and master OP beer retailer licenses. It does not create additional cost or savings.

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):

None—This amendment clarifies the monthly application deadline for OP beer retailer and master OP beer retailer licenses. It does not create additional cost or savings.

F) **Compliance costs for affected persons:**

None—This amendment clarifies the monthly application deadline for OP beer retailer and master OP beer retailer licenses. It does not create additional cost or savings.

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.)

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NOTE: This rule may become 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

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Salvador Petilos, Executive Director</th>
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<td>Date:</td>
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R82. Alcoholic Beverage Control, Administration.
R82-7. Off-Premise.
R82-7-102. Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer [State]-License.

(1) Authority and General Purpose. [This]The authority for this rule is [pursuant to s]Subsection 32B-2-202(1)(c) [which requires the Commission to adopt policy by written rules that establishes criteria and for issuing and denying licenses] and [s]Section 32B-7-408[,] which authorizes the Commission to make rules establishing how a person may apply for a master off-premise beer retailer state license.

(2) The purpose of this rule is to establish:

(a) the criteria for issuing and denying licenses; and
(b) the process to apply for a master off-premise beer retailer state license.

(3) The application process is as follows:

(a) [No] No license application will be included on the agenda of a monthly Commission meeting for consideration for issuance of a license [until in accordance with subsection 32B-7-404(2)] unless:

(i) [The] the applicant has submitted a complete application to the Department [in accordance with] that meets the requirements of [s]Sections 32B-7-402 or 32B-7-408; and

(ii) [the Department has completed an investigation and inspected the proposed licensed premises.] A "complete application" includes the Department's application form and all supplemental materials listed on the Department's application checklist.

(b) [A] A complete application for an on-premise or master on-premise license that meets the requirements of [subpart (2)]Subsection (3)(a) [of this rule] must be filed with the Department no later than the 10th day of the month in order for the application to be included on that month's Commission meeting agenda;

(c) [If the 10th day of the month is a Saturday, Sunday, or state or federal holiday, [in which case all application requirements of subpart (2)(a)] the application must be filed on the next business day after the 10th day of the month.

(d) [An] An incomplete application will be returned to the applicant.

(e) [A] A complete application filed after the deadline in [subpart] Subsection (4)[(3)](a)[ of this rule] will not be considered by the Commission that month, but will be included on the agenda of the Commission meeting for the following month.

Subpart Subsection (2)(a) [of this rule] does not preclude the Commission from considering an application for a conditional license under the terms and conditions of [s]Section 32B-7-406.
NOTICE OF PROPOSED RULE

Agency Information

1. Department: Commerce
   Agency: Consumer Protection
   Building: Heber Wells
   Street address: 160 E 300 S
   City, state: Salt Lake City, UT
   Mailing address: PO Box 146704
   City, state, zip: Salt Lake City, UT 84114-6704

Contact person(s):
   Name: Daniel Larsen
   Phone: 801-530-6145
dblarsen@utah.gov

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

General Information

2. Rule or section catchline:
   R152-49. Immigration Consultants Registration Act Rule

3. Purpose of the new rule or reason for the change:
   During the Division of Consumer Protection's (Division) five-year review of this rule, the Division identified portions of this rule that could be changed to simplify the application for registration as an immigration consultant, minimize the amount of sensitive personally identifiable information the Division obtains and retains, to conform the Division's verification of an applicant's lawful presence to current standards, and to conform this rule to the rulewriting manual.

4. Summary of the new rule or change:
   This amendment simplifies the application for registration as an immigration consultant and reduces the amount of sensitive personally identifiable information submitted to and retained by the Division. The amendment also clarifies Division practice with respect to verifying an applicant's lawful presence in the United States, in accordance with Subsection 63G-12-402(3)(k). This amendment also makes nonsubstantive changes to conform this rule to the rulewriting manual.

Fiscal Information

5. Aggregate anticipated cost or savings to:

   A) State budget:
   The amendment is not expected to have any fiscal impact on state government revenues or expenditures because it does not impose any new requirements on the state.

   B) Local governments:
   This amendment is not expected to have any fiscal impact on local governments’ revenues or expenditures because it does not create any new requirement local governments must follow, nor does it otherwise constrain local governments.

   C) Small businesses ("small business" means a business employing 1-49 persons):
   This rule does not impose new requirements beyond what is already required by Title 13, Chapter 49, Immigration Consultants Registration Act, and by the current Section R152-49-202. The amendment simplifies the application for registration as an immigration consultant and this will be a small fiscal benefit to small businesses. Thus, all amendments as a whole should allow for greater efficiency. Accordingly, no fiscal impact is expected for small business as these costs are either inestimable or there is no fiscal impact.

   D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
   These amendments are not expected to impact non-small businesses' revenues or expenditures because they establish and clarify definitions, streamline filing procedures, and minimize sensitive information given to the Division. This results in greater efficiency. Any other fiscal impact beyond those described for non-small businesses are either inestimable or there is no fiscal impact.

   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 amendment is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it does not impose any new requirements, nor does it otherwise constrain them.

   F) Compliance costs for affected persons:
   This amendment does not impose any compliance cost beyond the application cost already authorized in accordance with Sections 13-49-202, 63J-1-504, and in accordance with H.B. 8, passed in the 2020 General Session.
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.)

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H) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Commerce, Chris Parker, 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 proposes amendments to update the Immigration Consultants Registration Act Rule in harmony with Title 13, Chapter 49, Immigration Consultants Registration Act. This amendment is meant to simplify the application for registration as an immigration consultant reducing the amount of sensitive personal information given to, and maintained by, the Division. Also, amendments are made to update references and make nonsubstantive formatting changes for clarity.

This rule does not impose new requirements beyond what is already required by Title 13, Chapter 49, and by the current Section R152-49-202. The amendment simplifies the application for registration as an immigration consultant and this will be a small fiscal benefit to small businesses. Thus, all amendments as a whole should allow for greater efficiency. Accordingly, no fiscal impact is expected for small business as these costs are either inestimable or there is no fiscal impact.

These amendments are not expected to impact non-small businesses’ revenues or expenditures because they establish and clarify definitions, streamline filing procedures, and minimize sensitive information given to the Division. This results in greater efficiency. Any other fiscal impact beyond those described for small businesses are either inestimable or there is no fiscal impact.

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

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<td>13-2-5(1)</td>
<td>13-49-202(1)</td>
<td>13-49-301(1)</td>
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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: 10/15/2020

10. This rule change MAY become effective on:
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.
R152-49-1. Authority and Purpose.

(1) [Authority. These rules are promulgated under:]
The purpose of this rule is to:

(a) [Utah Code Subsection 13-2-5(1); and] describe the information an applicant must provide in and with an application for registration as an immigration consultant; and

(b) [Utah Code Subsection 13-49-202(1)] aid the division's administration and enforcement of Title 13, Chapter 49, Immigration Consultants Registration Act.


(2) [Purpose. These rules are enacted in accordance with Subsections 13-2-5(1), 13-49-202(1), and 13-49-301(1);]

(a) prescribe certain contents of the application form that shall be submitted to the Division in order to request registration as an immigration consultant; and

(b) impose upon registered immigration consultants a duty to notify the Division of changes in information that is on record with the Division.


(1) "Driver license or identification card number" means:

(a) the number assigned to a driver license or identification card issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; or

(b) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States.

R152-49-4. Application for Registration[—Duty to Notify Division of Changes].

(1) [In addition to the requirements contained in Utah Code Section 13-49-202, an applicant for registration as an immigration consultant shall submit a complete application form, including the following documents and information:] An application for registration as an immigration consultant shall be executed on a form approved by the Division, and include:

(a) [photocopy of:] the applicant's:

(i) a state-issued identification card or driver license; [name];

(ii) a passport issued by the United States Department of State; or [street address];

(iii) an identification card issued by any branch of the United States armed forces; [mailing address];

(iv) telephone number, and if applicable, facsimile number;

(v) email address;

(vi) web address, if the applicant maintains a website;

(vii) driver license or identification card number;

(b) [applicant's date of birth;] a complete fingerprint card and the applicant's consent to a fingerprint criminal background check by the Utah Bureau of Criminal Identification;

(c) a certification, under penalty of perjury, that the applicant is:

(i) a United States citizen;

(ii) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(iii) lawfully present in the United States;

(e) (i) applicant's social security number, if the applicant has one; and

(ii) applicant's individual taxpayer identification number (ITIN), if the applicant has one;

(d) a complete list of:

(i) any other name[s] used by the applicant at any time past or present;

(ii) any identification card[s] issued by any branch of the United States armed forces; or

(iii) any dba[s], through which the applicant uses[will engage in the activities of] while acting as an immigration consultant;

(e) [pursuant to Section 13-49-201(1),] a copy of the contract that the applicant will use to create a contractual obligation with a client[; and]

(f) a copy of the disclosure document the applicant is required to provide to a client in accordance with [Section] Subsection 13-49-204:

(i) written in English; and

(ii) written in each [of the] native language[s] of the applicant's clientele[.]; and

(g) a cash bond or surety bond payable to the division in accordance with Section 13-49-204.

R152-49-5. Duty to Notify Division of Change.

(2) [Any applicant for registration as an immigration consultant or registered immigration consultant shall,] An applicant or registrant is required to notify the Division of changes in information that is on record with the Division:

(a) notify the Division in writing of the change; and

(b) provide to the Division the new information or document[.]

KEY: immigration consultant, registration, consumer protection
Date of Enactment or Last Substantive Amendment: [September 2014]2020
Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-49-202(1); 13-49-301(1); 13-49-303(2)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R156-28 Filing No. 53041

Agency Information

1. Department: Commerce

Agency: Occupational and Professional Licensing

Building: Heber M. Wells Building

Street address: 160 E 300 S

City, state: Salt Lake City, UT 84111-2316

Mailing address: PO Box 146741

City, state, zip: Salt Lake City, UT 84114-6741

Contact person(s):
General Information

2. Rule or section catchline:
R156-28. Veterinary Practice Act Rule

3. Purpose of the new rule or reason for the change:
The Division of Occupational and Professional Licensing (Division) in collaboration with the Veterinary Licensing Board is filing these proposed amendments to update the rule in accordance with S.B. 23 and H.B. 455 passed in the 2020 General Session. In particular, these amendments will implement the new state certification of "state certified veterinary technician".

4. Summary of the new rule or change:
In Section R156-28-102, the proposed amendments correct grammar.

In Sections R156-28-302a, R156-28-302b, and R156-28-302c, the proposed amendment corrects grammar.

In Section R156-28-304a, the proposed amendments make this section specific to veterinarians, correct grammar, and add to continuing education requirements one hour of continuing education specific to opioid use/abuse.

New Section R156-28-304b outlines the continuing education requirements for state certified veterinary technicians.

New Section R156-28-309a outlines education requirements related to obtaining Utah Veterinary Technician Certification in accordance with statutory changes made by H.B. 455 (2020).

New Section R156-28-309b outlines experience requirements related to obtaining Utah Veterinary Technician Certification in accordance with statutory changes made by H.B. 455 (2020).

New Section R156-28-309c outlines examination requirements related to obtaining Utah Veterinary Technician Certification in accordance with statutory changes made by H.B. 455 (2020).

In Section R156-28-502, the proposed amendment updates the AVMA Ethics Act to the most current reference.

In Section R156-28-503, the proposed amendments make technical changes and add a reference to the controlled substance practice act.

5. Aggregate anticipated cost or savings to:
A) State budget:
No state agencies will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory changes. Accordingly, the amendments are not expected to impact the state budget.

B) Local governments:
No local governments will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory changes.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are approximately 231 small businesses in Utah owned by individuals in the veterinary industry (North American Industry Classification System (NAICS) 541940). As described below for other persons, small businesses are not expected to be impacted by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory changes.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are approximately five non-small businesses in Utah owned by individuals in the veterinary industry (NAICS 541940). As described below for other persons, non-small businesses are not expected to be impacted by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory 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):
Approximately 25 individuals are expected to apply in FY2020 to become a state certified veterinary technician in accordance with the proposed additions to this rule that set forth the new certification requirements. Additionally, in each subsequent fiscal year approximately 20 individuals are expected to apply for certification. In Utah there are 980 licensed veterinarians and 24 licensed veterinary interns who will be working with these new state certified veterinary technicians. However, none of these persons are expected to be impacted by this filing because the proposed additions and amendments to the rule merely implement the new state certified veterinary technician profession in accordance with the legislative mandate of H.B. 455 (2020).
F) Compliance costs for affected persons:

An individual who applies to become a state certified veterinary technician will incur a licensing cost of $50. They will also incur an undeterminable, although nominal, amount to meet the proposed continuing education requirement. However, these costs are contemplated by the new statutory provisions enacted by H.B. 455 (2020) and therefore, the proposed amendments are not expected to impose any compliance costs for affected persons above and beyond the legislative mandate of H.B. 455 (2020).

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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost FY2021</th>
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<td>Other Persons</td>
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H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Chris Parker, 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, in collaboration with the Veterinary Licensing Board, proposes amendments to Rule R156-28 to update this rule in accordance with S.B. 23 and H.B. 455 (2020). The amendments will implement the new state certification of “state certified veterinary technician”. New sections outline education and experience requirements of veterinary technicians, continuing education requirements (CE) requirements for veterinary technicians and for opioid administration and updating the ethics reference. Nonsubstantive changes to grammar and form were also made to aid clarity.

Small Businesses (less than 50 employees): There are approximately 231 small businesses in Utah owned by individuals in the veterinary industry (NAICS 541940). Small businesses are not expected to be impacted by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory changes. The full fiscal impact on small businesses is inestimable as it will depend on the individual characteristics practitioners, on the characteristics of the patients and consumers involved, and on the nature of each veterinary clinic.

Regulatory Impact to Non-Small Businesses (50 or more employees): These amendments will have no expected fiscal impact for non-small businesses in Utah (NAICS code 541940) for the same reasons as described above for small businesses. These costs are either inestimable, for the reasons stated, or there is no fiscal impact.

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

Chris Parker, 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 58-1-106(1)(a) | Subsection 58-1-202(1)(a) | Section 58-28-101 |

Incorporations by Reference Information

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

<table>
<thead>
<tr>
<th>First Incorporation</th>
<th>Official Title of Materials Incorporated (from title page)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principles of Veterinary Medical Ethics</td>
<td></td>
</tr>
</tbody>
</table>

Publisher

American Veterinarian Medical Association (AVMA)

Issue, or version

August 2019

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the following rule definitions supplement the statutory definitions or the use of words in Title 58, Chapters 1 and 28, as used in Title 58, Chapters 1 and 28, is further defined in accordance with Subsection 58-1-203(1)(e) in Section R156-28-502.

(2) "NBEC" means the National Board Examination Committee of the American Veterinary Medical Association.

(3) "Patient" means any animal receiving veterinarian services.

(4) "Practice of veterinary medicine, surgery, and dentistry" as defined in Subsection 58-28-102(11) does not include the implantation of any device to establish and maintain positive identification of animals.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 28, is further defined in accordance with Subsection 58-1-203(1)(e) in Section R156-28-502.

(6) "Working under," as used in Subsection 58-28-102(11), means when an individual performs services in Utah as:

(a) unlicensed assistive personnel perform the delegated tasks in Utah, while supervised by a licensed veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act; provided:
   (i) the manner and means of performance of the delegated tasks are subject to the right of control of, or are controlled by, a licensed supervising veterinarian; and
   (ii) the delegated tasks are recorded in the supervising veterinarian's medical records.


In accordance with Subsections 58-1-203(1) and 58-1-301(3), the education requirements for licensure in Subsection 58-28-302 are defined, clarified, or established as follows:

(1) Each applicant for licensure as a veterinarian shall comply with one of the following:

(a) submit an official transcript demonstrating that the applicant graduated from a veterinary college accredited by the Council on Education of the American Veterinary Medical Association (AVMA) at the time of the applicant's graduation; or

(b) if the applicant received a veterinary degree in a foreign country, demonstrate that the applicant's foreign education is equivalent to the requirements of Subsection R156-28-302a(1)(a) by submitting a Certificate of Competence issued by:

   (i) the AVMA Educational Commission for Foreign Veterinary Graduates (ECFVG) or
   (ii) the American Association of Veterinary State Boards (AAVSB) Program for Assessment of Veterinary Education Equivalence (PAVE).

(2)(a) Each applicant for licensure as a veterinarian intern shall demonstrate that the applicant has met the education described in Subsection R156-28-302a(1)(a); however, if

   (b) If the applicant has graduated, but the educational institution has not yet posted the degree on the official transcript, the applicant may submit the official transcript together with a notarized letter from the dean or registrar of the educational institution, that certifies that the applicant has obtained the degree but it is not yet posted to the official transcript.


In accordance with Subsections 58-1-203(1) and 58-1-301(3), the experience requirements for licensure in Subsection 58-28-302 are defined, clarified, or established as follows:

(1)(a) Each applicant for licensure as a veterinarian shall:

A) Comments will be accepted until: 10/15/2020

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

On: 09/17/2020 At: 9:00 AM

A) Comments will be accepted until: 10/22/2020

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

On: 09/17/2020 At: 9:00 AM

09/17/2020 9:00 AM Heber Wells Bldg, 160 E 300 S via electronic meeting only with the Veterinary Board, Salt Lake City, UT. Note: Google Meeting electronic information will be on the Veterinary Board meeting agenda for the 09/17/2020 meeting.

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

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: Mark B. Steinagel, Director Date: 08/27/2020

R156. Commerce, Occupational and Professional Licensing.

In addition to the definitions regarding veterinary practices in Title 58, Chapters 1 and 28, as used in Title 58, Chapters 1 and 28, the following rule definitions supplement the statutory definitions or this rule:

(1) "In association with licensed veterinarians," as used in Subsection 58-28-307(6), means the out of state licensed veterinarian who performs veterinarian services in this state as the result of a consultation initiated by a Utah licensed veterinarian regarding a specific client or patient, and the services provided by the out of state licensed veterinarian are limited to that specific request.
(a) complete 1,000 hours of experience while licensed as a veterinarian intern under the supervision of a licensed veterinarian[ in accordance with the following],

(iii) Experience shall be earned in not less than six months and completed within two years of the date of the application.

(iii) Experience in the following settings [is] may not [acceptable to] fulfill this experience requirement:

(A) temporary employment experiences of less than eight weeks in duration; or

(B) part-time experience of less than 20 hours per week; or

(C) experience completed while employed as unlicensed assistive personnel.

If the experience is completed in a jurisdiction outside of Utah [which] does not issue veterinarian, veterinarian intern, or comparable licenses, or [else was] completed in a setting [which] does not require licensure, the applicant shall demonstrate that the experience was:

(A) lawfully obtained;

(B) obtained after the applicant met the education requirement [specified] described in Section R156-28-302a;

(C) supervised by a [competent supervisor who was ]licensed [as a] veterinarian, or by a person who was exempted from licensure but possessed substantially equivalent qualifications; and

(D) comparable to experience that would be obtained in a standard veterinarian practice setting in Utah.

Supervision [of the intern by the licensed veterinarian] may be obtained by "indirect supervision" as defined in Section 58-28-102 [if provided that] the supervisor supplements the indirect supervision with routine face to face contact as the [licensed veterinarian deems ]supervisor considers appropriate [using] in the supervisor's professional judgment.

Each applicant shall demonstrate completion of the experience required by submitting a verification of experience signed by the applicant and by the applicant's [supervising ]supervisor on forms approved by the Division.

If a supervisor is unavailable or refuses to provide a [certification of qualifying experience], the applicant shall:

(i) submit a complete explanation of why the supervisor is unavailable; and

(ii) submit verification of the experience by alternative means acceptable to the board, which shall demonstrate that the [work] experience was:

(A) profession-related work;

(B) competently performed; and

(C) sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety, or welfare.

In accordance with Subsections 58-37-6(1)(a), 58-37-6(5)(b)(i) and R156-37-305(1), a veterinarian intern is not eligible to obtain a controlled substance license during the internship.


In accordance with Subsections 58-1-203(1) and 58-1-301(3), the examination requirements for licensure in Subsection 58-28-302(1)(b)(a) are defined, clarified, or established as follows:

(1) Applicants who passed examinations prior to May 1, 2000, shall submit documentation showing they passed:

(a) the National Board Examination (NBE) of the National Board Examination Committee (NBEC) of the American Veterinary Medical Association (AVMA), with a minimum passing score as determined by the NBEC; and

(b) the Clinical Competency Test (CCT) of the NBEC with a minimum passing score as determined by the NBEC.

(2) Applicants who passed examinations after May 1, 2000, shall submit documentation showing they passed the North American Veterinary Licensing Examination (NAVLE) with a score as determined by the NBEC.

(3) To be eligible to sit for the NAVLE, an applicant shall submit the following to the International Council for Veterinary Assessment (ICVA), in the manner directed by the ICVA:

(a) an application for approval to sit for the NAVLE;

(b) the application fee; and

(c) documentation showing the applicant:

(i) has graduated from, or is enrolled in, a school or college of veterinary medicine accredited by the Council on Education of the American Veterinary Medical Association (AVMA); or

(ii) holds a certificate issued by, or is enrolled in and has completed the Step 3 examination requirement for, one of the following programs:

(A) the Educational Commission for Foreign Veterinary Graduates (ECFVG); or

(B) the Program for the Assessment of Veterinary Education Equivalence (PAVE).

(4) An applicant who has not graduated from veterinary school at the time of application [must] shall have an expected graduation date no later than ten months from the last date of the applicable testing window.

(5) The following conditions apply to retaking the NAVLE exam:

(a) an applicant may not sit for the NAVLE more than five times;

(b) an applicant may not sit for the NAVLE at a date that is later than five years after the applicant's initial attempt; and

(c) each of the applicant's final two attempts [must] shall be at least one year from the previous attempt.


(1) In accordance with Subsection 58-1-308(1), and Sections 58-28-302, and 58-28-310, the renewal date for the two-year renewal cycle applicable to [licensees] licenses or state certifications under Title 58, Chapter 28 is established by rule in Section R156-1-308a(1).

(2) Renewal procedures shall be in accordance with Sections R156-1-308a through R156-1-308.

(3) Applicants for renewal shall meet the continuing education requirements specified in Section R156-28-304a or Section R156-28-304b, as applicable.


In accordance with Section 58-28-306, there is created a continuing [professional — ]education requirement as a condition for renewal or reinstatement of licenses issued under Title 58, Chapter 28. Continuing [professional — ]education shall comply with the following criteria:

(1) Applicants who passed examinations prior to May 1, 2000, shall submit documentation showing they passed:

(a) the National Board Examination (NBE) of the National Board Examination Committee (NBEC) of the American Veterinary Medical Association (AVMA), with a minimum passing score as determined by the NBEC; and
(b) At least one hour of the 24 hours shall be specifically related to recognizing opioid use and dependency in office staff, clients, and co-workers.

(2) If a licensee [first becomes] initially licensed during the two-year period, the licensee’s required number of continuing education hours shall be decreased proportionately according to the date of licensure.

(3) [Qualified continuing professional] Continuing education under this section shall:
   (a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a veterinarian;
   (b) be relevant to the licensee’s professional practice;
   (c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;
   (d) be prepared and presented by individuals who are qualified by education, training, and experience; and
   (e) have a competent method of registration of individuals who actually completed the professional education program, with records of that registration and completion available for review.

(4) [Credit for] The Division shall recognize continuing professional education [shall be recognized in accordance with the following] as follows:
   (a) [Unlimited hours [shall be recognized] for continuing professional education as a student or presenter, completed in blocks of time of not less than one hour in formally established classroom courses, seminars, lectures, wet labs, or specific veterinary conferences approved or sponsored by one or more of the following:
      (i) the American Veterinary Medical Association;
      (ii) the Utah Veterinary Medical Association;
      (iii) the American Animal Hospital Association;
      (iv) the American Association of Equine Practitioners;
      (v) the American Association of Bovine Practitioners;
      (vi) certifying boards recognized by the AVMA;
      (vii) state veterinary medical associations or state licensing boards; or
   (viii) the Registry of Continuing Education (RACE) of the AASVB;]
   (b) [No more than up to five continuing professional education hours [may be counted] for being the primary author of an article published in a peer reviewed scientific journal, and [no more than up to two continuing professional education hours [may be counted] for being a secondary author];]
   (c) [No more than up to six continuing professional education hours [may be in] practice management courses;]
   (d) [Any continuing professional education where there is if the course has no instructor or [where the instructor is not physically present, such as for internet, audio and visual recordings, broadcast seminars, mail or other correspondence courses, the course shall assure the licensee's participation and acquisition of the knowledge and skills intended by means of an examination. These types of continuing professional education courses include internet, audio/visual recordings, broadcast seminars, mail and other correspondence courses.]

(5) A licensee shall [be responsible for maintaining] maintain documentation sufficient to prove compliance with this section [competent records of completed qualified continuing professional education] for a period of four years after the end of the two-year renewal cycle that the continuing education is due [after close of the two-year period to which the records pertain]. It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) A licensee who is unable to complete the continuing professional education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing education is not available, may be excused from the requirement for a period of up to three years as provided in Section R156-1-308d.

R156-28-304b. Continuing Education - State Certified Veterinary Technician.

In accordance with Section 58-28-310, there is created a continuing education requirement as a condition for renewal or reinstatement of a state certification issued under Title 58, Chapter 28. Continuing education shall comply with the following criteria:

(1)(a) During each two-year period commencing on September 30 of each even-numbered year, a state certified veterinary technician shall complete at least 12 hours of qualified continuing education directly related to their professional practice.

(b) At least nine of the 12 continuing education hours shall be specific to medical practices.

(2) The Division shall only recognize continuing education approved by the American Association of Veterinary State Boards (AAVSB) Registry of Approved Continuing Education (RACE).


In accordance with Subsections 58-1-203(1) and 58-1-301(3), the education requirements in Subsection 58-28-309(2)(b) for state certification as a state certified veterinary technician are defined, clarified, or established as follows:

(1) Each applicant shall submit an official transcript demonstrating that the applicant graduated from a veterinary technician training program that was accredited, as of the date of the applicant's graduation by:
   (a) the AVMA Committee on Veterinary Technician Education and activities (AVMA-CVTEA); or
   (b) the Canadian Veterinary Medical Association (CVMA); or
   (2) submit evidence, on forms approved by the Division, of at least 6,000 hours of paid on-the-job training by a licensed veterinarian, that included at minimum:
      (a) large animal care;
      (b) small animal care;
      (c) exotic animal care;
      (d) lab skills;
      (e) x-ray experience;
      (f) surgical experience; and
      (g) dental experience.


In accordance with Subsections 58-1-203(1) and 58-1-301(3), the examination requirements in Subsection 58-28-309(2)(c) for state certification as a state certified veterinary technician are defined, clarified, or established as follows:

(1) Each applicant shall submit evidence showing that the applicant passed the Veterinary Technician Exam (VTNE) of the American Association of Veterinary State Boards (AAVSB), with a minimum passing score as determined by the AAVSB.

(2) To be eligible to sit for the VTNE, an applicant shall:
(a) submit the following to the American Association of Veterinary State Boards (AAVSB), in the manner directed by the AAVSB:
   (i) an application for approval to sit for the VTNE;
   (ii) the application fee; and
   (iii) final transcripts with graduation date and degree conferred; and
(b) if an applicant has failed the VTNE five or more times, the applicant shall also meet with the Board to request approval to sit for the VTNE.

   In accordance with Subsections 58-1-203(1), 58-1-301(3), and 58-28-309(2)(e), the experience requirement criteria required for state certification as a state certified veterinary technician are as follows:
   (1)(a) Each applicant shall have completed at least six continuous months of full time experience working in a veterinary clinic as a veterinary technician or as unlicensed assistive personnel, under the supervision of a veterinarian that has held an active license in good standing for at least two years; or
   (b) if the experience is completed in a jurisdiction outside of Utah that does not issue veterinary technician certification or comparable licenses, or completed in a setting that does not require certification or licensure, the applicant shall demonstrate that the experience was:
      (i) lawfully obtained;
      (ii) obtained after the applicant met the education requirement described in Section R156-28-309a;
      (iii) supervised by a licensed veterinarian; or by a person who was exempted from licensure but possessed substantially equivalent qualifications; and
      (iv) comparable to veterinary technician experience that would be obtained in a standard veterinary practice setting in Utah.
   (2) Each applicant shall demonstrate completion of the required experience by submitting a verification of experience signed by the applicant and by the applicant's supervisor on forms approved by the Division.
   (3) If a supervisor is unavailable or refuses to provide a verification of experience, the applicant shall:
      (a) submit a complete explanation of why the supervisor is unavailable; and
      (b) submit verification of the experience by alternative means acceptable to the Board, which shall demonstrate that the experience was:
         (i) profession-related work;
         (ii) competently performed; and
         (iii) sufficient experience for the applicant to be granted state certification without jeopardy to the public health, safety, or welfare.

   Unprofessional conduct includes:
   (1) deviating from the minimum standards of veterinary practice set forth in Section R156-28-503;
   (2) permitting unlicensed assistive personnel to perform duties that the individual is not competent by education, training or experience to perform; and
   (3) failing to conform to the generally accepted and recognized standards and ethics of the profession, including:
   (a) the Principles of Veterinary Medical Ethics of the American Veterinarian Medical Association (AVMA), as approved by the AVMA Executive Board, revised [April 2016]August 2019, which are hereby incorporated by reference ("Principles"); and
   (b) if a licensee fails to establish the veterinarian-client-patient relationship as required in Section II of the Principles, such failure shall not excuse the veterinarian from complying with all other duties that would be imposed on the veterinarian if the veterinarian had properly established the veterinarian-client-patient relationship.

   In accordance with Section 58-28-102(14)(18) and Section 58-28-603, a veterinarian shall comply with the following minimum standards of practice in addition to the generally recognized standards and ethics of the profession:
   (1) A veterinarian shall compile and maintain records on each patient to minimally include:
      (a) client's name, address, and phone number, if telephone is available;
      (b) patient's identification, such as name, number, tag, species, age, and gender, except for herds, flocks or other large groups of animals, which may be more generally defined;
      (c) veterinarian's diagnosis or evaluation of the patient;
      (d) treatments rendered, including drugs used and dosages; and
      (e) date of service.
   (2) A veterinarian shall:
      (a) maintain veterinary medical records under Subsection (1) so that any veterinarian coming into a veterinary practice may, by reading the veterinary medical record of a particular animal, be able to proceed with the proper care and treatment of the animal; and
      (b) maintain veterinary medical records under Subsection (1) for at least five years from the date that the animal was last treated by the veterinarian last treated the animal.
   (3) A veterinarian shall maintain a sanitary environment to avoid sources and transmission of infection, including:
      (a) proper routine disposal of waste materials; and
      (b) proper sterilization or sanitation of all equipment used in diagnosis and treatment.
   (4) A veterinarian who holds a controlled substance license shall comply with Title 58, Chapter 37, Utah Controlled Substances Act, and Rule R156-37, Utah Controlled Substances Act Rule.

KEY: veterinary medicine, licensing, veterinarian Date of Enactment or Last Substantive Amendment: [March 25, 2019]2020
Notice of Continuation: November 3, 2016

[NOTICE OF PROPOSED RULE]

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<th>TYPE OF RULE:</th>
<th>Amendment</th>
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<tr>
<td>Utah Admin. Code</td>
<td>R277-326</td>
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<tr>
<td>Ref (R no.):</td>
<td>Filing No. 53037</td>
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</table>
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: Angie Stallings
Phone: 801-538-7830
Email: angie.stallings@schools.utah.gov

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

General Information

2. Rule or section catchline:
R277-326. Early Learning Professional Learning Grant Program

3. Purpose of the new rule or reason for the change:
Due to the 2020 Fifth Special Session, H.B. 5012, Public Education Budget Amendments, H.B. 114, Early Learning Training and Assessment Amendments funding, that was passed in the 2020 General Session, was reallocated, and the program specified in Board Rule R277-326 did not receive the initial awarded funding. However, because the program is still in code, this rule continues to be necessary.

4. Summary of the new rule or change:
The new language, "subject to legislative appropriations", was added in Subsection R277-326-4(1).

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. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments’ revenues or expenditures. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

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. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

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 (North American Industry Classification System (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. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

F) Compliance costs for affected persons:
There are no expected independent compliance costs for affected persons. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

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.)

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NOTICES OF PROPOSED RULES

Sydnee Dickson, the State Superintendent, 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):

<table>
<thead>
<tr>
<th>Article</th>
<th>Section</th>
<th>Subsection</th>
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<tbody>
<tr>
<td>X</td>
<td>3</td>
<td>53F-5-214</td>
</tr>
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<td>3-401(4)</td>
</tr>
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</table>

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: 10/15/2020

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

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: 08/28/2020

R277. Education, Administration.
R277-326. Early Learning Professional Learning Grant Program.
R277-326-1. 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(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
   (c) Section 53F-5-214, which directs the Board to make rules regarding the required elements of the Early Learning Professional Learning Grant and a formula to determine an LEA's grant amount.

(2) The purpose of this rule is to provide:
   (a) the required elements for the Early Learning Professional Learning Grant program including eligibility criteria; and
   (b) a formula for the grant distribution.
(1) "Evidence-based" means the same as the term is defined in Subsection R277-406-2(3).
(2) "Focused" means professional learning that is targeted to strategies that align with an LEA's plan and goals that would best support improving outcomes.
(3) "Job-embedded" means learning that is during the workday and designed to enhance instructional practices with the intent of improving student learning outcomes.
(4) "Professional learning" means the same as the term is defined in Subsection 53G-11-303(1).
(5) "Sustained" means multiple professional learning sessions with ongoing support for implementation of professional learning for long-term change.

R277-326-3. Eligibility and Application.
(1) All LEAs are eligible to apply for the Early Learning Professional Learning Grant.
(2) To receive grant funds, an LEA shall submit an application as part of the LEAs Early Learning Plan as described in Section R277-406-4.
(3) An LEA shall include in the application to the Superintendent the LEA's plan:
   (a) for the types of professional learning opportunities, the LEA plans to utilize including:
      (i) comprehensive professional learning opportunities as described in Section 53G-11-303(2); and
      (ii) job-embedded coaching.
   (b) how the LEA intends to connect professional learning to the LEA's Early Learning Plan goals; and
   (c) how the LEA intends to increase benchmark assessment scores and related outcomes through professional learning opportunities.
(4) An LEA shall only use sustained professional learning opportunities that are evidence-based and focused.

R277-326-4. Distribution and Use of Funds.
(1) The Superintendent shall distribute the Early Learning Professional Learning Grant funds as follows:
   (a) a per teacher allotment shall be calculated by dividing the total amount of grant funds by the total number of preschool through grade 3 teachers of all applicants;
   (b) an LEA shall receive a grant amount equal to the product of the per teacher allotment described in Subsection (a) and the total number of preschool through grade 3 teachers in the LEA; and
   (c) if an LEA's Early Learning Plan is denied or an LEA chooses to forego any grant funds, the grant funds may be reallocated to all other eligible LEAs receiving grant funds as described in Subsections (1)(a) and (b).
(2) For purposes of calculating a grant amount in Subsection (1), an LEA shall determine the LEA's total number of preschool through grade 3 teachers by using employee data from the previous school year of the application school year.
(3) An LEA may use the grant funds for the following purposes:
   (a) teacher stipends to attend trainings;
   (b) presenter fees;
   (c) coaching supports;
   (d) substitute teachers;
   (e) to hire a coach or specialist; and
   (f) supplies and materials for teacher professional learning.
(4) An LEA may not use grant funds for:
   (a) the purchase of:
      (i) property;
      (ii) equipment;
      (iii) other services; or
   (b) travel related expenses.
(5) An LEA shall use the grant funds by the end of the fiscal year in which the funds are received.

KEY: professional learning; prek-3, early learning, teacher development
Date of Enactment or Last Substantive Amendment: [July 9, 2020]
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-214

NOTICE OF PROPOSED RULE

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

General Information
2. Rule or section catchline:
   R277-327. School Leadership Development Grant

3. Purpose of the new rule or reason for the change:
   Due to the 2020 Fifth Special Session, H.B. 5012, Public Education Budget Amendments, S.B. 99 School Leadership Development Amendments funding, that passed in the 2020 General Session, was reallocated, and the program specified in Board Rule R277-327 did not receive the initial awarded funding. However, because the program is still in code, this rule continues to be necessary.
4. Summary of the new rule or change:
The new language, "subject to legislative appropriations", was added in Subsection R277-327-3(2) and Subsection R277-327-4(7).

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. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments’ revenues or expenditures. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

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. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

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 (North American Industry Classification System (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. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

F) Compliance costs for affected persons:
There are no expected independent compliance costs for affected persons. Program funding is currently subject to legislative appropriations and this change simply aligns rule with statute and legislative intent. The availability of funds for this program has been and will continue to be a funding decision made by the Legislature.

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.)

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<td>Net Fiscal Benefits</td>
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</tbody>
</table>

This table summarizes the fiscal impacts of the proposed rule change, including both estimated and inestimable impacts. The table shows that there are no expected fiscal impacts for state, local, or non-small businesses. The table also includes separate columns for fiscal costs and benefits, allowing for a clear comparison of revenue and expense impacts.
H) Department head approval of regulatory impact analysis:
The State Superintendent, 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-5-214 | Subsection 53E-3-401(4) |

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: 10/15/2020

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

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: 08/28/2020 |

R277. Education, Administration.
R277-327. School Leadership Development Grant.
R277-327-1. 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(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
(c) Section 53F-5-214, which directs the Board to make rules establishing the requirements and parameters for the school leadership grant.
(2) The purpose of this rule is to establish:
(a) mentoring program requirements for new principals;
(b) grant application and award procedures including a formula for determining an eligible applicant's grant award amount;
(c) performance measures and reporting requirements for a grant recipient;
(d) principal leadership standards and competencies;
(e) professional learning activities to improve principal leadership for which a grant recipient may use a grant award.

(1) "Components of programming" means the same as the list of allowable uses described in Subsection 53F-5-214(3)(a) and:
(i) leader standards;
(ii) preservice preparation;
(iii) selective hiring and placement;
(iv) job-embedded evaluation and support; and
(v) systems and capacity for supporting the leadership pipeline.
(2) "Eligible applicant" means the same as the term is defined in Subsection 53F-5-214(1)(c).
(3) "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving outcomes.
(4) "Mentoring program" means a program designed by the eligible applicant that contains all required components specified by the Superintendent.
(5) "Needs assessment" means the relevant assessment chosen by the Superintendent.
(6) "Principal" means the same as the term is defined in Subsection 53F-5-214(1)(f).
(7) "Professional learning activities" means the same as the activities described in Subsection 53F-5-214(3).
(8) "Standards and competencies" means:
(a) the competencies described in Section R277-305-4;
(b) the Utah Educational Leadership Standards approved by the Board; and
(c) other knowledge, skills, and dispositions as determined by the eligible applicant.

(1) An eligible applicant may apply for a planning grant in preparation for a full plan and receiving a School Leadership implementation grant as described in Section R277-327-4.

(2) A planning grant awarded under Subsection (1) shall be $15,000 for an eligible applicant pursuant to the requirements described in Subsection (3), subject to legislative appropriations.

(3) In order to qualify for a planning grant, an eligible applicant shall submit to the Superintendent the following by July 1:

(a) evidence the eligible applicant has formed a school leadership development team;
(b) a completed planning grant application including:
   (i) a school leadership development purpose statement;
   (ii) a list of the eligible applicant's school leadership development team including membership and roles;
   (iii) a timeline for actions to develop the full plan by December 1 of the year the grant is awarded including within the School Leadership Development Workshops; and
   (iv) a budget table with justification for each budget item;
and
(c) a commitment to attend and participate in the School Leadership Development planning grant workshops held by the Superintendent.

(4) If an eligible applicant receives a planning grant, the eligible applicant shall submit an application for a School Leadership Implementation Grant, as described in Section R277-327-4, by the deadline required by the Superintendent.

(a) An eligible applicant that fails to submit a School Leadership Development implementation grant as required in Subsection (4)(a) shall reimburse funds awarded under Subsection (2).

R277-327-4. School Leadership Development Implementation Grant—Eligibility and Application.

(1) An eligible applicant may apply for an implementation grant of the eligible applicant's full plan.

(2) An eligible applicant shall submit an application for an implementation grant by December 1 including:

(a) the requirements described in Subsection R277-327-3(a), (b)(i), (b)(ii), (b)(iv) and;
(b) a timeline of actions for a 5-year period including:
   (i) a detailed timeline of each activity for year 1; and
   (ii) a high-level timeline of activities for years 2-5;
(c) a commitment to attend and participate in the School Leadership Development workshops held by the Superintendent;
(d) specific plans for a mentoring program and professional learning activities;
(e) a baseline report of the data described in Subsection 53F-5-214(5)(b);
(f) a completed needs assessment; and
(g) an outline of the eligible applicant's evidence-based components of programming including the standards and competencies the eligible applicant will require.

(3) The Superintendent shall score and rank each complete application based on the following criteria:

(a) the eligible applicant's ability to develop and sustain a continuous principal pipeline;
(b) the eligible applicant's demonstration of greatest ability for impact; and
(c) a demonstration that both (a) and (b) are based upon:
   (i) number of aspiring, new, or experienced principals;
   (ii) identification of the most impactful portions of an eligible applicant's principal pipeline;
   (iii) demonstration that the eligible applicant's plan prioritizes the most impactful components for the eligible applicant's context;
   (iv) the eligible applicant's use of a needs assessment in overall plan development; and
   (v) identification and planned use of evidence-based practices.

(4) The Superintendent shall select the approved applications to be submitted to the Board and notify all applicants within 45 days.

(5) The Board shall approve or deny each eligible applicant's application that has been submitted by the Superintendent.

(6) If the Board denies an eligible applicant's application that has been submitted by the Superintendent, the eligible applicant may amend and re-submit the eligible applicant's application to the Superintendent until the Board approves the application.

(7) An eligible applicant with an approved application may receive up to the eligible applicant's requested amount up to $250,000 per year, subject to legislative appropriations.

R277-327-5. Reporting Requirements.

(1) An eligible applicant that has received a School Leadership Implementation Grant as described in Section R277-327-4, shall submit an annual report by May 1 in the form described by the Superintendent.

(2) An eligible applicant shall report on:

(a) the data described in 53F-5-214(5)(b);
(b) an accounting of expenditures for the previous year in comparison to the planned budget for that year;
(c) an outline of any needed adjustments to the eligible applicant's 5-year plan based upon outcomes and data from the previous year and
(d) a detailed implementation plan for the upcoming year.

(3) The Superintendent shall create an evaluation team to:

(a) assist an eligible applicant in collecting and reporting required data;
(b) provide determination of continued eligibility; and
(c) analyze and report on the eligible applicant's annual report and other data.

(4) If the evaluation team finds an eligible applicant to be non-compliant with this rule or state code, the eligible applicant is subject to corrective action as described in R277-114.

KEY: school leadership, principal, mentorship

Date of Enactment or Last Substantive Amendment: [July 9,] 2020

Authorizing, and Implemented[.] or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-214
Fiscal Information

General Information

2. Rule or section catchline:
   R277-552. Charter School Timelines and Approval Processes

3. Purpose of the new rule or reason for the change:
   Rule R277-552 is being amended due to the Board's recent review of an authorizer's processes and due to H.B. 242, passed in the 2020 General Session.

4. Summary of the new rule or change:
   Rule R277-552 is amended to update requirements for authorizer expansion and satellite school approval processes. In addition, other procedures for new school approval and changing authorizers have been updated.

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. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in the legislation.

B) Local governments:
   This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in the legislation.

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. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in the legislation.

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 (North American Industry Classification System (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. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in the legislation.

F) Compliance costs for affected persons:
   There are no expected independent compliance costs for affected persons. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in the legislation.

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.)

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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: 10/15/2020

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

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

<table>
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<th>Agency head or designee, and title:</th>
<th>Angie Stallings, Deputy Superintendent</th>
<th>Date: 08/20/2020</th>
</tr>
</thead>
</table>

R277. Education, Administration.
R277-552-1. 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 adopt rules in accordance with its responsibilities;
   (c) Subsection 53G-6-504(5), which requires the Board to make rules regarding a charter school expansion or satellite campus;
   (d) Sections 53G-5-304 through 53G-5-306, which require the Board to make a rule providing a timeline for the opening of a charter school;
   (e) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;
   (f) the Charter School Expansion Act of 1998, 20 U.S.C. Sec. 8063, which directs the Board to submit specific information prior to a charter school's receipt of federal funds; and
   (g) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that an [charter school] authorizer is required to apply in authorizing and monitoring charter schools.

(2) The purpose of this rule is to:
   (a) establish procedures for timelines and approval processes for new charter schools; and
   (b) provide criteria and standards for consideration of high performing charter schools to expand and request new schools that are satellite schools.

"Market analysis" means a qualitative and quantitative analysis of the educational market near a proposed charter school, including:

(1) the school's target demographics;
(2) population and development trends in the area;
(3) nearby competing public schools;
(4) the proposed school's own forecasts, along with supporting data; and
(5) any risks, barriers, or regulations that may impact a proposed school's success.


(1) An individual or non-profit organization as described in Subsection 53G-5-302(2)(b) may apply to open a charter school from any statutorily approved authorizer.

(2) An authorizer shall submit a process to the Board for approval of:

(a) a new charter school;  
(b) a charter school expansion; or
(c) a replication school; or
(d) a satellite school.

(3) A new authorizer shall submit a new charter school application process to the Board for approval at least six months prior to accepting applications for a new charter school.

(4) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.

(a) The Board shall approve or deny an authorizer's proposed application process, including expansion and satellite approval processes, within 60 days of receipt of the proposed process from an authorizer.

(b) If the Board denies an application process, the Superintendent shall provide a written explanation of the reasons for the denial to the applicant within 45 days.

(c) If an authorizer's application process is denied, the authorizer may submit a revised application process for approval at any time.

(5) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.

(6) An authorizer shall have an application and charter agreement, which shall include all elements required by Title 53G, Chapter 5, Part 3, Charter School Authorization.

(7) An authorizer shall maintain the official signed charter agreement, which shall presumptively be the final, and complete agreement between a school and the school's authorizer.

(8) An authorizer's review process for a new charter school shall include:

(a) a plan for mandatory pre-operational and other trainings;
(b) an evaluation of the school's governing board, including:
   (i) a review of the resumes of and background information of proposed governing board members; and
   (ii) a capacity interview of the proposed governing board;
(c) an evaluation of the school's financial viability, including:
   (i) a market analysis;
   (ii) anticipated enrollment; and
   (iii) anticipated and break even budgets;
(d) an evaluation of the school's academic program and academic standards by which the authorizer will hold the school accountable; and
(e) an evaluation of the school's proposed pre-operational plan, including implementation of:
   (i) applicable legal requirements for public schools;
   (ii) required policies;
   (iii) student data systems, including student data privacy requirements;
   (iv) reporting; and
   (v) financial management.

(9) An authorizer's review process shall include contacting the school district in which a proposed charter school will be located and consideration of any feedback provided by the district.

(10) An authorizer shall design its approval process so that the authorizer notifies the Superintendent of an authorizer approval of a request identified in Subsection (2) no later than October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

R277-552-3[4]. Timelines - Charter School Starting Date and Facilities.

(1) A charter school may receive state start-up funds if the charter school is approved as a new charter school by October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

(2) Prior to receiving state start-up funds an authorizer, other than the State Charter School Board, shall certify in writing to the State Charter School Board that a charter school has:

(a) completed all required financial documents;
(b) completed background checks for each governing board member; and
(c) executed a signed charter agreement, which includes academic goals.

(3) Prior to an LEA receiving state start-up funds, the State Charter School Board shall require the LEA to submit documentation supporting the information required in Subsections (2)(a) and (c) to the Superintendent.

(4) A charter school may receive state funds, including minimum school program funds, if the charter school authorizer certifies in writing to the Superintendent by June 30 prior to the school's first operational year that:

(a) the charter school meets the requirements of Subsection (2);
(b) the charter school's governing board has adopted all policies required by statute or Board rule, including a draft special education policies and procedures manual;
(c) the charter school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the Superintendent;
(d) the authorizer has received the charter school's facility contract as required by Subsection 53G-5-404(9);
(e) the charter school has met the requirements of Subsections (5) and (6) and that the school's building is scheduled for completion, including all required inspections, prior to occupancy;
(f) the charter school has hired an executive director and a business administrator; or
(g) the charter school governing board has designated an executive director or business administrator employed by a third party; and
(B) the charter school governing board has established policies regarding the charter school's supervision of the charter school's third-party contractors;
(g) the charter school's enrollment is on track to be sufficient to meet the school's financial obligations and implement the charter school agreement;  
(b) the charter school has an approved student data system that has successfully communicated with UTREx, including meeting the compatibility requirements of Subsection R277-484-5(3);[ and]  
(i) the charter school has a functional accounting system[; and]  
and

(i) the charter school has a budgeted net lease adjusted debt burden ratio of under 30% based on the school's executed facility agreement; and

(k) the charter school has complied with all legal requirements for new charter schools in a school's pre-operational year.

(5) An authorizer shall:
(a) create a process to verify the requirements in Subsection (4);  
(b) maintain documentation of Subsection (5)(a);[ and]  
(c) provide the documentation described in Subsection (5)(b) to the Superintendent upon request[; and]  
(d) submit a copy of the process required in Subsection (5)(a) to the Board for approval along with the authorizer's process for approving new charters under Subsection R277-552-3(2).

(6) A charter school shall begin construction on a new or existing facility requiring major renovation, such as requiring a project number consistent with Rule R277-471, no later than January 1 of the year the charter school is scheduled to open.

(7) A charter school that intends to occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to Rule R277-471, shall enter into a written agreement no later than May 1 of the calendar year the charter school is scheduled to open.

(8) If a charter school fails to meet the requirements of this section within 36 months of approval, the approval of the charter school shall expire.

R277-552-4.5. Charter Amendment Requests.

(1) An authorizer shall have a policy establishing a process for consideration of proposed amendments to a school's charter agreement.

(2) An authorizer's timeline for consideration of an amendment to a charter agreement may not conflict with any funding deadline established in Board rule.


(1) A charter school may request approval for an expansion if:

(a) the charter school satisfies the requirements of federal and state law, regulations, rule, and the charter agreement; and

(b)(i) the charter school's charter agreement provides for an expansion consistent with the request; or

(ii) the charter school governing board has submitted a formal amendment request to the charter school authority consistent with the charter school authority's requirements.

(2) If the charter school authorizer approves a charter school expansion, the expansion shall be approved before October 1 of the state fiscal year prior to the school's intended expansion date.

(3) A charter school authorizer that authorizes an expansion of the authorizer's charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.
(3) An authorizer shall provide documentation of an applicant school's eligibility to apply under Subsection (2) to the Superintendent upon request.
(4) An authorizer may only approve an application from a charter school for an expansion if:
(a) the charter school is meeting the terms of its charter agreement;
(b) the charter school is academically and operationally successful, taking into consideration at least two years of academic performance data of students at the charter school;
(c) the charter school:
(i) provides educational services consistent with state law and Board rule;
(ii) administers and has capacity to carry out statewide assessments including proctoring statewide assessments, consistent with Section 53E-4-303 and Rule R277-404; and
(iii) provides evidence-based instruction for special populations as required by federal law;
(d) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the school;
(e) the school is in compliance with all applicable school legal obligations;
(f) the charter school has maintained for each of the last three years:
(i) a re-enrollment rate of at least 80%;
(ii) a wait list of at least 40% of its annual enrollment; or
(iii) other evidence of market demand satisfactory to the authorizer;
(g) the charter school is financially viable, as evidenced by the charter school's financial records, including the charter school's:
(i) most recent annual financial report;
(ii) annual program report; and
(iii) audited financial statement;
(h) the charter school's proposal provides an adequate facility for the school; and
(i) the charter school has appropriately dealt with student safety issues, if any.
(5) An authorizer shall:
(a) approve a proposed expansion before October 1 of the state fiscal year prior to the school year that the intends to expand; and
(b) provide the total number of students by grade that the charter school expansion is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the school year that the school intends to expand.

R277-552-6[7]. Requests for a New [Replication or] Satellite School for an Approved Charter School.

(1) A charter school and all of the charter school's replication or satellite schools are a single LEA for purposes of public school funding and reporting.
(2) An existing charter school may submit a request to the charter school's authorizer for a replication or satellite charter school if:
(a) the charter school satisfies requirements of federal and state law, regulations, and rule;
(b) the charter school has operated successfully for at least three years meeting the terms of its charter agreement;
(c) the charter school is meeting the terms of its charter agreement; and
(d) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the replication or satellite charter school;
(e) the charter school's proposal provides any additional information or documentation requested by the charter school authorizer; and
(f) the charter school is in good standing with its authorizer.
(3) As part of the application process, the authorizer shall review the charter school's:
(a) educational services, assessment, and curriculum;
(b) governing board's capacity to manage multiple campuses; and
(c) the school's financial viability.
(4) A replication or satellite charter school that will receive School LAND Trust funds shall have a charter trust land council and satisfy all requirements for charter trust land councils consistent with Rule R277-177.
(5) A replication or satellite charter school may receive state funding if the authorizer approves the replication or satellite charter school by October 1 of the state fiscal year prior to the year the school intends to serve students.
(6) If a replication or satellite charter school does not open within 36 months of approval, the approval shall expire.
(7) A charter school authorizer that authorizes a replication or satellite charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.

(1) An authorization process developed by an authorizer in accordance with Subsection R277-552-3(2) shall comply with this Section R277-552-7 for a satellite school.
(2) An authorizer may only consider an application from a charter school for a satellite school if:
(a) the charter school is in compliance with the requirements of federal and state law, regulations, and Board rule, including:
(i) Title 53E, Chapter 9, Student Privacy and Data Protection;
(ii) Title 53G, Chapter 7, Part 5, Student Fees;
(iii) Title 53G, Chapter 9, Part 7, Suicide Prevention;
(iv) Title 53G, Chapter 8, Discipline and Safety;
(v) Title 52, Chapter 4, Open and Public Meetings Act;
(vi) Title 63G, Chapter 6a, Utah Procurement Code; and
(vii) the IDEA and Rule R277-750, with no unresolved audit exceptions;
(viii) Rule R277-113, Local Education Agency (LEA) Fiscal and Auditing Policies;
(ix) Section 53G-9-207, Child sexual abuse prevention; and
(x) Subsection 63G-7-301(3) and Rule R277-322.
(b) the request is consistent with the charter school's charter agreement;
(c) all schools operating under the governance of the existing charter school are performing:
(i) consistent with or above the charter school's stated academic goals; or
(ii) if no student performance goals have been established, above the standardized student assessment measures of other comparable nearby schools;
(d) the charter school has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three years;
(e) the charter school's financial statements report revenues in excess of expenditures for at least three of the last four years;
(f) the charter school provides a market analysis, including documentation of the school's potential for enrollment stability, covering
Section 53E-4-303 and Rule R277-404; and
(iii) provide evidence-based instruction for special populations as required by federal law;

(c) the charter school is academically and operationally successful, taking into consideration at least two years of academic performance data of students at the charter school, including whether the charter school is performing at or above:
   (i) the academic goals established in the charter school's agreement; and
   (ii) the average academic performance of other district and charter schools in the area or schools targeting similar populations or demographics;

(d) the charter school has plans for the new school to:
   (i) provide educational services consistent with state law and Board rule;
   (ii) administer and have capacity to carry out statewide assessments including proctoring statewide assessments, consistent with Section 53E-4-303 and Rule R277-404; and
   (iii) provide evidence-based instruction for special populations as required by federal law;

(e) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the new school;

(f) the school is in compliance with all public school legal obligations;
   (g) the charter school is in good standing with its authorizer; and

(h) the charter school is financially viable, as evidenced by the charter school's financial records, including the charter school's:
   (i) most recent annual financial report;
   (ii) annual program report; and
   (iii) audited financial statement.

(5) An authorizer shall:
   (a) approve a proposed satellite school before October 1 of the state fiscal year prior to the school year that the proposed school intends to first serve students;
   (b) provide the total number of students by grade that the satellite school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the school year that the proposed school intends to first serve students; and
   (c) ensure that a proposed school that will receive School LAND Trust funds has a charter trust land council and satisfies all requirements of Rule R277-477, including transparency of information for parents.

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

(7) If a satellite charter school does not open within 36 months of approval, the approval shall expire.

(8) If an authorizer denies an application for a satellite school, the school may immediately apply for a new charter in accordance with an authorizer's approved processes.


(1) A charter school may transfer to another charter school authorizer.

(2) A charter school shall submit an application to the new charter school authorizer at least 90 days prior to the proposed transfer.

(3) The charter school authorizer transfer application shall include:
   (a) the name and contact information of all current governing board members;
   (b) financial records that demonstrate the charter school's financial position, including the following:
      (i) most recent annual financial report (AFR);
      (ii) annual project report (APR); and
      (iii) audited financial statement;
   (c) test scores, including all state required assessments;
   (d) current employees and assignments;
   (e) board minutes for the most recent 12 months; and
   (f) affidavits, signed by all board members certifying:
      (i) the charter school's compliance with all state and federal laws and regulations, including documentation if requested;
      (ii) all information on the transfer application is complete and accurate;
      (iii) the charter school is current with all required charter school governing board policies;
      (iv) the charter school is operating consistent with the charter school's charter agreement; and
      (v) there are no outstanding lawsuits, judgments, or liens against the charter school.

(4) The current authorizer of a charter school seeking to transfer charter school authorizers shall submit a position statement to the new charter school authorizer about:
   (a) the charter school's status;
   (b) compliance with the charter school authorizer requirements; and
   (c) unresolved concerns.

(5) If a school applies to change authorizer's, the existing authorizer shall advise the proposed authorizer if there is any outstanding debt to the existing authorizer or the state.

(6) A new charter school authorizer shall review an application for transferring to another charter school authorizer within 60 days of submission of a complete application, including all required documentation.

(7) Prior to accepting a charter school's transfer from another authorizer, the new authorizer shall request and consider information from the Board and current authorizer concerning the charter school's financial and academic performance.

(8) The Superintendent and current authorizer shall provide the information described in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection (7).

(9) If an authorizer accepts the transfer of a [new] charter school, the new authorizer shall notify the Superintendent within 30 days.

(10) Prior to accepting a charter school from another authorizer, a new charter authorizer shall request and consider...
information from the Board and current authorizer of the charter school's financial and academic performance.

(8) The Superintendent and current authorizer shall provide the information described in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection (7).

KEY: training, timelines, expansion, satellite
Date of Enactment or Last Substantive Amendment: [May 23, 2019] 2020
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205; 53F-2-702; 53G-6-503

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated impacts to the state budget. The proposed amendment will be addressed using existing state resources. The Implementation Plan of the TMDL suggests improvements that may be made on a strictly voluntary basis, with local interest and leadership driving the process. The Fremont River E. coli TMDL is entirely nonpoint source based. Therefore, none of the recommendations within it are mandated. The Division of Water Quality (DWQ) and other state and federal agencies provide opportunities for cost share incentives for those interested in implementing best management practices, but all are on a voluntary basis and currently in place.

B) Local governments:
All estimated costs for implementing this TMDL are associated with strategies that are voluntary. It is not anticipated that local governments will be affected.

C) Small businesses ("small business" means a business employing 1-49 persons):
All estimated costs for implementing this TMDL are associated with strategies that are voluntary. It is not anticipated that small businesses will be affected.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
All estimated costs for implementing this TMDL are associated with strategies that are voluntary. It is not anticipated that non-small businesses will be affected.

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 study includes general recommendations for voluntary strategies and management options for reducing bacteria loading in the watershed. It does not identify specific projects and locations. As such, no estimated costs for implementation were calculated.

F) Compliance costs for affected persons:
All strategies are voluntary; therefore, compliance costs do not apply. There are no permitted point source discharges within the watershed. All loading is nonpoint source in origin.

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

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H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

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

No fiscal impact to businesses are anticipated as a result of the TMDL. Potential strategies and management options for reducing non-point sources of pollutants are identified, but are not specifically mandated.

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

L. Scott Baird, Executive Director

Citation Information

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

Title 19, Chapter 5

Incorporations by Reference Information

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

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<tr>
<td>Official Title of Materials Incorporated (from title page)</td>
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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: 10/15/2020

10. This rule change MAY become effective on:

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: | Erica B. Gaddis, DWQ Director |
| Date: | 08/27/2020 |

R317-1. Definitions and General Requirements.
R317-1-7. TMDLs.

The following TMDLs are approved by the Board and hereby incorporated by reference into these rules:

7.1 Middle Bear River – February 23, 2010
7.2 Chalk Creek -- December 23, 1997
7.3 Otter Creek -- December 23, 1997
7.4 Little Bear River -- May 23, 2000
7.5 Mantua Reservoir -- May 23, 2000
7.6 East Canyon Creek -- September 14, 2010
7.7 East Canyon Reservoir -- September 14, 2010
7.8 Kents Lake -- September 1, 2000
7.9 LaBaron Reservoir -- September 1, 2000
7.10 Minersville Reservoir -- September 1, 2000
7.11 Puffer Lake -- September 1, 2000
7.12 Scofield Reservoir -- September 1, 2000
7.13 Onion Creek (near Moab) -- July 25, 2002
7.14 Cottonwood Wash -- September 9, 2002
7.15 Deer Creek Reservoir -- September 9, 2002
7.16 Hyrum Reservoir -- September 9, 2002
7.17 Little Cottonwood Creek -- September 9, 2002
7.18 Lower Bear River -- September 9, 2002
7.19 Malad River -- September 9, 2002
7.20 Mill Creek (near Moab) -- September 9, 2002
7.21 Spring Creek -- September 9, 2002
7.22 Forsyth Reservoir -- September 27, 2002
7.23 Johnson Valley Reservoir -- September 27, 2002
7.24 Lower Fremont River -- September 27, 2002
7.25 Mill Meadow Reservoir -- September 27, 2002
7.26 UM Creek -- September 27, 2002
7.27 Upper Fremont River -- September 27, 2002
7.28 Deep Creek -- October 9, 2002
7.29 Uinta River -- October 9, 2002
7.30 Pineview Reservoir -- December 9, 2002
7.31 Browne Lake -- February 19, 2003
7.32 San Pitch River -- November 18, 2003
7.33 Newton Creek -- June 24, 2004
7.34 Panguitch Lake -- June 24, 2004
7.35 West Colorado -- August 4, 2004
7.36 Silver Creek -- August 4, 2004
7.37 Upper Sevier River -- August 4, 2004
7.38 Lower and Middle Sevier River -- August 17, 2004
7.39 Lower Colorado River -- September 20, 2004
7.40 Upper Bear River -- August 4, 2006
7.41 Echo Creek -- August 4, 2006
7.42 Soldier Creek -- August 4, 2006
7.43 East Fork Sevier River -- August 4, 2006
7.44 Koosharem Reservoir -- August 4, 2006
7.45 Lower Box Creek Reservoir -- August 4, 2006
7.46 Otter Creek Reservoir -- August 4, 2006
7.47 Thistle Creek -- July 9, 2007
7.48 Strawberry Reservoir -- July 9, 2007
7.49 Matt Warner Reservoir -- July 9, 2007
7.50 Calder Reservoir -- July 9, 2007
7.51 Lower Duchesne River -- July 9, 2007
7.52 Lake Fork River -- July 9, 2007
7.53 Brough Reservoir -- August 22, 2008
7.54 Steinaker Reservoir -- August 22, 2008
7.55 Red Fleet Reservoir -- August 22, 2008
7.56 Newcastle Reservoir -- August 22, 2008
7.57 Cutler Reservoir -- February 23, 2010
7.58 Pariette Draw -- September 28, 2010
7.59 Emigration Creek -- September 1, 2011
7.60 Jordan River -- June 27, 2012
7.61 Colorado River -- December 5, 2013
7.62 Echo Reservoir -- March 26, 2014
7.63 Rockport Reservoir -- March 26, 2014
7.64 Nine Mile Creek -- October 27, 2016
7.65 North Fork Virgin River -- May 23, 2018
7.66 Fremont River -- October 28, 2020

KEY: TMDL, water pollution
Date of Enactment or Last Substantive Amendment: [July 1, 2020]
Notice of Continuation: August 30, 2017
Authorizing, and Implemented or Interpreted Law: 19-5

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code R317-2 Ref (R no.): 53043
Filing No. 2019-2020

Agency Information
1. Department: Environmental Quality
2. Agency: Water Quality
3. Building: Multi Agency State Office Building
4. Street address: 195 N 1950 W
5. City, state: Salt Lake City, UT
6. Mailing address: PO Box 144870
7. City, state, zip: Salt Lake City, UT 84114-4870
8. Contact person(s):
   Name: Chris Bittner Phone: 801-536-4371 Email: cbittner@utah.gov
   Please address questions regarding information on this notice to the agency.

General Information
2. Rule or section catchline:
   R317-2. Standards of Quality for Waters of the State

3. Purpose of the new rule or reason for the change:
The rule is being amended to include the 2014, 2017, and 2020 reviews of the Colorado River Salinity Standards; change the designated use for a segment of the Jordan River, Salt Lake, and Utah Counties, from cold water to warm water aquatic life; to change the total dissolved solids criterion for a segment of Kanab Creek, Kane County; and correct typographical errors for the Fremont River and the word treatment.

4. Summary of the new rule or change:
In Section R317-2-4, the 2014, 2017, and 2020 reviews to the Colorado River Salinity Standards are added. These reviews do not result in any changes to existing requirements. In Subsection R317-2-13.5(a), the aquatic life use for the JORDAN RIVER from the confluence with Little Cottonwood Creek to the Narrows Diversion is changed from Class 3A to Class 3B. Class 3A is protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain, whereas Class 3B is warm water. This change is based on the natural conditions of the water.
temperature. With the change to Class 3B, this segment will be the same as the upstream and downstream segments. The Utah Division of Wildlife Resources supports this change. In Subsection R317-2-13.2(a), two segments of KANAB CREEK are assigned less stringent site-specific criteria for total dissolved solids (TDS). The site-specific criteria are added to footnote 4 of Table 2.14.1. These criteria reflect natural conditions and are protective of the continued agricultural use of Kanab Creek for crop irrigation. Additional information regarding these changes is available at https://deq.utah.gov/water-quality/water-quality-laws-and-rules-proposed-rule-changes

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There are no direct costs because no state agency is a constrained party. With the exception of the Division of Water Quality (DWQ), no other state agencies are impacted indirectly. For the DWQ, the indirect fiscal impacts are neutral for the Jordan River and Kanab Creek changes. These changes do not affect the frequency of routine monitoring for the Jordan River. The additional segmentation for Kanab Creek would potentially require additional monitoring locations but in this instance, the additional locations are already routinely monitored by Division of Oil, Gas, and Mining.

B) Local governments:

The South Valley and Jordan Basin Water Reclamation Facilities are constrained parties. These facilities serve the cities of Midvale, West Jordan, Bluffdale, Copperton, Draper, Herriman, South Jordan, Sandy, Riverton and other areas in unincorporated parts of Salt Lake County. The change will result in substantial but inestimable fiscal benefits for these communities. The benefits are from avoiding the substantive expenditures that would be necessary to meet the existing temperature criterion associated with the Class 3A, cold water use. The constrained parties provided independently prepared cost estimates to comply with the existing standard. The South Valley Water Reclamation Facility estimated capital costs of $68,000,000 and annual operating and maintenance costs of $1,000,000. The Jordan Basin Water Reclamation Facility estimated capital costs of $19,000,000 and annual operating and maintenance costs of $1,000,000. The benefits for this change are inestimable over the next three years because expenditures to meet water quality standards are limited under the Clean Water Act when compliance would cause undue economic hardship.

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

Permitted discharges in Utah to the Colorado River are constrained parties for the requirements of the Colorado River Salinity Standards but the updates are neutral because they don't include new or additional requirements. For the changes to the Kanab Creek total dissolved criteria, the Alton Coal LLC is the only constrained party because their discharge permit limit for TDS is based on the criterion being changed. The Kanab Creek TDS criterion will be neutral or result in inestimable fiscal savings for the mine. The savings are inestimable because the mine infrequently discharges, and the discharge concentrations of TDS vary for these discharges. The change has no effects if the mine does not discharge. The discharges and TDS concentrations are dependent on: 1) the capacity of the available settling ponds, 2) the quantities of groundwater currently being intercepted in the active mining areas, 3) weather conditions/precipitation, and 4) the quantities of water used onsite for dust control. If the mine discharges, the change to less stringent criteria will allow higher total dissolved solids concentrations in the discharge that may result in fiscal benefits from avoiding unnecessary treatment. The change is neutral or beneficial for the two cattle ranching and farming businesses potentially affected by the change. The change is neutral because the change is based on the current water quality.

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

No non-small businesses are constrained parties or will be impacted by indirect costs/benefits for the Jordan River or Kanab Creek. No non-small businesses use the water from the affected segments of either the Jordan River or Kanab Creek.

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 change to warm water use for the Jordan River reflects the natural conditions of the river and does not affect how the water can be used by other persons such as recreational users. The changes to the TDS concentrations criteria are based on the existing TDS concentrations in Kanab Creek. The water from Kanab Creek is used for irrigation and stock watering near Alton. These water users are not constrained parties. The indirect impacts to these water users are neutral or beneficial because the Kanab Creek water quality will continue to support these activities. The change would be beneficial if higher TDS water that would not currently be permitted to be discharged is allowed to be discharged. This would potentially increase the water available for irrigation.

F) Compliance costs for affected persons:

No additional compliance costs are associated with these changes.

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

### Regulatory Impact Table

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2021</th>
<th>FY2022</th>
<th>FY2023</th>
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<tbody>
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</tr>
<tr>
<td>Small Businesses</td>
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<td>$0</td>
<td>$0</td>
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<tr>
<td>Non-Small Businesses</td>
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<tr>
<td>Other Persons</td>
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<tr>
<td><strong>Total Fiscal Cost</strong></td>
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</thead>
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<tr>
<td>Small Businesses</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Non-Small Businesses</td>
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<td>$0</td>
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<tr>
<td>Other Persons</td>
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<td><strong>Total Fiscal Benefits</strong></td>
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<table>
<thead>
<tr>
<th>Net Fiscal Benefits</th>
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<tr>
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</tbody>
</table>

**H) Department head approval of regulatory impact analysis:**

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

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

These changes will result in fiscal benefits with no increase in costs.

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

L. Scott Baird, Executive Director

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### 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):

<table>
<thead>
<tr>
<th>Title 19, Chapter 5</th>
<th>FWPCA 33 USC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1251, 1311-1317, 1329</td>
<td></td>
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</tbody>
</table>

**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:**

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

<table>
<thead>
<tr>
<th>On:</th>
<th>At:</th>
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<tr>
<td>10/21/2020</td>
<td>06:00 PM</td>
<td><a href="https://utdeq.adobec">https://utdeq.adobec</a> PACt.com/publichearing/</td>
</tr>
</tbody>
</table>

10. **This rule change may become effective on:**

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**

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erica B. Gaddis, DWQ Director</td>
<td>08/28/2020</td>
</tr>
</tbody>
</table>

R317-2. Standards of Quality for Waters of the State.
R317-2.4. Colorado River Salinity Standards.

In addition to quality protection afforded by these rules to waters of the Colorado River and its tributaries, such waters shall be protected also by requirements of "Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975" and a supplement dated August 26, 1975, entitled "Supplement, including Modifications to Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", as approved by the seven Colorado River Basin States and the U.S. Environmental Protection Agency, as updated by the 1978 Revision and the 1981, 1984, 1987, 1990, 1993, 1996, 1999,

### R317-2-13. Classification of Waters of the State (see R317-2-6)

#### 13.1 Upper Colorado River Basin

##### a. Colorado River Drainage

<table>
<thead>
<tr>
<th>Waters</th>
<th>Classification Code</th>
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<tbody>
<tr>
<td>Paria River and tributaries, from state line to headwaters</td>
<td>2B 3C 4</td>
</tr>
<tr>
<td>All tributaries to Lake Powell except as listed below:</td>
<td>2B 3B 4</td>
</tr>
<tr>
<td>Tributaries to Escalante River from confluence with Boulder Creek to headwaters, including Boulder Creek</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Dirty Devil River and tributaries, from Lake Powell to Fremont River</td>
<td>2B 3C 4</td>
</tr>
<tr>
<td>Deer Creek and tributaries, from confluence with Boulder Creek to headwaters</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Fremont River and tributaries from confluence with Muddy Creek to Capitol Reef National Park, except as listed below:</td>
<td>1C 2B 3C 4</td>
</tr>
<tr>
<td>Pleasant Creek and tributaries, from confluence with Fremont River to East boundary of Capitol Reef National Park</td>
<td>2B 3C 4</td>
</tr>
<tr>
<td>Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters</td>
<td>1C 2B 3A</td>
</tr>
<tr>
<td>Fremont River and tributaries, through Capitol Reef National Park to headwaters</td>
<td>1C 2A 3A 4</td>
</tr>
<tr>
<td>Muddy Creek and tributaries, from Confluence with Fremont River to Highway U-10 crossing, except as listed below</td>
<td>2B 3C 4</td>
</tr>
<tr>
<td>Muddy Creek from confluence with Fremont River to confluence with Ivie Creek</td>
<td>2B 3C 4*</td>
</tr>
<tr>
<td>Muddy Creek and tributaries from the confluence with Ivie Creek to U-10</td>
<td>2B 3C 4*</td>
</tr>
<tr>
<td>Ivie Creek and its tributaries from the confluence with Muddy Creek to the confluence with Quitchupah Creek</td>
<td>2B 3C 4*</td>
</tr>
<tr>
<td>Ivie Creek and its tributaries from the confluence with Quitchupah Creek to U-10, except as listed below:</td>
<td>2B 3C 4*</td>
</tr>
<tr>
<td>Quitchupah Creek from the confluence with Ivie Creek to U-10</td>
<td>2B 3C 4*</td>
</tr>
<tr>
<td>Quitchupah Creek and tributaries, from Highway U-10 crossing to headwaters</td>
<td>2B 3A 4</td>
</tr>
</tbody>
</table>

Ivie Creek and tributaries, from Highway U-10 to headwaters | 2B 3A 4 |
Muddy Creek and tributaries, from Highway U-10 crossing to headwaters | 1C 2B 3A 4 |
San Juan River and tributaries from Lake Powell to state line except as listed below: | 1C 2A 3B 4 |
Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters | 1C 2B 3A 4 |
Verdure Creek and tributaries, from Highway US-191 crossing to headwaters | 2B 3A 4 |
North Creek and tributaries, from confluence with Montezuma Creek to headwaters | 1C 2B 3A 4 |
South Creek and tributaries, from confluence with Montezuma Creek to headwaters | 1C 2B 3A 4 |
Spring Creek and tributaries, from confluence with Vega Creek to headwaters | 2B 3A 4 |
Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters | 1C 2B 3A 4 |
Colorado River and tributaries, from Lake Powell to state line except as listed below: | 1C 2A 3B 4 |
Indian Creek and tributaries, through Newspaper Rock State Park to headwaters | 1C 2B 3A 4 |
Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters | 2B 3C 4 |
Mill Creek and tributaries, from confluence with Colorado River to headwaters | 1C 2A 3A 4 |
Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion | 1C 2A 3B 4* |
Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs | 1C 2A 3B 4* |
Dolores River and tributaries, from confluence with Colorado River to state line | 2B 3C 4 |
Roc Creek and tributaries, from confluence with Dolores River to headwaters | 2B 3A 4 |
LaSal Creek and tributaries from state line to headwaters | 2B 3A 4 |
Lion Canyon Creek and tributaries, from state line to headwaters | 2B 3A 4 |
Little Dolores River and tributaries, from confluence with Colorado River to state line | 2B 3C 4 |
<table>
<thead>
<tr>
<th>Location</th>
<th>1C</th>
<th>2B</th>
<th>3A</th>
<th>3E</th>
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</thead>
<tbody>
<tr>
<td>Bitter Creek and tributaries, from confluence with Colorado River to</td>
<td>1</td>
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<tr>
<td>headwaters</td>
<td></td>
<td>2B</td>
<td>3C</td>
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(*) Site-specific criteria are associated with this use.

b. Green River Drainage

<table>
<thead>
<tr>
<th>Location</th>
<th>1C</th>
<th>2B</th>
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</thead>
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<tr>
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<tr>
<td>state line, except as listed below:</td>
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<td>2B</td>
<td>3A</td>
<td>3D</td>
<td></td>
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<tr>
<td>Thompson Creek and tributaries from Interstate 70 to headwaters</td>
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<td>3C</td>
<td></td>
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</tr>
<tr>
<td>San Rafael River and tributaries from confluence with Green River</td>
<td>2B</td>
<td>3C</td>
<td></td>
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<td>4</td>
</tr>
<tr>
<td>to confluence with Ferron Creek, except as listed below:</td>
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<td></td>
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<tr>
<td>San Rafael River from the confluence with the Green River to</td>
<td>2B</td>
<td>3C</td>
<td></td>
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<td>4*</td>
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<tr>
<td>Buckhorn Crossing</td>
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<tr>
<td>San Rafael River from Buckhorn Crossing to the confluence with</td>
<td>2B</td>
<td>3C</td>
<td></td>
<td></td>
<td>4*</td>
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<tr>
<td>Huntington Creek and Cottonwood Creek</td>
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<tr>
<td>Ferron Creek and tributaries, from confluence with San Rafael River</td>
<td>2B</td>
<td>3C</td>
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<tr>
<td>to Millsite Reservoir, except as listed below:</td>
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<tr>
<td>Ferron Creek from the confluence with San Rafael River to Highway 10</td>
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<td>3A</td>
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<td>4*</td>
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<td>Ferron Creek and tributaries, from Millsite Reservoir to headwaters</td>
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<td>Huntington Creek and tributaries, from confluence with Cottonwood</td>
<td>2B</td>
<td>3C</td>
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<td>Creek to Highway U-10 crossing</td>
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<td>Huntington Creek and tributaries from Highway U-10 crossing to</td>
<td>1C</td>
<td>2B</td>
<td>3A</td>
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<tr>
<td>headwaters</td>
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<tr>
<td>Cottonwood Creek and tributaries from confluence with Huntington</td>
<td>2B</td>
<td>3C</td>
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<tr>
<td>Creek to U-57</td>
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<td>Cottonwood Creek from the confluence with Huntington Creek to U-57</td>
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<td>3C</td>
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<td>3C</td>
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<td>headwaters</td>
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<td>Cottonwood Creek and tributaries from Highway U-57 crossing to</td>
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<td>headwaters</td>
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<td>Price River and tributaries, from confluence with Green River to</td>
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<td>3C</td>
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<td>Carbon Canal Diversion at Price City Golf Course, except as listed</td>
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<td>below:</td>
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<tr>
<td>Price River and tributaries from confluence with Soldier Creek</td>
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<td>3C</td>
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<td>Price River and tributaries from the confluence with Soldier Creek</td>
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<td>to Carbon Canal Diversion at Price City Golf Course to Price City</td>
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<tr>
<td>Water Treatment Plant intake</td>
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<td>Price River and tributaries, from Price City Water Treatment Plant</td>
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<td>intake to headwaters</td>
<td>1C</td>
<td>2B</td>
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<td>Range Creek and tributaries, from confluence with Green River to</td>
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<td>Rock Creek and tributaries, from confluence with Green River to</td>
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<td>3A</td>
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<td>Nine Mile Creek and tributaries, from confluence with Green River to</td>
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<td>headwaters</td>
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<td>3A</td>
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<td>headwaters</td>
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<td>Willow Creek and tributaries (Uintah County), from confluence with</td>
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<td>Green River to headwaters</td>
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<tr>
<td>White River and tributaries, from confluence with Green River to</td>
<td>2B</td>
<td>3B</td>
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<tr>
<td>state line, except as listed below:</td>
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<tr>
<td>Bitter Creek and tributaries from White River to headwaters</td>
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<td>3A</td>
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<td>Duchesne River and tributaries, from confluence with Duchesne River</td>
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<td>to Myton Water Treatment Plant intake, except as listed below:</td>
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<td>Uinta River and tributaries from confluence with Duchesne River to</td>
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<td>Uinta River and tributaries, from U.S. Highway 40 crossing</td>
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<td>Power House Canal from confluence with Uinta River to headwaters</td>
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<tr>
<td>Whiterocks River and Canal, from Tridell Water Treatment Plant to</td>
<td>2B</td>
<td>3A</td>
<td></td>
<td></td>
<td>4</td>
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<tr>
<td>headwaters</td>
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</tr>
<tr>
<td>Duchesne River and tributaries, from Myton Water Treatment Plant</td>
<td>1C</td>
<td>2B</td>
<td>3A</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>intake to headwaters</td>
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<tr>
<td>Lake Fork River and tributaries, from confluence with Duchesne River</td>
<td>1C</td>
<td>2B</td>
<td>3A</td>
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<td>to headwaters</td>
<td></td>
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</tbody>
</table>
NOTICES OF PROPOSED RULES

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Lake Fork Canal from Dry Gulch to Moon Lake 1C 2B 3E 4
Dry Gulch Canal, from Myton Water Treatment Plant to Lake Fork Canal 1C 2B 3E 4
Ashley Creek and tributaries, from confluence with Green River to Steinaker diversion 2B 3B 4
Ashley Creek and tributaries, from Steinaker diversion to headwaters 1C 2B 3A 4
Big Brush Creek and tributaries, from confluence with Green River to Tyzack (Red Fleet) Dam 2B 3B 4
Big Brush Creek and tributaries, from Tyzack (Red Fleet) Dam to headwaters 1C 2B 3A 4
Jones Hole Creek and tributaries, from confluence with Green River to headwaters 2B 3A
Diamond Gulch Creek and tributaries, from confluence with Green River to headwaters 2B 3A 4
Pot Creek and tributaries, from Crouse Reservoir to headwaters 2B 3A 4

Green River and tributaries, from Utah-Colorado state line to Flaming Gorge Dam, except as listed below: 2A 3A 4
Sears Creek and tributaries, Daggett County 2B 3A
Tolivers Creek and tributaries, Daggett County 2B 3A
Red Creek and tributaries, from confluence with Green River to state line 2B 3C 4
Jackson Creek and tributaries, Daggett County 2B 3A
Davenport Creek and tributaries, Daggett County 2B 3A
Goslin Creek and tributaries, Daggett County 2B 3A
Gorge Creek and tributaries, Daggett County 2B 3A
Beaver Creek and tributaries, Daggett County 2B 3A
O-Wi-Yu-Kuts Creek and tributaries, Daggett County 2B 3A
Tributaries to Flaming Gorge Reservoir, except as listed below 2B 3A 4
Birch Spring Draw and tributaries, from Flaming Gorge Reservoir to headwaters 2B 3C 4
Spring Creek and tributaries, from Flaming Gorge Reservoir to headwaters 2B 3A

All tributaries of Flaming Gorge Reservoir from Utah-Wyoming state line to headwaters 2B 3A 4
(*) Site-specific criteria are associated with this use.

13.2 Lower Colorado River Basin
a. Virgin River Drainage

TABLE

Beaver Dam Wash and tributaries, from Motoqua to headwaters 2B 3B 4
Virgin River and tributaries, from state line to Quail Creek diversion, except as listed below: 2B 3B 4
Virgin River from the Utah-Arizona border to Pah Tempe Springs 2B 3B 4*
Virgin River from the Utah-Arizona border to Pah Tempe Springs 2B 3B 4*
Santa Clara River from confluence with Virgin River to Gunlock Reservoir 1C 2B 3B 4
Santa Clara River and tributaries, from Gunlock Reservoir to headwaters 2B 3A 4
Leeds Creek from confluence with Quail Creek to headwaters 2B 3A 4
Quail Creek from Quail Creek Reservoir to headwaters 1C 2B 3A 4
Ash Creek and tributaries, from confluence with Virgin River to Ash Creek Reservoir 2B 3A 4
Ash Creek and tributaries, from Ash Creek Reservoir to headwaters 2B 3A 4
Virgin River and tributaries, from the Quail Creek diversion to headwaters, except as listed below: 1C 2B 3C 4
North Creek, from the confluence with Virgin River to headwaters 1C 2B 3C 4*
North Fork Virgin River and tributaries 1C 2A 3A 4
Kolob Creek, from confluence with Virgin River to headwaters 2B 3A 4
East Fork Virgin River, from town of Glendale to headwaters 2B 3A 4

(*) Site-specific criteria are associated with this use.

b. Kanab Creek Drainage

TABLE

[Kanab Creek and tributaries, from state line to irrigation diversion at confluence with Reservoir Canyon 2B 3C 4]
[Kanab Creek and tributaries, from state line to immediately below the confluence with Sink Valley Wash 2B 3C 4]

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**Table of Water Quality Standards**

**Kanab Creek and tributaries, from immediately below the confluence with Sink Valley Wash to Simpson Hollow Wash**

<table>
<thead>
<tr>
<th>Standards</th>
<th>2B</th>
<th>3C</th>
<th>4*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kanab Creek and tributaries, from immediately above Simpson Hollow Wash to irrigation diversion at confluence with Reservoir Canyon</td>
<td>2B</td>
<td>3C</td>
<td>4*</td>
</tr>
<tr>
<td>Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters</td>
<td>2B 3A</td>
<td>4</td>
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</tr>
<tr>
<td>Johnson Wash and tributaries, from state line to confluence with Skutumpah Canyon</td>
<td>2B 3C</td>
<td>4</td>
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<tr>
<td>Johnson Wash and tributaries, from confluence with Skutumpah Canyon to headwaters</td>
<td>2B 3A</td>
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(*) Site-specific criteria are associated with this use.

### 13.3 Bear River Basin

**a. Bear River Drainage**

**Table**

<table>
<thead>
<tr>
<th>Standards</th>
<th>2B</th>
<th>3B</th>
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<tr>
<td>Bear River and tributaries, from Great Salt Lake to Utah-Idaho border, except as listed below</td>
<td>2B 3B 3D</td>
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<tr>
<td>Perry Canyon Creek from U.S. Forest boundary to headwaters</td>
<td>2B 3A</td>
<td>4</td>
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<tr>
<td>Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (Mayor's Pond)</td>
<td>2B 3C</td>
<td>4</td>
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<td></td>
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<tr>
<td>Box Elder Creek, from Brigham City Reservoir (Mayor's Pond) to headwaters</td>
<td>2B 3A</td>
<td>4</td>
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<tr>
<td>Salt Creek from confluence with Bear River to Crystal Hot Springs</td>
<td>2B 3B 3D</td>
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<tr>
<td>Malad River and tributaries, from confluence with Bear River to state line</td>
<td>2B 3C</td>
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<tr>
<td>Little Bear River and tributaries, from Cutler Reservoir to headwaters, except as listed below</td>
<td>2B 3A 3D 4</td>
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<tr>
<td>South Fork Spring Creek from confluence with Pelican Pond Slough Stream to U.S. Highway 89</td>
<td>2B 3A 3D 4*</td>
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<tr>
<td>Logan River and tributaries, from Cutler Reservoir to headwaters</td>
<td>2B 3A 3D 4</td>
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<tr>
<td>Blacksmith Fork and tributaries, from confluence with Logan River to headwaters, except as listed below</td>
<td>2B 3A 4</td>
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<tr>
<td>Sheep Creek and tributaries from Confluence with Blacksmith Fork River to headwaters</td>
<td>1C 2B 3A 4</td>
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<td>Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir</td>
<td>2B 3A 4</td>
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<td>Clarkston Creek and tributaries, from Newton Reservoir to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Summit Creek and tributaries, from confluence with Bear River to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Cub River and tributaries, from confluence with Bear River to state line, except as listed below:</td>
<td>2B 3B 4</td>
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<td>High Creek and tributaries from confluence with Cub River to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>All tributaries to Bear Lake from Bear Lake to headwaters, except as listed below</td>
<td>2B 3A 4</td>
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<tr>
<td>Swan Springs tributary to Swan Creek</td>
<td>1C 2B 3A</td>
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<tr>
<td>Bear River and tributaries in Rich County</td>
<td>2B 3A 4</td>
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<tr>
<td>Bear River and tributaries, from Utah-Wyoming state line to confluence (Summit County)</td>
<td>2B 3A 4</td>
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<tr>
<td>Mill Creek and tributaries, from state line to headwaters (Summit County)</td>
<td>2B 3A 4</td>
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</table>

(*) Site-specific criteria are associated with this use.

### 13.4 Weber River Basin

**a. Weber River Drainage**

**Table**

<table>
<thead>
<tr>
<th>Standards</th>
<th>2B</th>
<th>3A</th>
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<tbody>
<tr>
<td>Willard Creek, from Willard Bay Reservoir to headwaters</td>
<td>2B 3A</td>
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<tr>
<td>Weber River, from Great Salt Lake to Slaterville diversion, except as listed below:</td>
<td>2B 3C 3D 4</td>
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<tr>
<td>Four Mile Creek from Interstate 15 to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Weber River and tributaries, from Slaterville diversion to Stoddard diversion, except as listed below</td>
<td>2B 3A 4</td>
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<tr>
<td>Ogden River and tributaries, from confluence with Weber River to Pineview Dam, except as listed below:</td>
<td>3A</td>
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<tr>
<td>Wheeler Creek from confluence with Ogden River to headwaters</td>
<td>1C 2B 3A 4</td>
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<td></td>
</tr>
<tr>
<td>All tributaries to Pineview Reservoir</td>
<td>1C 2B 3A 4</td>
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<tr>
<td>Strongs Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters</td>
<td>1C 2B 3A 4</td>
<td></td>
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<tr>
<td>Burch Creek and tributaries, from Harrison Boulevard in Ogden to Headwaters</td>
<td>1C 2B 3A 4</td>
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</tbody>
</table>
Spring Creek and tributaries, from U.S. National Forest boundary to headwaters 1C 2B 3A 4

Weber River and tributaries, from Stoddard diversion to headwaters, except as listed below 1C 2B 3A 4

Silver Creek and tributaries, from the confluence with Weber River to below the confluence with Tollgate Creek 1C 2B 3A 4

Silver Creek and tributaries, from confluence with Tollgate Creek to headwaters 1C 2B 3A 4

13.5 Utah Lake-Jordan River Basin

a. Jordan River Drainage

<table>
<thead>
<tr>
<th>TABLE</th>
</tr>
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<tbody>
<tr>
<td>Jordan River, from Farmington Bay to North Temple Street, Salt Lake City 2B 3A 3D 4</td>
</tr>
<tr>
<td>State Canal, from Farmington Bay to confluence with the Jordan River 2B 3A 3D 4</td>
</tr>
<tr>
<td>Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek 2B 3A 3D 4</td>
</tr>
<tr>
<td>Surplus Canal from Great Salt Lake to the diversion from the Jordan River 2B 3A 3D 4</td>
</tr>
<tr>
<td>Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion 2B [2A] 3A 3D 4</td>
</tr>
<tr>
<td>Jordan River, from Narrows Diversion to Utah Lake 1C 2B 3A 4</td>
</tr>
<tr>
<td>City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant 2B 3A 4</td>
</tr>
<tr>
<td>City Creek, from City Creek Water Treatment Plant to headwaters 1C 2B 3A 4</td>
</tr>
<tr>
<td>Red Butte Creek and tributaries, from Liberty Park pond inlet to Red Butte Reservoir 2B 3A 4</td>
</tr>
<tr>
<td>Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters 1C 2B 3A 4</td>
</tr>
<tr>
<td>Emigration Creek and tributaries, from 1100 East in Salt Lake City to headwaters 2B 3A 4</td>
</tr>
<tr>
<td>Parleys Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir 1C 2B 3A 4</td>
</tr>
<tr>
<td>Parleys Creek and tributaries, from Mountain Dell Reservoir to headwaters 1C 2B 3A 4</td>
</tr>
<tr>
<td>Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate 15 2B 3A 3C 4</td>
</tr>
<tr>
<td>Mill Creek (Salt Lake County) and tributaries, from Interstate 15 to headwaters 2B 3A 3A 4</td>
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b. Provo River Drainage

<table>
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<tr>
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<tbody>
<tr>
<td>Provo River and tributaries, from Utah Lake to Murdock Diversion 2B 3A 4</td>
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<tr>
<td>Provo River and tributaries, from Murdock Diversion to headwaters, except as listed below: 1C 2B 3A 4</td>
</tr>
<tr>
<td>Upper Falls drainage above Provo City diversion 1C 2B 3A 4</td>
</tr>
<tr>
<td>Bridal Veil Falls drainage above Provo City diversion 1C 2B 3A 4</td>
</tr>
<tr>
<td>Lost Creek and tributaries above Provo City diversion 1C 2B 3A 4</td>
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</table>

<table>
<thead>
<tr>
<th>TABLE</th>
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</thead>
<tbody>
<tr>
<td>Dry Creek and tributaries (above Alpine), from U.S. National Forest boundary to headwaters 2B 3A 4</td>
</tr>
<tr>
<td>American Fork Creek and tributaries, from diversion at mouth of American Fork Canyon to headwaters 2B 3A 4</td>
</tr>
</tbody>
</table>
Spring Creek and tributaries, from 
Utah Lake near Lehi to headwaters 2B 3A 4
Lindon Hollow Creek and tributaries, 
from Utah Lake to headwaters 2B 3B 4
Grove Creek from Murdock 
Diversion to headwaters 1C 2B 3A
Battle Creek from Murdock 
Diversion to Headwaters 1C 2B 3A
Rock Canyon Creek and tributaries 
(East of Provo), from U.S. National 
Forest boundary to headwaters 1C 2B 3A 4
Mill Race (except from Interstate 
15 to the Provo City WWTP 
discharge) and tributaries, from 
Utah Lake to headwaters 2B 3B 4
Mill Race from Interstate 15 to 
the Provo City wastewater 
treatment plant discharge 2B 3B 4
Spring Creek and tributaries, from 
Utah Lake (Provo Bay) to 50 feet 
upstream from the east boundary of 
the Industrial Parkway Road 
Right-of-way 2B 3B 4
Tributary to Spring Creek (Utah 
County) which receives the 
Springville City WTP effluent from 
confluence with Spring Creek 
to headwaters 2B 3D 4
Spring Creek and tributaries from 50 
feet upstream from the east boundary 
of the Industrial Parkway Road 
right-of-way to the headwaters 2B 3A 4
Ironton Canal from Utah Lake 
(Provo Bay) to the east boundary 
of the Denver and Rio Grande 
Western Railroad right-of-way 2B 3C 4
Ironton Canal from the east boundary 
of the Denver and Rio Grande Western 
Railroad right-of-way to the point 
of diversion from Spring Creek 2B 3A 4
Hobble Creek and tributaries, from 
Utah Lake to headwaters 2B 3A 4
Dry Creek and tributaries, from Utah 
Lake (Provo Bay) to U.S. Highway 89 2B 3E 4
Dry Creek and tributaries, from 
U.S. Highway 89 to headwaters 2B 3A 4
Spanish Fork River and tributaries, 
from Utah Lake to diversion at Moark 
Junction 2B 3B 3A 4
Spanish Fork River and tributaries, 
from diversion at Moark Junction to 
headwaters 2B 3A 4
Benjamin Slough and 
tributaries, from Utah Lake to 
headwaters, except as listed 
below 2B 3B 4
Beer Creek (Utah County) from 
4850 West (in NE1/4NE1/4 sec. 36, 
T.B.S., R.I.E.) to headwaters 2B 3C 4
Salt Creek from Nephi diversion to 
headwaters 2B 3A 4
Currant Creek from mouth of Goshen 
Canyon to Mona Reservoir 2B 3A 4
Currant Creek from Mona Reservoir 
to headwaters 2B 3A 4
Peteetneet Creek and tributaries, 
from irrigation diversion above 
Maple Dell to headwaters 2B 3A 4
Summit Creek and tributaries 
(above Santiquin), from U.S. National 
Forest boundary to headwaters 2B 3A 4
All other permanent streams entering 
Utah Lake 2B 3B 4

13.6 Sevier River Basin
a. Sevier River Drainage

| Stream and tributaries, from Sevier Lake to Gunnison Bend Reservoir to U.S. National Forest boundary, except as listed below: | 2B 3C 4 |
| Sevier River from Gunnison Bend Reservoir to Clear Lake | 2B 3C 4* |
| Beaver River and tributaries, from Minersville City to headwaters | 2B 3A 4 |
| Little Creek and tributaries, from irrigation diversion to headwaters | 2B 3A 4 |
| Pinto Creek and tributaries, from Newcastle Reservoir to headwaters | 2B 3A 4 |
| Coal Creek and tributaries | 2B 3A 4 |
| Summit Creek and tributaries | 2B 3A 4 |
| Parowan Creek and tributaries | 2B 3A 4 |
| Tributaries to Sevier River from Sevier Lake to Gunnison Bend Reservoir from U.S. National Forest boundary to headwaters, including: | 2B 3A 4 |
| Pioneer Creek and tributaries, Millard County | 2B 3A 4 |
| Chalk Creek and tributaries, Millard County | 2B 3A 4 |
| Meadow Creek and tributaries, Millard County | 2B 3A 4 |
| Corn Creek and tributaries, Millard County | 2B 3A 4 |
| Sevier River and tributaries, below U.S. National Forest boundary from Gunnison Bend Reservoir to Annabelle Diversion, except as listed below | 2B 3B 4 |
| Sevier River between Gunnison Bend Reservoir and DMAD Reservoir | 2B 3B 4* |
| Oak Creek and tributaries Millard County | 2B 3A 4 |
NOTICES OF PROPOSED RULES

<table>
<thead>
<tr>
<th>Proposed Rules</th>
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<tbody>
<tr>
<td>Round Valley Creek and tributaries, Millard County</td>
<td>2B 3A 4</td>
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<tr>
<td>Judd Creek and tributaries, Juab County</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Meadow Creek and tributaries, Juab County</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Cherry Creek and tributaries, Juab County</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Tanner Creek and tributaries, Juab County</td>
<td>2B 3E 4</td>
</tr>
<tr>
<td>Baker Hot Springs, Juab County</td>
<td>2B 3D 4</td>
</tr>
<tr>
<td>Chicken Creek and tributaries, Juab County</td>
<td>2B 3A 4</td>
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<tr>
<td>San Pitch River and tributaries, from confluence with Sevier River to Highway U-132 crossing, except as listed below:</td>
<td>2B 3C 3D 4</td>
</tr>
<tr>
<td>San Pitch River from below Gunnison Reservoir to the Sevier River</td>
<td>2B 3C 3D 4*</td>
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<tr>
<td>Twelve Mile Creek (South Creek) and tributaries, from U.S. National Forest boundary to headwaters</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Six Mile Creek and tributaries, Sanpete County</td>
<td>2B 3A 4</td>
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<tr>
<td>Manti Creek (South Creek) and tributaries, from U.S. National Forest boundary to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Ephraim Creek (Cottonwood Creek) and tributaries, from U.S. National Forest to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Oak Creek and tributaries, from U.S. National Forest boundary near Spring City to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Fountain Green Creek and tributaries, from U.S. National Forest boundary to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>San Pitch River and tributaries, from Highway U-132 crossing to headwaters</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Lost Creek from the confluence with Sevier River to U.S. National Forest boundary</td>
<td>2B 3C 3D 4*</td>
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<tr>
<td>Brine Creek-Petersen Creek from the confluence with the Sevier River to Highway U-119 Crossing</td>
<td>2B 3C 3D 4*</td>
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<tr>
<td>Tributaries to Sevier River from Gunnison Bend Reservoir to Annabella diversion from U.S. National Forest boundary to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Sevier River and tributaries, from Annabella diversion to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Monroe Creek and tributaries, from diversion to headwaters</td>
<td>2B 3A 4</td>
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<tr>
<td>Little Creek and tributaries, from irrigation diversion to headwaters</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Pinto Creek and tributaries, from Newcastle Reservoir to headwaters</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Coal Creek and tributaries</td>
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<td>Summit Creek and tributaries</td>
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<td>Parowan Creek and tributaries</td>
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<td>Duck Creek and tributaries</td>
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<td>(*) Site-specific criteria are associated with this use.</td>
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13.7 Great Salt Lake Basin

<table>
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<tr>
<th>Proposed Rules</th>
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<tbody>
<tr>
<td>Grouse Creek and tributaries, Box Elder County</td>
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<td>Muddy Creek and tributaries, Box Elder County</td>
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<td>Dove Creek and tributaries, Box Elder County</td>
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<td>Pine Creek and tributaries, Box Elder County</td>
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<td>Rock Creek and tributaries, Box Elder County</td>
<td>2B 3A 4</td>
</tr>
<tr>
<td>Fisher Creek and tributaries, Box Elder County</td>
<td>2B 3A 4</td>
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<td>Blue Creek and tributaries, Box Elder County, from Bear River Bay, Great Salt Lake to Blue Creek Reservoir</td>
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<td>Blue Creek and tributaries from Blue Creek Reservoir to headwaters</td>
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<td>All perennial streams on the east slope of the Pilot Mountain Range</td>
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<td>Blue Creek and tributaries from Blue Creek Reservoir to headwaters</td>
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<td>Hickman Creek and tributaries, Tooele County</td>
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<td>Barlow Creek and tributaries, Tooele County</td>
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Clover Creek and tributaries, Tooele County 2B 3A 4
Faust Creek and tributaries, Tooele County 2B 3A 4
Vernon Creek and tributaries, Tooele County 2B 3A 4
Ophir Creek and tributaries, Tooele County 2B 3A 4
Soldier Creek and tributaries, from the Drinking Water [Treamtent] Treatment Facility to headwaters, Tooele County 1C 2B 3A 4
Settlement Canyon Creek and tributaries, Tooele County 2B 3A 4
Middle Canyon Creek and tributaries, Tooele County 2B 3A 4
Tank Wash and tributaries, Tooele County 2B 3A 4
Basin Creek and tributaries, Juab and Tooele Counties 2B 3A 4
Thomas Creek and tributaries, Juab County 2B 3A 4
Indian Farm Creek and tributaries, Juab County 2B 3A 4
Cottonwood Creek and tributaries, Juab County 2B 3A 4
Red Cedar Creek and tributaries, Juab County 2B 3A 4
Granite Creek and tributaries, Juab County 2B 3A 4
Trout Creek and tributaries, Juab County 2B 3A 4
Birch Creek and tributaries, Juab County 2B 3A 4
Deep Creek and tributaries, from Rock Spring Creek to headwaters, Juab and Tooele Counties 2B 3A 4
Cold Spring, Juab County 2B 3C 3D
Cane Spring, Juab County 2B 3C 3D
Lake Creek, from Garrison (Pruess) Reservoir to Nevada state line 2B 3A 4
Snake Creek and tributaries, Millard County 2B 3B 4
Salt Marsh Spring Complex, Millard County 2B 3A
Twin Springs, Millard County 2B 3B
Tule Spring, Millard County 2B 3C 3D
Coyote Spring Complex, Millard County 2B 3C 3D
Hamblin Valley Wash and tributaries, from Nevada state line to headwaters (Beaver and Iron Counties) 2B 3D 4

Indian Creek and tributaries, Beaver County, from Indian Creek Reservoir to headwaters 2B 3A 4
Shoal Creek and tributaries, Iron County 2B 3A 4

(*) Site-specific criteria are associated with this use.

b. Farmington Bay Drainage

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<td>Rudd Creek and tributaries, from Davis aqueduct to headwaters</td>
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<td>Steed Creek and tributaries, from U.S. National Forest boundary to headwaters</td>
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<td>Davis Creek and tributaries, from U.S. Highway 89 to headwaters</td>
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<td>Lone Pine Creek and tributaries, from U.S. Highway 89 to headwaters</td>
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NOTICES OF PROPOSED RULES

Ricks Creek and tributaries, from Highway Interstate 15 to headwaters 1C 2B 3A 4
Barnard Creek and tributaries, from U.S. Highway 89 to headwaters 2B 3A 4
Parrish Creek and tributaries, from Davis Aqueduct to headwaters 2B 3A 4
Deuel Creek and tributaries, (Centerville Canyon) from Davis Aqueduct to headwaters 2B 3A 4
Stone Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest Boundary 2B 3A 4
Stone Creek and tributaries, from U.S. National Forest boundary to headwaters 1C 2B 3A 4
Barton Creek and tributaries, from U.S. National Forest boundary to headwaters 2B 3A 4
Mill Creek (Davis County) and tributaries, from confluence with State Canal to U.S. National Forest boundary 2B 3B 4
North Canyon Creek and tributaries from U.S. National Forest boundary to headwaters 1C 2B 3A 4
Howard Slough 2B 3C 4
Hooper Slough 2B 3C 4
Willard Slough 2B 3C 4
Willard Creek to Headwaters 1C 2B 3A 4
Chicken Creek to Headwaters 1C 2B 3A 4
Cold Water Creek to Headwaters 1C 2B 3A 4
One House Creek to Headwaters 1C 2B 3A 4
Garner Creek to Headwaters 1C 2B 3A 4

13.8 Snake River Basin
a. Raft River Drainage (Box Elder County)

TABLE

Raft River and tributaries 2B 3A 4
Clear Creek and tributaries, from Utah-Idaho state line to headwaters 2B 3A 4
Omensile Creek and tributaries, from Utah-Idaho state line to headwaters 2B 3A 4
George Creek and tributaries, from Utah-Idaho state line to headwaters 2B 3A 4
Johnson Creek and tributaries, from Utah-Idaho state line to headwaters 2B 3A 4
Birch Creek and tributaries, from state line to headwaters 2B 3A 4

13.9 All irrigation canals and ditches statewide, except as otherwise designated: 2B, 3E, 4
13.10 All drainage canals and ditches statewide, except as otherwise designated: 2B, 3E
13.11 National Wildlife Refuges and State Waterfowl Management Areas, and other Areas Associated with the Great Salt Lake

TABLE

Bear River National Wildlife Refuge, Box Elder County 2B 3B 30
Bear River Bay
Open Water below approximately 4,208 ft. 5C
Transitional Waters approximately 4,208 ft. to Open Water 5E
Open Water above approximately 4,208 ft. 2B 3B 30
Browns Park Waterfowl Management Area, Daggett County 2B 3A 30
Clear Lake Waterfowl Management Area, Millard County 2B 3C 3D
Desert Lake Waterfowl Management Area, Emery County 2B 3C 3D
Farmington Bay Waterfowl Management Area, Davis and Salt Lake Counties 2B 3C 3D
Farmington Bay
Open Water below approximately 4,208 ft. 50
Transitional Waters approximately 4,208 ft. to Open Water 5E
Open Water above approximately 4,208 ft. 2B 3B 30
Fish Springs National Wildlife Refuge, Juab County 2B 3C 3D
Harold Crane Waterfowl Management Area, Box Elder County 2B 3C 3D
Gilbert Bay
Open Water below approximately 4,208 ft. 5A
Transitional Waters approximately 4,208 ft. to Open Water 5E
Open Water above approximately 4,208 ft. 2B 3B 30
Gunnison Bay
Open Water below approximately 4,208 ft. 5B
Transitional Waters approximately 4,208 ft. to Open Water 5E
Open Water above approximately 4,208 ft. 2B 3B 3D

Howard Slough Waterfowl Management Area, Weber County 2B 3C 3D
Locomotive Springs Waterfowl Management Area, Box Elder County 2B 3B 3D
Ogden Bay Waterfowl Management Area, Weber County 2B 3C 3D
Ouray National Wildlife Refuge, Uintah County 2B 3B 3D
Powell Slough Waterfowl Management Area, Utah County 2B 3C 3D
Public Shooting Grounds Waterfowl Management Area, Box Elder County 2B 3C 3D
Salt Creek Waterfowl Management Area, Box Elder County 2B 3C 3D
Stewart Lake Waterfowl Management Area, Uintah County 2B 3B 3D
Tempie Springs Waterfowl Management Area, Tooele County 2B 3B 3D

13.12 Lakes and Reservoirs. All lakes and any reservoirs greater than 10 acres not listed in 13.12 are assigned by default to the classification of the stream with which they are associated.

a. Beaver County

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<tr>
<th>Reservoir Name</th>
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<td>LaBaron Reservoir</td>
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<td>Kents Lake</td>
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<td>Minersville Reservoir</td>
<td>2B 3A 3D 4</td>
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<td>Puffer Lake</td>
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<td>Three Creeks Reservoir</td>
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b. Box Elder County

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<td>Cutler Reservoir (including portion in Cache County)</td>
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<td>Etna Reservoir</td>
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c. Cache County

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<td>Porcupine Reservoir</td>
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Pelican Pond 2B 3B 4
Tony Grove Lake 2B 3A 4
d. Carbon County

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<td>Olsen Pond</td>
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<td>Scofield Reservoir</td>
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e. Daggett County

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f. Davis County

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g. Duchesne County

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**NOTICES OF PROPOSED RULES**

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## Notices of Proposed Rules

### Utah State Bulletin, September 15, 2020, Vol. 2020, No. 18

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<td>Arsenic</td>
<td>0.01</td>
<td></td>
<td>0.1</td>
</tr>
<tr>
<td>Barium</td>
<td>1.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beryllium</td>
<td>&lt;0.004</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cadmium</td>
<td>0.01</td>
<td></td>
<td>0.01</td>
</tr>
<tr>
<td>Chromium</td>
<td>0.05</td>
<td></td>
<td>0.10</td>
</tr>
<tr>
<td>Copper</td>
<td>0.15</td>
<td></td>
<td>0.2</td>
</tr>
<tr>
<td>Lead</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mercury</td>
<td>0.002</td>
<td></td>
<td>0.05</td>
</tr>
<tr>
<td>Selenium</td>
<td>0.05</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Silver</td>
<td>0.05</td>
<td></td>
<td></td>
</tr>
<tr>
<td>INORGANICS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(MAXIMUM MG/L)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bromate</td>
<td>0.01</td>
<td></td>
<td>0.75</td>
</tr>
<tr>
<td>Boron</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chlorite</td>
<td>&lt;1.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fluoride</td>
<td>4.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nitrates as N</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Dissolved Solids (4)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RADIIOLOGICAL</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1200</td>
</tr>
</tbody>
</table>
The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by approved laboratory methods for the required detection levels.

**POLLUTION INDICATORS**

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Maximum Concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOD (mg/L)</td>
<td>5</td>
</tr>
<tr>
<td>Nitrate as N (mg/L)</td>
<td>4</td>
</tr>
<tr>
<td>Total Phosphorus as P (mg/L)</td>
<td>0.05</td>
</tr>
</tbody>
</table>

**ORGANICS (MAXIMUM US/L)**

<table>
<thead>
<tr>
<th>Compound</th>
<th>Maximum Concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,4-D 94-75-7</td>
<td>70</td>
</tr>
<tr>
<td>Atrazine 1912-24-9</td>
<td>3</td>
</tr>
<tr>
<td>Alachlor 15972-60-8</td>
<td>2</td>
</tr>
<tr>
<td>Herbicides</td>
<td>100</td>
</tr>
<tr>
<td>Endothall 145-73-3</td>
<td>100</td>
</tr>
<tr>
<td>Ethylene Dibromide</td>
<td>100</td>
</tr>
<tr>
<td>Chlorinated</td>
<td></td>
</tr>
<tr>
<td>Benzo(a)pyrene</td>
<td>15</td>
</tr>
<tr>
<td>Xylenes 1330-20-7</td>
<td>10,000</td>
</tr>
</tbody>
</table>

**FOOTNOTES:**

1. See also numeric criteria for water and organism in Table 2.14.6.
2. The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by approved laboratory methods for the required detection levels.
3. Reserved
4. SITE SPECIFIC STANDARDS FOR TOTAL DISSOLVED SOLIDS (TDS)

**POLLUTION INDICATORS**

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Maximum Concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOD (mg/L)</td>
<td>5</td>
</tr>
<tr>
<td>Nitrate as N (mg/L)</td>
<td>4</td>
</tr>
<tr>
<td>Total Phosphorus as P (mg/L)</td>
<td>0.05</td>
</tr>
</tbody>
</table>

**FOOTNOTES:**

1. See also numeric criteria for water and organism in Table 2.14.6.
2. The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by approved laboratory methods for the required detection levels.
3. Reserved
4. SITE SPECIFIC STANDARDS FOR TOTAL DISSOLVED SOLIDS (TDS)

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**NOTICES OF PROPOSED RULES**

- **Blue Creek and tributaries, Box Elder County, from Bear River Bay, Great Salt Lake to Blue Creek Reservoir:**
  - March through October daily maximum 4,900 mg/l and an average of 3,800 mg/l; November through February daily maximum 6,300 mg/l and an average of 4,700 mg/l.
  - Assessments will be based on TDS concentrations measured at the location of STORET 4960740.

- **Blue Creek Reservoir and tributaries, Box Elder County, daily maximum 2,100 mg/l;**

- **Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion:**
  - 1,800 mg/l;

- **Cottonwood Creek from the confluence with Huntington Creek to Highway U-57:**
  - 3,500 mg/l;

- **Ferron Creek from the confluence with San Rafael River to Highway U-10:**
  - 3,500 mg/l;

- **Huntington Creek and tributaries from the confluence with Cottonwood Creek to Highway U-10:**
  - 3,800 mg/l;

- **Ivie Creek and its tributaries from the confluence with Muddy Creek to the confluence with Quitchupah Creek:**
  - 3,800 mg/l provided that total sulfate not exceed 2,000 mg/l to protect the livestock watering agricultural existing use;

- **Ivie Creek and its tributaries from the confluence with Quitchupah Creek to Highway U-10:**
  - 2,600 mg/l;

- **Kanab Creek and tributaries from immediately below the confluence with Sink Valley Wash to the confluence of Simpson Hollow Wash:**
  - April through November, daily maximum 1,900 mg/l, December through March, daily maximum 1,200 mg/l. Assessments shall be based on TDS concentrations measured in Kanab Creek.

- **Kanab Creek and tributaries from immediately above Simpson Hollow Wash to irrigation diversion at confluence with Reservoir Canyon:**
  - April through November, daily maximum 1,400 mg/l. Assessments shall be based on TDS concentrations measured in Kanab Creek.

- **Lost Creek from the confluence with Sevier River to U.S. National Forest boundary:**
  - 4,600 mg/l;

- **Muddy Creek and tributaries from the confluence with Ivie Creek to Highway U-10:**
  - 2,600 mg/l;

- **Muddy Creek from confluence with Fremont River to confluence with Ivie Creek:**
  - 5,800 mg/l;

- **North Creek from the confluence with Virgin River to headwaters:**
  - 2,035 mg/l;

- **Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs:**
  - 3000 mg/l;

- **Price River and tributaries from confluence with Green River to confluence with Soldier Creek:**
  - 3,000 mg/l;

- **Price River and tributaries from the confluence with Soldier Creek to Carbon Canal Diversion:**
  - 1,700 mg/l;

- **Quitchupah Creek and tributaries from the confluence with Ivie Creek to Highway U-10:**
  - 3,800 mg/l provided that total sulfate not exceed 2,000 mg/l to protect the livestock watering agricultural existing use;

- **Rock Canyon Creek from the confluence with Cottonwood Creek to headwaters:**
  - 3,500 mg/l;

- **San Pitch River from below Gunnison Reservoir to the Sevier River:**
  - 2,400 mg/l;

- **San Rafael River from the confluence with the Green River to Buckhorn Crossing:**
  - 4,100 mg/l;

- **San Rafael River from the Buckhorn Crossing to the confluence with Huntington Creek and Cottonwood Creek:**
  - 3,500 mg/l;

- **Sevier River between Gunnison Bend Reservoir and DMAD Reservoir:**
  - 1,725 mg/l;

- **Sevier River from Gunnison Bend Reservoir to Crafts Lake:**
  - 3,370 mg/l;

- **Silver Creek and tributaries, Summit County, from confluence with Tollgate Creek to headwaters:**
  - Maximum 1,900 mg/l.

- **South Fork Spring Creek from confluence with Pelican Pond to U.S. Highway 89:**
  - 1,450 mg/l (Apr.-Sept.)
  - 1,950 mg/l (Oct.-March)

- **Virgin River from the Utah/Arizona border to Pah Tempe Springs:**
  - 2,360 mg/l

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**NOTICES OF PROPOSED RULES (Continued)**

- **Wildlife Refuges and State Waterfowl Management Areas, the**
criteria may be considered attained provided the density attributable to non-wildlife sources is less than the criteria. Exceedences of E. coli from nonhuman nonpoint sources will generally be addressed through appropriate Federal, State, and local nonpoint source programs. Measurement of E. coli using the "Quanti-Tray 2000" procedure is approved as a field analysis. Other EPA approved methods may also be used. For water quality assessment purposes, up to 10% of representative samples may exceed the 668 per 100 ml criterion (for 1C and 2B waters) and 409 per 100 ml (for 2A waters). For small datasets, where exceedences of these criteria are observed, follow-up ambient monitoring should be conducted to better characterize water quality.

### Table 2.14.2

**NUMERIC CRITERIA FOR AQUATIC WILDLIFE**

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Aquatic Wildlife</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3A</td>
</tr>
<tr>
<td><strong>PHYSICAL</strong></td>
<td></td>
</tr>
<tr>
<td>Total Dissolved Gases</td>
<td>(1)</td>
</tr>
<tr>
<td>Minimum Dissolved Oxygen (MG/L) (2)(2a)</td>
<td>6.5</td>
</tr>
<tr>
<td>30 Day Average</td>
<td>9.5/5.0 6.0/4.0</td>
</tr>
<tr>
<td>7 Day Average</td>
<td>9.5/5.0 6.0/4.0</td>
</tr>
<tr>
<td>Minimum</td>
<td>8.0/4.0 5.0/3.0</td>
</tr>
<tr>
<td>Max. Temperature(C) (3)</td>
<td>20 27 27</td>
</tr>
<tr>
<td>Max. Temperature Change (C) (3)</td>
<td>2   4  4   4</td>
</tr>
<tr>
<td>pH (Range)(2a)</td>
<td>6.5-9.0 6.5-9.0</td>
</tr>
<tr>
<td>Turbidity Increase (NTU)</td>
<td>10 10 15 15</td>
</tr>
<tr>
<td><strong>METALS (4)</strong></td>
<td></td>
</tr>
<tr>
<td>Aluminum</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>87     87 87</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>750    750 750</td>
</tr>
<tr>
<td>Arsenic (Trivalent)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>150    150 150</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>340    340 340</td>
</tr>
<tr>
<td>Cadmium (7)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.72  0.72 0.72</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>1.8   1.8 1.8   1.8</td>
</tr>
<tr>
<td>Chromium (Hexavalent)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>11    11 11</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>16    16 16</td>
</tr>
<tr>
<td>Chromium (Trivalent) (7)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>74    74 74</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>570   570 570</td>
</tr>
<tr>
<td>Copper (7)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>9     9 9</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>13    13 13</td>
</tr>
<tr>
<td>Cyanide (Free)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>5.2   5.2 5.2</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>22    22 22</td>
</tr>
<tr>
<td>Iron (Maximum)</td>
<td>1000  1000 1000</td>
</tr>
<tr>
<td>Lead (7)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>2.5   2.5 2.5</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>65    65 65</td>
</tr>
<tr>
<td>Mercury</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.012 0.012 0.012</td>
</tr>
<tr>
<td>Nickel (7)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>52    52 52</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>468   468 468</td>
</tr>
<tr>
<td>Selenium</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>4.6   4.6 4.6</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>18.4  18.4 18.4</td>
</tr>
<tr>
<td>Selenium (14)</td>
<td></td>
</tr>
<tr>
<td>Gilbert Bay (Class 5A)</td>
<td></td>
</tr>
<tr>
<td>Great Salt Lake</td>
<td></td>
</tr>
<tr>
<td>Geometric Mean over Nesting Season</td>
<td></td>
</tr>
<tr>
<td>(mg/kg dry wt)</td>
<td></td>
</tr>
<tr>
<td>Silver</td>
<td></td>
</tr>
<tr>
<td>1 Hour Average (7)</td>
<td>3.2   3.2 3.2</td>
</tr>
<tr>
<td>Tributyltin</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.072 0.072 0.072</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>0.46  0.46 0.46</td>
</tr>
<tr>
<td>Zinc (7)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>120   120 120</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>120   120 120</td>
</tr>
<tr>
<td>INORGANICS (MG/L) (4)</td>
<td></td>
</tr>
<tr>
<td>Total Ammonia as N (9)</td>
<td></td>
</tr>
<tr>
<td>30 Day Average (9a)</td>
<td></td>
</tr>
<tr>
<td>1 Hour Average (9b)</td>
<td></td>
</tr>
<tr>
<td>Chlorine (Total Residual)</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.01  0.001 0.001</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>0.001 0.001 0.001</td>
</tr>
<tr>
<td>Hydrogen Sulfide (Undissociated, Max. UG/L)</td>
<td>2.0</td>
</tr>
<tr>
<td>Phenol (Maximum)</td>
<td>0.01  0.01 0.01 0.01</td>
</tr>
<tr>
<td>RADIOLOGICAL (MAXIMUM pCi/L)</td>
<td></td>
</tr>
<tr>
<td>ORGANICS (UG/L) (4)</td>
<td></td>
</tr>
<tr>
<td>Acrolein</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>3.0   3.0 3.0</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>3.0   3.0 3.0</td>
</tr>
<tr>
<td>Aldrin</td>
<td></td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>1.5   1.5 1.5</td>
</tr>
<tr>
<td>Carbaryl</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>2.1   2.1 2.1</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>2.1   2.1 2.1</td>
</tr>
<tr>
<td>Chlordane</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.0043 0.0043 0.0043</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>1.2   1.2 1.2</td>
</tr>
<tr>
<td>Chlorypyrifos</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.041 0.041 0.041</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>0.083 0.083 0.083</td>
</tr>
<tr>
<td>4,4’-DDT</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.0010 0.0010 0.0010</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>0.55  0.55 0.55</td>
</tr>
<tr>
<td>Diazinon</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.17  0.17 0.17</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>0.17  0.17 0.17</td>
</tr>
<tr>
<td>Dieldrin</td>
<td></td>
</tr>
<tr>
<td>4 Day Average</td>
<td>0.056 0.056 0.056</td>
</tr>
<tr>
<td>1 Hour Average</td>
<td>0.24  0.24 0.24</td>
</tr>
</tbody>
</table>
The limits are not applicable to lower water levels.

Footnotes:

1. Not to exceed 110% of saturation.
2. These limits are not applicable to lower water levels.
3. Site Specific Standards for Temperature
4. Where criteria are listed as 4-day average and 1-hour average concentrations, these concentrations should not exceed more often than once every three years on the average.
5. The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.
6. The criterion for aluminum will be implemented as follows:

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>4-Day Average</th>
<th>1-Day Average</th>
<th>4-Day Average</th>
<th>1-Day Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alpha-Endosulfan</td>
<td>0.056 0.056 0.056 0.056</td>
<td>0.11 0.11 0.11 0.11</td>
<td>0.056 0.056 0.056 0.056</td>
<td>0.11 0.11 0.11 0.11</td>
</tr>
<tr>
<td>beta-Endosulfan</td>
<td>0.056 0.056 0.056 0.056</td>
<td>0.11 0.11 0.11 0.11</td>
<td>0.056 0.056 0.056 0.056</td>
<td>0.11 0.11 0.11 0.11</td>
</tr>
<tr>
<td>Endrin</td>
<td>0.036 0.036 0.036 0.036</td>
<td>0.086 0.086 0.086 0.086</td>
<td>0.036 0.036 0.036 0.036</td>
<td>0.086 0.086 0.086 0.086</td>
</tr>
<tr>
<td>Heptachlor</td>
<td>0.0038 0.0038 0.0038 0.0038</td>
<td>0.26 0.26 0.26 0.26</td>
<td>0.0038 0.0038 0.0038 0.0038</td>
<td>0.26 0.26 0.26 0.26</td>
</tr>
<tr>
<td>Parathion</td>
<td>0.013 0.013 0.013 0.013</td>
<td>0.066 0.066 0.066 0.066</td>
<td>0.013 0.013 0.013 0.013</td>
<td>0.066 0.066 0.066 0.066</td>
</tr>
<tr>
<td>PCBs</td>
<td>0.014 0.014 0.014 0.014</td>
<td>0.014 0.014 0.014 0.014</td>
<td>0.014 0.014 0.014 0.014</td>
<td>0.014 0.014 0.014 0.014</td>
</tr>
<tr>
<td>Hexachlorocyclohexane</td>
<td>0.003 0.003 0.003 0.003</td>
<td>0.28 0.28 0.28 0.28</td>
<td>0.003 0.003 0.003 0.003</td>
<td>0.28 0.28 0.28 0.28</td>
</tr>
<tr>
<td>4-Day Average</td>
<td>6.6 6.6 6.6 6.6</td>
<td>28.0 28.0 28.0 28.0</td>
<td>6.6 6.6 6.6 6.6</td>
<td>28.0 28.0 28.0 28.0</td>
</tr>
<tr>
<td>1-Day Average</td>
<td>0.006 0.006 0.006 0.006</td>
<td>0.006 0.006 0.006 0.006</td>
<td>0.006 0.006 0.006 0.006</td>
<td>0.006 0.006 0.006 0.006</td>
</tr>
<tr>
<td>Gross alpha (pCi/L)</td>
<td>15 15 15 15</td>
<td>50 50 50 50</td>
<td>15 15 15 15</td>
<td>50 50 50 50</td>
</tr>
<tr>
<td>Gross beta (pCi/L)</td>
<td>5 5 5 5</td>
<td>3 3 3 3</td>
<td>5 5 5 5</td>
<td>3 3 3 3</td>
</tr>
<tr>
<td>TOXINS (9)</td>
<td>0.0002 0.0002 0.0002 0.0002</td>
<td>0.73 0.73 0.73 0.73</td>
<td>0.0002 0.0002 0.0002 0.0002</td>
<td>0.73 0.73 0.73 0.73</td>
</tr>
</tbody>
</table>

Class 3A:
- mg/l as N (Acute) = 0.275/(1+10^((10^-7.446)+12.323))
- mg/l as N (Chronic) = 0.622/(1+10^((10^-7.446)+12.323))

Class 3B, 3C, 3D:
- mg/l as N (Acute) = 0.275/(1+10^((10^-7.446)+12.323))
- mg/l as N (Chronic) = 0.622/(1+10^((10^-7.446)+12.323))

Class 3E:
- mg/l as N (Acute) = 0.275/(1+10^((10^-7.446)+12.323))
- mg/l as N (Chronic) = 0.622/(1+10^((10^-7.446)+12.323))

Class 4:
- mg/l as N (Acute) = 0.275/(1+10^((10^-7.446)+12.323))
- mg/l as N (Chronic) = 0.622/(1+10^((10^-7.446)+12.323))

Class 5:
- mg/l as N (Acute) = 0.275/(1+10^((10^-7.446)+12.323))
- mg/l as N (Chronic) = 0.622/(1+10^((10^-7.446)+12.323))

The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.

The criterion for aluminum will be implemented as follows:

- Where the pH is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO3 in the receiving water after mixing, the B7 ug/l chronic criterion [expressed as total recoverable] will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion [expressed as total recoverable].

The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.

The criterion for aluminum will be implemented as follows:

- Where the pH is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO3 in the receiving water after mixing, the B7 ug/l chronic criterion [expressed as total recoverable] will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion [expressed as total recoverable].

The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.

The criterion for aluminum will be implemented as follows:

- Where the pH is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO3 in the receiving water after mixing, the B7 ug/l chronic criterion [expressed as total recoverable] will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion [expressed as total recoverable].

The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.
regarding the waterbodies and time periods where application of the "Early Life Stages are Absent" criterion is determined to be appropriate.

Investigation should be conducted to develop more information where these levels are exceeded. pH dependent criteria. pH 7.8 used in table. See Table 2.14.4 for equation.

Total Phosphorus as P (mg/l) as a pollution indicator for lakes and reservoirs shall be 0.025. These indicators are superseded by numeric criteria in waters where promulgated.

The selenium water quality standard of 12.5 (mg/kg dry weight) for Gilbert Bay is a tissue based standard using the complete egg/embryo of aquatic dependent birds using Gilbert Bay based upon a minimum of five samples over the nesting season. Assessment procedures are incorporated as a part of this standard as follows:

Egg Concentration Triggers: DWQ Responses

<table>
<thead>
<tr>
<th>pH</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>30</th>
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<tbody>
<tr>
<td></td>
<td>6.5</td>
<td>6.6</td>
<td>6.7</td>
<td>6.8</td>
<td>6.9</td>
<td>7.0</td>
</tr>
<tr>
<td>30-DAY AVERAGE (CHRONIC) CONCENTRATION OF</td>
<td>TOTAL AMMONIA AS N (mg/l)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fish Early Life Stages Present</td>
<td>0</td>
<td>14</td>
<td>16</td>
<td>18</td>
<td>20</td>
<td>22</td>
</tr>
<tr>
<td>20</td>
<td>22</td>
<td>24</td>
<td>26</td>
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<td>24</td>
<td>26</td>
<td>28</td>
<td>30</td>
<td></td>
</tr>
</tbody>
</table>

Below 5.0 mg/kg: Routine monitoring with sufficient intensity to determine if selenium concentrations within the Great Salt Lake ecosystem are increasing.

5.0 mg/kg: Increased monitoring to address data gaps, loadings, and areas of uncertainty identified from initial Great Salt Lake selenium studies.

6.4 mg/kg: Initiation of a Level II Antidegradation review by the State for all discharge permit renewals or new discharge permits to Great Salt Lake. The Level II Antidegradation review may include an analysis of loading reductions.

9.8 mg/kg: Initiation of preliminary TMDL studies to evaluate selenium loading sources.

12.5 mg/kg and above: Declare impairment. Formalize and implement TMDL.

<table>
<thead>
<tr>
<th>Antidegradation Level II Review procedures associated with this standard are referenced at R317-2.3.5.C.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Table 3-DAY AVERAGE (CHRONIC) CONCENTRATION OF TOTAL AMMONIA AS N (mg/l)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fish Early Life Stages Absent</td>
</tr>
<tr>
<td>pH</td>
</tr>
<tr>
<td></td>
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<tr>
<td>30-DAY AVERAGE (CHRONIC) CONCENTRATION OF TOTAL AMMONIA AS N (mg/l)</td>
</tr>
<tr>
<td>30-DAY AVERAGE (CHRONIC) CONCENTRATION OF TOTAL AMMONIA AS N (mg/l)</td>
</tr>
<tr>
<td>30-DAY AVERAGE (CHRONIC) CONCENTRATION OF TOTAL AMMONIA AS N (mg/l)</td>
</tr>
<tr>
<td>30-DAY AVERAGE (CHRONIC) CONCENTRATION OF TOTAL AMMONIA AS N (mg/l)</td>
</tr>
</tbody>
</table>
PARAMETER    4-Day Average (Chronic) 
Concentration (UG/L) 
CADMIUM    CF * e(0.7977*ln(hardness)-3.909) 
CF = 1.46203 - ln(hardness)(0.145712) 
NICKEL     CF * e(0.8460(ln(hardness))+0.0584) 
CF = 1.46203 - ln(hardness)(0.145712) 
COPPER     CF * e(0.9422(ln(hardness))- 1.700) 
CF = 0.316  
ZINC       CF * e(0.8473(ln(hardness)) +0.884) 
CF = 0.85  
7.3  4.06  3.57  3.13  2.76  2.42  2.13  1.87 
7.4  3.78  3.32  2.92  2.57  2.26  1.98  1.74  
7.5  3.49  3.06  2.69  2.37  2.08  1.83  1.61 
7.6  3.18  2.79  2.45  2.16  1.90  1.67  1.47 
7.7  2.86  2.51  2.11  1.94  1.71  1.50  1.32 
7.8  2.54  2.23  1.96  1.73  1.52  1.33  1.17 
7.9  2.24  1.96  1.73  1.52  1.33  1.17  1.03 
8.0  1.94  1.71  1.50  1.32  1.16  1.02  0.897 
8.1  1.68  1.47  1.29  1.14  1.00  0.879  0.733 
8.2  1.43  1.26  1.11  1.07  0.96  0.879  0.752  
8.3  1.22  1.07  0.941  0.827  0.727  0.639  0.562 
8.4  1.03  0.906  0.796  0.700  0.615  0.541  0.475 
8.5  0.870  0.765  0.672  0.591  0.520  0.457  0.401 
8.6  0.735  0.646  0.568  0.499  0.439  0.396  0.339 
8.7  0.622  0.547  0.480  0.422  0.371  0.326  0.287 
8.8  0.528  0.464  0.408  0.359  0.315  0.277  0.244 
8.9  0.451  0.397  0.349  0.306  0.269  0.237  0.208 
9.0  0.389  0.342  0.300  0.264  0.232  0.204  0.179 

TABLE 2.14.3a  
EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD BY APPLICATION OF A CONVERSION FACTOR (CF). 

Parameter    1-Hour Average (Acute) 
Concentration (UG/L) 
CADMIUM    CF * e(1.72(ln(hardness))- 6.59) 
CF= 0.998 
COPPER     CF * e(0.8545(ln(hardness)) -1.702) 
CF= 0.960 
CHROMIUM III
CF = 0.947 
NICKEL     CF * e(0.8460(ln(hardness)) +2.255) 
CF = 0.997 
SILVER     N/A 
ZINC       CF * e(0.8473(ln(hardness))+0.884) 
CF = 0.986 

FOOTNOTE: 
(1) Hardness as mg/l CaCO3.
Notice of Continuation:  September 26, 2017[-1317, 1329]
Authorizing, and Implemented or Interpreted Law:  19-5; FWPCA 33 USC 1251, 1311-1317, 1329

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td>Utah Admin. Code</td>
<td>R614-1-4</td>
</tr>
<tr>
<td>Ref (R no.):</td>
<td>Filing No. 53033</td>
</tr>
</tbody>
</table>

Agency Information

<table>
<thead>
<tr>
<th>1. Department:</th>
<th>Labor Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency:</td>
<td>Occupational Safety and Health</td>
</tr>
<tr>
<td>Street address:</td>
<td>160 East 300 South, Third Floor</td>
</tr>
<tr>
<td>City, state:</td>
<td>Salt Lake City, UT</td>
</tr>
<tr>
<td>Mailing address:</td>
<td>PO Box 146600</td>
</tr>
<tr>
<td>City, state, zip:</td>
<td>Salt Lake City, UT 84114-6600</td>
</tr>
<tr>
<td>Contact person(s):</td>
<td>Cameron Ruppe 801-530-6898 <a href="mailto:cruppe@utah.gov">cruppe@utah.gov</a></td>
</tr>
<tr>
<td></td>
<td>Holly Lawrence 801-530-6494 <a href="mailto:hlawrence@utah.gov">hlawrence@utah.gov</a></td>
</tr>
</tbody>
</table>

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

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

UOSH's enforcement of the proposed amendment will be absorbed by existing personnel and will not result in additional cost or saving to the state budget.

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction

The additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC.

The largest cost element of this rule change for state construction projects involving the use of cranes is an evaluation requirement with associated training of $79.22 per training and $90.04 for each crane operator evaluation, for a total of $169.25. An overall savings is expected as a result of the elimination of the requirement that crane-operator certification be based on the capacity of equipment. The cost savings from eliminating this requirement ($358.13 per an affected crane operator) will outweigh the cost for evaluation of crane operators and documentation of such evaluation; OSHA estimates that approximately 50% of experienced operators would need to certify based on capacity alone under the previous construction crane operator standards. The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs.

The total number of crane operators on state construction projects in Utah is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA's extensive evaluation, UOSH has determined that the average employer who employs crane operators would incur and overall fiscal

<table>
<thead>
<tr>
<th>R614-1-4. Incorporation of Federal Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Purpose of the new rule or reason for the change:</td>
</tr>
</tbody>
</table>
| The purposes of these amendments to Utah's Occupational Safety and Health (UOSH) rules are to: 1) protect workers and other individuals involved in the use of cranes in construction activities; 2) protect worker privacy; 3) reduce employer burden; and 4) satisfy the requirement of Subsection 34A-6-102(2) of the Utah Occupational Safety and Health Act that UOSH's occupational safety and health standards be "as effective as" the standards established by federal Occupational Safety and Health Administration (OSHA).

2. Purpose of the new rule or reason for the change: |
| The proposed amendment incorporates the federal OSHA standards for the use of cranes in construction activities which: 1) requires certification/licensure and evaluation of crane operators for their ability to safely operate equipment covered by 29 Code of Federal Regulations (CFR) 1926 Subpart CC; 2) requires documentation of crane-operator evaluation; 3) alters the requirement that crane-operator certification be based on equipment "type" or "type and capacity"; and 4) continues requiring training of crane operators. The proposed amendment also incorporates the federal OSHA standards for recording and reporting occupational injuries and illnesses which: 1) eliminates the requirement that establishments with 250 or more employees (currently required to keep OSHA injury and illness records) submit information electronically from their OSHA Forms 300 and 301; and 2) requires covered employers to submit their Employer Identification Number (EIN) electronically along with other injury and illness data they are required to submit.

3. Purpose of the new rule or reason for the change: |
| The purposes of these amendments to Utah's Occupational Safety and Health (UOSH) rules are to: 1) protect workers and other individuals involved in the use of cranes in construction activities; 2) protect worker privacy; 3) reduce employer burden; and 4) satisfy the requirement of Subsection 34A-6-102(2) of the Utah Occupational Safety and Health Act that UOSH's occupational safety and health standards be "as effective as" the standards established by federal Occupational Safety and Health Administration (OSHA).

4. Summary of the new rule or change: |
| The proposed amendment incorporates the federal OSHA standards for the use of cranes in construction activities which: 1) requires certification/licensure and evaluation of crane operators for their ability to safely operate equipment covered by 29 Code of Federal Regulations (CFR) 1926 Subpart CC; 2) requires documentation of crane-operator evaluation; 3) alters the requirement that crane-operator certification be based on equipment "type" or "type and capacity"; and 4) continues requiring training of crane operators. The proposed amendment also incorporates the federal OSHA standards for recording and reporting occupational injuries and illnesses which: 1) eliminates the requirement that establishments with 250 or more employees (currently required to keep OSHA injury and illness records) submit information electronically from their OSHA Forms 300 and 301; and 2) requires covered employers to submit their Employer Identification Number (EIN) electronically along with other injury and illness data they are required to submit.

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The additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC.

The largest cost element of this rule change for state construction projects involving the use of cranes is an evaluation requirement with associated training of $79.22 per training and $90.04 for each crane operator evaluation, for a total of $169.25. An overall savings is expected as a result of the elimination of the requirement that crane-operator certification be based on the capacity of equipment. The cost savings from eliminating this requirement ($358.13 per an affected crane operator) will outweigh the cost for evaluation of crane operators and documentation of such evaluation; OSHA estimates that approximately 50% of experienced operators would need to certify based on capacity alone under the previous construction crane operator standards. The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs.

The total number of crane operators on state construction projects in Utah is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA's extensive evaluation, UOSH has determined that the average employer who employs crane operators would incur and overall fiscal
The total number of crane operators on local government construction projects in Utah is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA's extensive evaluation, UOSH has determined that the average employer who employs crane operators would incur and overall fiscal benefit of approximately $15 (3% discount rate) / $20 (7% discount rate) for each crane operator.

29 CFR 1904
The elimination of the requirement that establishments with 250 or more employees (currently required to keep OSHA injury and illness records) submit information electronically from their OSHA Forms 300 and 301 and the addition of requiring covered employers to submit their EIN electronically along with other injury and illness data is not an economically significant regulatory action. OSHA estimates the time it takes to electronically submit information from OSHA Forms 300 and 301 costs each employer approximately $11.39 per an injury or illness case.

The total savings for affected employers is based on the number of recordable injuries and illnesses sustained at that establishment. The requirement that employers submit their EIN electronically with injury and illness data is estimated to cost $4.75 per an affected establishment.

B) Local governments:
Local governments have no administration or enforcement obligations under the proposed amendment.

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction
The additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC.

The largest cost element of this rule change for local government construction projects involving the use of cranes is an evaluation requirement with associated training of $79.22 per training and $90.04 for each crane operator evaluation, for a total of $169.25. An overall savings is expected as a result of the elimination of the requirement that crane-operator certification be based on the capacity of equipment. The cost savings from eliminating this requirement ($358.13 per an affected crane operator) will outweigh the cost for evaluation of crane operators and documentation of such evaluation; OSHA estimates that approximately 50% of experienced operators would need to certify based on capacity alone under the previous construction crane operator standards. The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs.

C) Small businesses ("small business" means a business employing 1-49 persons):
29 CFR 1926 Subpart CC - Cranes and Derricks in Construction
The additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC.

The largest cost element of this rule change for small business construction projects involving the use of cranes is an evaluation requirement with associated training of $79.22 per training and $90.04 for each crane operator evaluation, for a total of $169.25. Small businesses will, by definition, have few operators, and the $169.25 cost for each operator evaluation with training will not be a significant impact for even the smallest businesses. At an estimated hourly wage of $43.25, the annual salary for an operator is $86,500 ($43.25 x 8 x 5 x 50), so this operator evaluation cost is 0.2% (169.25 / 86,500) of an operator's annual salary. Hence, this rule change will not have a significant economic impact on a substantial number of small entities. Small businesses should experience an overall savings as a result of the elimination of the requirement that crane-operator certification be based on the capacity of equipment. The cost savings from eliminating this requirement ($358.13 per an affected crane operator) will outweigh the cost for required evaluation of crane operators and documentation of such evaluation; OSHA estimates that approximately 50% of experienced operators would need to certify based on capacity alone under the previous construction crane
operator standards. The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs. The total number of crane operators on small business construction projects in Utah is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA’s extensive evaluation, UOSH has determined that the average employer who employs crane operators would incur and overall fiscal benefit of approximately $15 (3% discount rate) / $20 (7% discount rate) for each crane operator.

29 CFR 1904
Small businesses will, by definition, have less than fifty (50) employees. The elimination of the requirement that establishments with 250 or more employees (currently required to keep OSHA injury and illness records) submit information electronically from their OSHA Forms 300 and 301 does not impact small businesses. The addition of requiring covered employers to submit their EIN electronically along with other injury and illness data is not an economically significant regulatory action. The requirement that employers submit such information with injury and illness data is estimated to cost $4.75 per an affected establishment.

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

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction
The additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC.

The largest cost element of this rule change for non-small business construction projects involving the use of cranes is an evaluation requirement with associated training of $79.22 per training and $90.04 for each crane operator evaluation, for a total of $169.25. Non-small businesses that use cranes in their business operations should experience an overall savings as a result of the elimination of the requirement that crane-operator certification be based on the capacity of equipment. The cost savings from eliminating this requirement ($358.13 per an affected crane operator) will outweigh the cost for required evaluation of crane operators and documentation of such evaluation; OSHA estimates that approximately 50% of experienced operators would need to certify based on capacity alone under the previous construction crane operator standards. The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs.

The total number of crane operators on non-small business construction projects in Utah is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA’s extensive evaluation, UOSH has determined that the average employer who employs crane operators would incur and overall fiscal benefit of approximately $15 (3% discount rate) / $20 (7% discount rate) for each crane operator.

29 CFR 1904
The elimination of the requirement that establishments with 250 or more employees (currently required to keep OSHA injury and illness records) submit information electronically from their OSHA Forms 300 and 301 and the addition of requiring covered employers to submit their EIN electronically along with other injury and illness data is not an economically significant regulatory action. OSHA estimates the time it takes to electronically submit information from OSHA Forms 300 and 301 costs each employer approximately $11.39 per an injury or illness case. The total savings for affected employers is based on the number of recordable injuries and illnesses sustained at that establishment. The requirement that employers submit their EIN electronically with injury and illness data is estimated to cost $4.75 per an affected establishment.

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):

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction
The additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC.

Persons other than small businesses, non-small businesses, state, or local government entities (other persons) will experience the same fiscal impact as described for small businesses. The largest cost element of this rule change for other persons’ construction projects involving the use of cranes is an evaluation requirement with associated training of $79.22 per training and $90.04 for each crane operator evaluation, for a total of $169.25. The cost savings from eliminating the requirement that crane-operator certification be based on the capacity of
equipment ($358.13 per an affected crane operator) will outweigh the cost for required evaluation of crane operators and documentation of such evaluation; OSHA estimates that approximately 50% of experienced operators would need to certify based on capacity alone under the previous construction crane operator standards. The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs.

The total number of crane operators on other persons' construction projects in Utah is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA's extensive evaluation, UOSH has determined that the average employer who employs crane operators should incur and overall fiscal benefit of approximately $15 (3% discount rate) / $20 (7% discount rate) for each crane operator.

29 CFR 1904
The elimination of the requirement that establishments with 250 or more employees (currently required to keep OSHA injury and illness records) submit information electronically from their OSHA Forms 300 and 301 and the addition of requiring covered employers to submit their EIN electronically along with other injury and illness data is not an economically significant regulatory action. OSHA estimates the time it takes to electronically submit information from OSHA Forms 300 and 301 costs each employer approximately $11.39 per an injury or illness case. The total savings for affected employers is based on the number of recordable injuries and illnesses sustained at that establishment. The requirement that employers submit their EIN electronically with injury and illness data is estimated to cost $4.75 per an affected establishment.

F) Compliance costs for affected persons:

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction
The additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC. OSHA has extended the requirement for crane operator certification numerous times

OSHA estimates employers impacted by the final rule, Cranes and Derricks in Construction: Operator Qualification, employ approximately 117,130 crane operators nationally and estimates the nationwide annualized cost for crane-operator evaluation, documentation and training at $1,685,000 (3% discount rate) and $1,695,000 (7% discount rate). The nationwide annualized benefit for eliminating crane-operator certifications based on crane capacity is estimated at $3,436,000 (3% discount rate) and $4,082,000 (7% discount rate). OSHA estimates the approximate total cost savings throughout the nation, as a result of the changes to 29 CFR 1926 Subpart CC, at $1,751,000 (3% discount rate) and $2,387,000 (7% discount rate). At 117,130 crane operators and a total cost savings of $1,751,000 (3% discount rate) / $2,387,000 (7% discount rate), the average annualized fiscal benefit for each employer impacted by this rule would be approximately $15 (3% discount rate) / $20 (7% discount rate) for each crane operator.

The total number of crane operators on construction projects currently employed in the is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA's extensive evaluation, UOSH has determined that the average employer who employs crane operators should incur and overall fiscal benefit of approximately $15 (3% discount rate) / $20 (7% discount rate) for each crane operator.

The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs.

29 CFR 1904
The elimination of the requirement that establishments with 250 or more employees (currently required to keep OSHA injury and illness records) submit information electronically from their OSHA Forms 300 and 301 and the addition of requiring covered employers to submit their EIN electronically along with other injury and illness data is not an economically significant regulatory action. OSHA estimates the time it takes to electronically submit information from OSHA Forms 300 and 301 costs each employer approximately $11.39 per an injury or illness case. The total savings for affected employers is based on the number of recordable injuries and illnesses sustained at that establishment. The requirement that employers submit their EIN electronically with injury and illness data is estimated to cost $4.75 per an affected establishment.

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

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2021</th>
<th>FY2022</th>
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<tbody>
<tr>
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<td><strong>Total Fiscal Cost</strong></td>
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<td>Fiscal Benefits</td>
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<td><strong>Total Fiscal Benefits</strong></td>
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<td>Net Fiscal Benefits</td>
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<td><strong>Total Net Fiscal Benefits</strong></td>
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</tbody>
</table>

H) Department head approval of regulatory impact analysis:

The head of the Labor Commission, Jaceson Maughan 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 additional cost for certification/licensure of crane operators is expected to be minimal because Utah law currently requires certification of crane operators on commercial construction projects and most crane operators are certified to operate equipment covered by 29 CFR 1926 Subpart CC.

The largest cost element of this rule change for small business construction projects involving the use of cranes is an evaluation requirement with associated training of $79.22 per training and $90.04 for each crane operator evaluation, for a total of $169.25. OSHA estimates that approximately 50% of experienced operators would need to certify based on capacity alone under the previous construction crane operator standards. The additional costs for evaluating crane operators and documenting such evaluations are expected to be minimal because most employers are currently providing some degree of operator training and performing operator competency evaluations to comply with the previous 29 CFR 1926.1427(k), and were previously doing so to comply with Subsections 1926.20(b)(4) and 1926.21(b)(2). Employers who currently provide insufficient training will incur new compliance costs.

The total number of crane operators on construction projects in Utah is unknown and therefore, the fiscal impact is inestimable. Although the fiscal impact is inestimable, based on OSHA’s extensive evaluation, UOSH has determined that the average employer who employs crane operators would incur an overall fiscal benefit of approximately $15 (3% discount rate) / $20 (7% discount rate) for each crane operator.

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

Jaceson R. Maughan, Commissioner

Citation Information

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

<table>
<thead>
<tr>
<th>Title 34A, Section 6</th>
</tr>
</thead>
</table>

Incorporations by Reference Information

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

<table>
<thead>
<tr>
<th>First Incorporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Official Title of Materials Incorporated (from title page)</td>
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<tr>
<td>Date Issued</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Second Incorporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Official Title of Materials Incorporated (from title page)</td>
</tr>
<tr>
<td>Date Issued</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Third Incorporation</th>
</tr>
</thead>
</table>
standards are hereby incorporated:

A.  The following federal occupational safety and health


Authorizing, and Implemented or Interpreted Law:  34A-6

Date of Enactment or Last Substantive Amendment:  [December 23, 2019][2020]

Notice of Continuation:  October 19, 2017

Authorizing, and Implemented or Interpreted Law:  34A-6

NOTICE OF PROPOSED RULE

NOTICE OF PROPOSED RULE

Type of Rule:  Amendment

Utah Admin. Code Ref (R no.):  R647-1-106  Filing No. 53045

Agency Information

1.  Department:  Natural Resources

Agency:  Oil, Gas and Mining; Non-Coal

Building:  Department of Natural Resources

Street Address:  1594 W North Temple, Suite 1210

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:  Natasha Ballif  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:

R647-1-106.  Definitions

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

During the 2020 General Session, two bills were passed, S.B. 131 and H.B. 294, that amended the definitions of small mining operations, gravel, mining operations, rock aggregate, and sand, and added a definition for basalt. The change in the small mine definitions also affects the large mining operations, although that definition is only in the Oil, Gas and Mining; Non-Coal rules, not statute.

4. Summary of the new rule or change:

Section R647-1-106 establishes definitions for terms used within Title R647 Minerals Regulatory Program rules. The change amends the definitions for "small mining operations", "large mining operations", "gravel", "mining operations", "rock aggregate", and "sand". This change also adds a definition for "basalt".

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There is a total of one state agency, the Division of Oil, Gas and Mining, that will be associated with this proposed rule change. There is no estimated cost to the state as these amendments are administrative.
**B) Local governments:**

This rule does not apply to local governments.

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

There are a total of 559 small business mining operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated fiscal cost to these businesses. There will be an estimated fiscal benefit to mining operators who have small mines and would like to expand, as they will not need to apply and pay for a large mining permit. The fiscal benefit is estimated at $500 per small mine expansion between 20-50 acres, however, it cannot be estimated how many mines will expand.

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

There are a total of 36 non-small business mining operators (for a complete listing of NAICS codes used in this analysis, please contact the agency) in the . There is no estimated fiscal cost to these businesses. There will be an estimated fiscal benefit to mining operators who have small mines and would like to expand, as they will not need to apply and pay for a large mining permit. The fiscal benefit is estimated at $500 per small mine expansion between 20-50 acres, however, it cannot be estimated how many mines will expand.

**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 mineral mine 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.):**

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2021</th>
<th>FY2022</th>
<th>FY2023</th>
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<tbody>
<tr>
<td>State Government</td>
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<tr>
<td>Small Businesses</td>
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</tbody>
</table>

**Non-Small Businesses** | $0 | $0 | $0 |
| Other Persons           | $0 | $0 | $0 |
| **Total Fiscal Cost**   | $0 | $0 | $0 |

**Fiscal Benefits**

<table>
<thead>
<tr>
<th>Fiscal Benefits</th>
<th>State Government</th>
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<td><strong>Total Fiscal Benefits</strong></td>
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</table>

| 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:

This rule change is estimated to have no fiscal costs to state government and businesses.

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.}
"Act" means the Utah Mined Land Reclamation Act, enacted R647-1-106. Definitions.

"Approved Notice of Intention" means a formally filed notice contains a mining and reclamation plan, which has been approved by

"Basalt" (a) means fine grained, dark-colored igneous rock contains a mining and reclamation plan, which has been approved by

"Basalt" is prima facie evidence that the material meets the requirements of Subsection (a). An unmapped area can be classified by a Utah Geological Survey Geologist or a licensed professional geologist in the state.

"Board" means the Utah Board of Oil, Gas and Mining. The Board shall hear any appeals of adjudicative proceedings which commenced before the Division as well as any adjudicative proceedings and other proceedings which commence before the Board. The Board may appoint a Hearing Examiner for its hearings in accordance with the Rules of Practice and Procedure before the Board of Oil, Gas and Mining.

"Deleterious Materials" means earth, waste or introduced materials exposed by mining operations to air, water, weather or microbiological processes, which would likely produce chemical or physical conditions in the soils or water that are detrimental to the biota or hydrologic systems.

"Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated materials, solutions, or otherwise occurring on the surface, beneath the surface, or in the waters of the land from which any useful product may be produced, extracted or obtained, or which is extracted by underground mining methods for underground storage. "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, basalt for an area not to exceed 50 acres, water, geothermal steam, and oil and gas, but includes oil shale and bituminous sands extracted by mining operations.

"Development" means the work performed in relation to a deposit following its discovery, but prior to and in contemplation of production mining operations. Development includes, but is not limited to, preparing the site for mining operations; further defining the ore deposit by drilling or other means; constructing pilot plant operations; and constructing roads or ancillary facilities.

"Disturbed Area" means the surface land disturbed by mining operations. The disturbed area for small mining operations shall not exceed five acres in an incorporated area of a county or ten acres in an unincorporated area of a county. The disturbed area for large mining operations shall not exceed the acreage described in the approved notice of intention.

"Division" means the Utah Division of Oil, Gas and Mining. The Division Director or designee is the Presiding Officer for any informal adjudicative proceedings which commence before the Division in accordance with Rule Section R647-5.

"Exempt Mining Operations" means those mining operations which were previously exempt from the Act because less than 500 tons of material was mined in a period of twelve consecutive months or less than two acres of land was excavated or used as a disposal site in a period of twelve consecutive months. These exemptions were eliminated by statutory amendments in 1986 and are no longer available.

"Exploration" means surface disturbing activities conducted for the purpose of discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral deposit, and identifying regions or specific areas in which deposits or mineral deposits are most likely to exist. "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling holes; digging pits or cuts; building roads and other access ways.

"Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the deposits are most likely to exist. "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling holes; digging pits or cuts; building roads and other access ways.

"Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including, but not limited to: (a) on-site private ways, roads, and

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R647. Natural Resources; Oil, Gas and Mining; Non-Coal. R647-1. Minerals Regulatory Program.

R647-1-106. Definitions.

"Act" means the Utah Mined Land Reclamation Act, enacted 1975, as amended. (Section 40-8-1, et seq., UCA.)

"Adjudicative proceeding" means an agency action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including any agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and judicial review of any of such actions. Those matters not governed by Title 63G, Chapter 4, Administrative Procedures Act, of the Utah Code annotated (1953, as amended) shall not be included within this definition.

"Agency" means a board, commission, department, division, officer, council, office, committee, commission, bureau, or other administrative unit of this state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, but does not mean the Legislature, the courts, the governor, any political subdivision of the state, or any administrative unit of a political subdivision of the state.

"Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by statute.

"Amendment" is an insignificant change in the approved notice of intention.

"Approved Notice of Intention" means a formally filed notice of intention to commence mining operations, including any amendments or revisions thereto that is determined to be complete and contains a mining and reclamation plan, which has been approved by the Division. A notice of intention for exploration having a disturbed area of five acres or less, or a small mining operation must be determined complete in writing by the Division, but does not require a mining and reclamation plan.

"Basalt" (a) means fine grained, dark-colored igneous rock associated with a lava flow or igneous intrusion composed primarily of plagioclase and pyroxene. (b) Utah Geological Survey or the United States Geological Survey published maps that classify material as
railroads; (b) land excavations; (c) exploration sites; (d) drill sites or workings; (e) refuse banks or spoil piles; (f) evaporation or settling ponds; (g) stockpiles; (h) leaching dumps; (i) placer areas; (j) tailings ponds or dumps; (k) work, parking, storage, or waste discharge areas, structures, and facilities. Land affected does not include: (x) lands which have been reclaimed in accordance with an approved plan or as otherwise approved by the Board, (y) lands on which mining operations ceased prior to April 29, 1989.  

"Large Mining Operations" means mining operations which have a disturbed area of more than [five]10 surface acres at any time in an incorporated area of a county or more than [ten]20 surface acres at any time in an unincorporated area of a county.  

"License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by statute.  

"Mining operations" means those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, [but not limited to] surface mining and the surface effects of underground and in situ mining; on-site transportation, concentrating, milling, evaporation, and other primary processing. "Mining operation" does not include: the extraction of sand, gravel, and rock aggregate; the extraction of basalt for an area not to exceed fifty acres; the extraction of oil and gas; the extraction of geothermal steam; smelting or refining operations; off-site operations and transportation; reconnaissance activities; or activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.  

"Notice of Intention" means a notice of intention to commence mining operations, that provide the complete information required for authorization to conduct mining operations, and includes any amendments or revisions thereto.  

"Off-site" means the land areas that are outside of or beyond the on-site land.  

"On-site" means the surface lands on or under which surface or underground mining operations are conducted. A series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the Division.  

"Operator" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mining operation or proposed mining operation.  

"Owner" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mineral deposit or the surface of lands employed in mining operations.  

"Party" means the Board, Division or other person commencing an adjudicative proceeding, [all]any respondents, [all]any persons permitted by the Board to intervene in the proceeding, and [all]any persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.  

"Permit" means a notice to conduct mining operations issued by the Division. A notice to conduct mining operations is issued by the Division when either a notice of intention for a small mining operation or exploration is determined to be complete and includes a surety approved by the Division, or a notice of intention for a large mining operation or exploration with a plan of operations and surety approved by the Division.  

"Person" means an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character, or another agency.  

"Presiding Officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding. For [the purpose of] these rules, the Board, or its appointed Hearing Examiner, shall be considered the Presiding Officer of [all]any appeals of informal adjudicative proceedings which commenced before the Division as well as [all]any adjudicative proceedings which commence before the Board. The Division Director or his/her designee shall be considered a Presiding Officer for [all]any informal adjudicative proceedings which commence before the Division in accordance with this [Rule]Section R647-5. If fairness to the parties is not compromised, an agency may substitute one Presiding Officer for another during any proceeding.  

"Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or otherwise treat the land affected in order to achieve a safe and ecologically stable condition and use which will be consistent with local environmental conditions and land management practices.  

"Regrade or Grade" means to physically alter the topography of any land surface.  

"Respondent" means any person against whom an adjudicative proceeding is initiated, whether by an agency or any other person.  

"Revision" means a change to an approved Notice of Intention to Conduct Mining Operations, which will increase or decrease the amount of land affected, or alter the location and type of on-site surface facilities, such that the nature of the reclamation plan will differ substantially from that in the approved Notice of Intention.  

"Rock Aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit, that were created by alluvial sedimentary processes. The definition of rock aggregate specifically excludes any solid rock in the form of bedrock, other than basalt, which is exposed at the surface of the earth or overlain by unconsolidated material.  

"Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between [four]4.004mm to [two]2mm, which has been deposited by sedimentary processes.  

"Small Mining Operations" means mining operations which have a disturbed area of [five]10 or [less]fewer surface acres at any time in an incorporated area of a county or [ten]20 or [less]fewer surface acres at any time in an unincorporated area of a county.  

"Shut Down" means an absence of onsite mining operations on [all]any land affected under a complete or approved notice of intention where the operator intends that mining operations are permanently terminated, or the Division, after notice, makes a determination pursuant to R647-3-113.7 or R647-4-117.6.  

"Surface Mining" means mining conducted on the surface of the land including open pit, strip, or auger mining; dredging; quarrying; leaching; surface evaporation operations; reworking abandoned dumps and tailings and activities related thereto.  

"Suspending Officer" means an absence of ongoing operations on [all]any land affected under an approved notice of intention, where the operator intends that operations will eventually resume.  

"Underground Mining" means mining carried out beneath the surface by means of shafts, tunnels or other underground mine openings.  

NOTICES OF PROPOSED RULES
Key: minerals reclamation

Date of enactment or last substantive amendment: February 10, 2020

Notice of continuation: January 24, 2018

Authorizing, and implemented or interpreted law: 40-8-1 et seq.

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>Utah Admin. Code</td>
<td>R647-3-114</td>
</tr>
<tr>
<td>Ref (R no.):</td>
<td>Filing No. 53046</td>
</tr>
</tbody>
</table>

Agency Information

1. Department: Natural Resources
2. Agency: Oil, Gas and Mining; Non-Coal
3. Building: Department of Natural Resources
4. Street address: 1594 W North Temple, Suite 1210
5. City, state: Salt Lake City, UT
6. Mailing address: 1594 W North Temple, Suite 1210
7. City, state, zip: Salt Lake City, UT 84114
8. Contact person(s):
   - Name: Natasha Ballif
   - Phone: 801-538-5328
   - Email: natashaballif@utah.gov

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

General Information

2. Rule or section catchline:
   R647-3-114. Mine Enlargement

3. Purpose of the new rule or reason for the change:
   During the 2020 General Session, one bill was passed, S.B. 131, that amended the definition of small mining operations and will affect the Mine Enlargement section of Rule R647-3.

4. Summary of the new rule or change:
   Section R647-3-114 addresses Mine Enlargement. The change will amend the operation sizes from 5 to 10 acres in incorporated areas, and from 10 to 20 acres in unincorporated areas.

Fiscal Information

5. Aggregate anticipated cost or savings to:
   A) State budget:
   There is a total of one state agency, the Division of Oil, Gas and Mining, that will be associated with this proposed rule change. There is no estimated cost to the state, as these amendments are administrative.

   B) Local governments:
   This rule does not apply to local governments.

   C) Small businesses ("small business" means a business employing 1-49 persons):
   There are a total of 559 small business mining operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated fiscal cost to these businesses. There will be an estimated fiscal benefit to mining operators who have small mines and would like to expand, as they will not need to apply and pay for a large mining permit. The fiscal benefit is estimated at $500 per small mine expansion between 20-50 acres, however, it cannot be estimated how many mines will expand.

   D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
   There are a total of 36 non-small business mining operators (for a complete listing of NAICS codes used in this analysis, please contact the agency) in the . There is no estimated fiscal cost to these businesses. There will be an estimated fiscal benefit to mining operators who have small mines and would like to expand, as they will not need to apply and pay for a large mining permit. The fiscal benefit is estimated at $500 per small mine expansion between 20-50 acres, however, it cannot be estimated how many mines will expand.

   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 does not apply to persons other than small businesses, businesses, or state government entities.

   F) Compliance costs for affected persons:
   There will be no compliance costs for mineral mine 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Cost</td>
</tr>
<tr>
<td>State Government</td>
</tr>
<tr>
<td>Local Governments</td>
</tr>
<tr>
<td>Small Businesses</td>
</tr>
</tbody>
</table>
Additionally, an association having not fewer than ten members receives requests from ten interested persons or from an agency. The agency is required to hold a hearing if it requests a hearing by submitting a written request to the agency identified in box 1.

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

This rule change is estimated to have no fiscal costs to state government and businesses.

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:

10. This rule change MAY become effective on:

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 of the Division of Oil, Gas and Mining Date: 08/31/2020

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.
R647-3-114. Mine Enlargement.

Before enlarging a small mining operation beyond [five]ten acres of surface disturbance in an incorporated area of a county or [ten]twenty acres in an unincorporated area of a county, the operator must file a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) and receive Division approval.

KEY: minerals reclamation
Date of Enactment or Last Substantive Amendment: October 26, 2011
Notice of Continuation: January 24, 2018
Authorizing, and Implemented or Interpreted Law: 40-8-1 et seq.

NOTE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R647-4-118 Filing No. 53047

Agency Information

1. Department: Natural Resources
Agency: Oil, Gas and Mining; Non-Coal
Building: Department of Natural Resources
Street address: 1594 W North Temple, Suite 1210
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):
Fiscal Information

General Information

2. Rule or section catchline:
R647-4-118. Revisions

3. Purpose of the new rule or reason for the change:
During the 2020 General Session, one bill was passed, S.B. 131, that amended the definition of small mining operations and will affect the Revisions section of Rule R647-4.

4. Summary of the new rule or change:
Section R647-4-118 addresses revisions to large mine permits. The change will amend the operation sizes from 5 to 10 acres in incorporated areas, and from 10 to 20 acres in unincorporated areas.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
There is a total of one state agency, the Division of Oil, Gas and Mining, that will be associated with this proposed rule change. There is no estimated cost to the state, as these amendments are administrative.

B) Local governments:
This rule does not apply to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are a total of 559 small business mining operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated fiscal cost to these businesses. There will be an estimated fiscal benefit to mining operators who have small mines and would like to expand, as they will not need to apply and pay for a large mining permit. The fiscal benefit is estimated at $500 per small mine expansion between 20-50 acres, however, it cannot be estimated how many mines will expand.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are a total of 36 non-small business mining operators (for a complete listing of NAICS codes used in this analysis, please contact the agency) in the . There is no estimated fiscal cost to these businesses. There will be an estimated fiscal benefit to mining operators who have small mines and would like to expand, as they will not need to apply and pay for a large mining permit. The fiscal benefit is estimated at $500 per small mine expansion between 20-50 acres, however, it cannot be estimated how many mines will expand.

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 does not apply to persons other than small businesses, businesses, or state government entities.

F) Compliance costs for affected persons:
There will be no compliance costs for mineral mine 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

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2021</th>
<th>FY2022</th>
<th>FY2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Local Governments</td>
<td>$0</td>
<td>$0</td>
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</tr>
<tr>
<td>Small Businesses</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Non-Small Businesses</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Other Persons</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Total Fiscal Cost</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

Fiscal Benefits

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2021</th>
<th>FY2022</th>
<th>FY2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Local Governments</td>
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<tr>
<td>Small Businesses</td>
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</tr>
<tr>
<td>Non-Small Businesses</td>
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<tr>
<td>Total Fiscal Benefits</td>
<td>$0</td>
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<td>$0</td>
</tr>
<tr>
<td>Net Fiscal Benefits</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>
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:
This rule change is estimated to have no fiscal costs to state government and businesses.

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: 10/15/2020

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

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Baza; Director of the Division of Oil, Gas and Mining</td>
<td>08/31/2020</td>
</tr>
</tbody>
</table>

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.

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.
R647-4. Large Mining Operations.
R647-4-118. Revisions.
1. In order to revise a notice of intention, an operator shall file a Notice of Intention to Revise Large Mining Operations (FORM MR-REV). This notice of intention [will] must include all information concerning the revision that would have been required in the original notice of intention.

2. A Notice of Intention to Revise Large Mining Operations (FORM MR-REV) will be processed and considered for approval by the Division in the same manner as an original notice of intention. The operator will be authorized and bound by the requirements of the existing approved notice until the revision is acted upon and any revised surety requirements are satisfied. Those portions of the approved notice of intention not subject to the revision will not be subject to review under this provision.

3. Large mining operations which have a disturbed area of [five] ten acres or less in an incorporated area of a county or [ten] twenty acres or less in an unincorporated area of a county may refile as a small mining operation. Reclaimed areas must meet full bond release requirements before they can be excluded from the disturbed acreage.

KEY: minerals reclamation
Date of Enactment or Last Substantive Amendment: [October 26, 2011]2020
Notice of Continuation: January 24, 2018
Authorizing, and Implemented or Interpreted Law: 40-8-1 et seq.

End of the Notices of Proposed Rules Section
NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the Utah State Bulletin, it may receive comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a CHANGE IN PROPOSED RULE, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the Utah State Bulletin ends October 15, 2020.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the Utah State Bulletin. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them ([example]). A row of dots in the text between paragraphs (........) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Office of Administrative Rules may include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through January 13, 2021, an agency may notify the Office of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the CHANGE IN PROPOSED RULE. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Office of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE by the end of the 120-day period after publication, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page
NOTICE OF CHANGE IN PROPOSED RULE

Utah Admin. Code Ref (R no.): R35-2-2 Filing No. 52790

Agency Information
1. Department: Administrative Services
 Agency: Records Committee
 Building: State Archives
 Street address: 346 S Rio Grande St
 City, state, zip: Salt Lake City, UT 84101
 Mailing address: 346 S Rio Grande St
 City, state, zip: Salt Lake City, UT 84101
 Contact person(s):
 Name: Kendra Yates
 Phone: 801-531-3856
 Email: kendrayates@utah.gov
 Name: Rebekkah Shaw
 Phone: 801-531-3851
 Email: rshaw@utah.gov

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

General Information
2. Rule or section catchline:
 R35-2-2. Scheduling and Declining Requests for Hearings

3. Change in Proposed Rule:
 Changes FILING Name, Publication date of prior filing:
 R35-2-2. Scheduling and Declining Requests for Hearings Published 06/15/2020

4. Reason for this change:
 The Records Committee (Committee) received public comment from an agency and an attorney at the Utah Attorney General’s Office who pointed out that the language of Subsection R35-2-2(6) of the proposed amendment proscribed actions that could be unfair in some cases.

5. Summary of this change:
 This change rewords Subsection R35-2-2(6) so that the original intent was honored, but the result was not overly prescriptive. The Committee shall deny that particular request but will then be able to make a separate decision about whether or not to hear the appeal. (EDITOR’S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the June 15, 2020, issue of the Utah State Bulletin, on page 12. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information
6. Aggregate anticipated cost or savings to:
 A) State budget:
 This change has no fiscal impact on state budget because it is only administrative in nature.

B) Local government:
 This change has no fiscal impact on local governments because it is only administrative and internal in nature.

C) Small businesses (“small business” means a business employing 1-49 persons):
 This change has no fiscal impact on small businesses because it is only administrative and internal in nature.

D) Non-small businesses (“non-small business” means a business employing 50 or more persons):
 This change has no fiscal impact on non-small businesses because it is only administrative and internal in nature.

E) Persons other than small businesses, non-small businesses, or 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 change has no fiscal impact on other persons because it is only administrative in nature.

F) Compliance costs for affected persons:
 There is no cost for complying with these changes.

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.)

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2021</th>
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<tbody>
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<td>State Government</td>
<td>$0</td>
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<td>Local Governments</td>
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<tr>
<td>Small Businesses</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>
### Public Notice Information

10. 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:** 10/15/2020

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

**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 11, 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

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Kenneth Williams, Director of Division of Archives and Records Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>08/13/2020</td>
</tr>
</tbody>
</table>

**R35. Administrative Services, Records Committee.**

**R35-2. Declining Appeal Hearings.**

**R35-2-2. Scheduling and Declining Requests for Hearings.**

1. In order to decline a request for a hearing under Subsection 63G-2-403(4), the Executive Secretary shall consult with the Committee Chair and at least one other member of the Committee.

   (a) The Committee Chair and one other member of the Committee must both agree with the Executive Secretary's recommendation to decline to schedule a hearing. Such a decision shall consider the potential for a public interest claim as may be put forward by the petitioner under the provisions of Subsection 63G-2-403(11)(b). A copy of each decision to decline a hearing shall be retained in the file.

   (b) The Executive Secretary's notice to the petitioner indicating that the request for a hearing has been declined, as provided for in Subsection 63G-2-403(4)(b)(ii)(A), shall include a copy of the previous order of the Committee holding that the records at issue are appropriately classified.

2. In any appeal to the Committee of a governmental entity's denial of access to records for the reason that the record is not maintained by the governmental entity, the petitioner shall provide sufficient evidence in the petitioner's statement of facts, reasons, and legal authority in support of the appeal, that the record was maintained by the governmental entity at one time, or that the

### Citation Information

8. 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):

<table>
<thead>
<tr>
<th>Subsection 63G-2-402(1)(b)</th>
<th>Subsection 63G-2-403(1)</th>
<th>Subsection 63G-2-403(2)</th>
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<tbody>
<tr>
<td>Subsection 63G-2-403(3)(a)</td>
<td>Subsection 63G-2-403(4)</td>
<td>Subsection 63G-2-403(4)(b)(ii)(A)</td>
</tr>
<tr>
<td>Subsection 63G-2-403(11)(b)</td>
<td>Section 63G-2-502</td>
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### Table

<table>
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<tr>
<th>Non-Small Businesses</th>
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<tbody>
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<tr>
<td><strong>Total Fiscal Cost</strong></td>
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<td>Fiscal Benefits</td>
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<td>State Government</td>
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<tr>
<td>Net Fiscal Benefits</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Administrative Services, Tani Downing, has reviewed and approved this fiscal analysis.

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

This change will not have a fiscal impact on businesses, as it is only administrative in nature, and clarifies long-standing processes utilizing staff as they are in their current roles.

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

Tani Downing, Executive Director
NOTICES OF CHANGES IN PROPOSED RULES

(6) If a governmental entity requests to have an appeal dismissed by challenging the committee's jurisdiction based on failure of the petitioner to serve notice of appeal to the governmental entity pursuant to Subsection 63G-2-403(3)(a), the committee shall deny said request.

(7) The Executive Secretary shall report on appeals received at each regularly scheduled meeting of the Committee in order to provide a public record of the actions taken.

(8) If a Committee member has requested a discussion to reconsider the decision to decline or not schedule a hearing, the Committee may, after discussion and by a majority vote, choose to reverse the decision and hold a hearing. Any discussion of reconsideration shall be limited to those Committee members then present, and shall be based only on two questions: whether the records being requested were covered by a previous order of the Committee, and whether the petitioner has, or is likely to, put forth a public interest claim. Neither the petitioner nor the agency whose records are requested shall be heard at this time. If the Committee votes to hold a hearing, the Executive Secretary shall schedule it on the agenda of the next regularly scheduled Committee meeting.

(9) The Executive Secretary shall compile and include in an annual report to the Committee a complete documented list of hearings held, withdrawn, and declined.

KEY: government documents, state records committee, records appeal hearings

Date of Enactment or Last Substantive Amendment: 2020
Notice of Continuation: June 3, 2019
Authorizing, and Implemented or Interpreted Law: 63G-2-402(1)(b); 63G-2-403(1); 63G-2-403(2); 63G-2-403(3)(a); 63G-2-403(4); 63G-2-403(4)(b)(ii)(A); 63G-2-403(11)(b); 63G-2-502

End of the Notices of Changes in 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.

<table>
<thead>
<tr>
<th>NOTICE OF EMERGENCY (120-DAY) RULE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utah Admin. Code</strong></td>
</tr>
<tr>
<td>Ref (R no.):</td>
</tr>
</tbody>
</table>

**General Information**

2. **Rule or section catchline:**

R357-35. COVID-19 Commercial Rental and Mortgage Assistance Program

3. **Effective Date:**

09/01/2020

4. **Purpose of the new rule or reason for the change:**

During the 2020 Sixth Special Session, S.B. 6009 passed and changed the COVID-19 Commercial Rental Assistance Program to the COVID-19 Commercial Rental and Mortgage Assistance Program. The program will now include grants for rental and mortgage relief to certain businesses that have lost revenue as a result of measures taken to minimize the public’s exposure to COVID-19. The Governor’s Office of Economic Development (GOED) is responsible for the administration of the program.

5. **Summary of the new rule or change:**

This new rule will supersede rule Filings No. 52910 that was made effective on 06/30/2020 and No. 52754 that was made effective on 05/08/2020 which governed the COVID-19 Commercial Rental Assistance Program. This rule will codify the requirements of the new COVID-19 Commercial Rental and Mortgage Assistance Program which is a
modification to the COVID-19 Commercial Rental Assistance Program. The program will provide commercial rental and mortgage assistance to small businesses in the state that have been impacted by the COVID-19 pandemic.

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:

GOED is responsible for economic development in the state and is tasked with, among other things, administering grant programs to enhance the economic health and vitality of the state and its business community. This rule will govern the new COVID-19 Commercial Rental and Mortgage Assistance Program that will provide assistance to small businesses in the state that have been impacted by the COVID-19 pandemic.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. This rule establishes the requirements for participation in the COVID-19 Commercial Rental and Mortgage Assistance Program.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

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

$40,000,000 in funds will be awarded to small businesses in the state. The COVID-19 Commercial Rental and Mortgage Assistance Program is designed to serve Utah's small businesses that have been impacted by the COVID-19 pandemic.

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):

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

8. Compliance costs for affected persons:

There are no compliance costs for affected persons because participation in the program is optional.

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

I have reviewed this fiscal analysis and agree with the described fiscal impacts associated with this rule. The Commercial Rental Assistance and Mortgage Program will further assist many of Utah's commercial property owners and lessees in need of help because of the coronavirus pandemic.

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

Val Hale, 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):

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<td>63N-14-202</td>
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Agency Authorization Information

| Agency head or designee, and title: | Val Hale, Executive Director | Date: | 09/01/2020 |

R357. Governor, Economic Development.
R357-35. COVID-19 Commercial Rental and Mortgage Assistance Program.
R357-35-101. Title.
This rule is known as the "COVID-19 Commercial Rental Assistance Program."

In addition to the definitions under Section 63N-14-102 the following terms are defined:
(1) "Awardee" means a qualified business entity that has been awarded a grant under the program.
(2) "ComRent" means the COVID-19 Commercial Rental and Mortgage Assistance Program.
(3) "Master lease" means a rental agreement between the owner of a commercial property and its direct tenant.

R357-35-103. Authority.
This rule is adopted by the office under the authority of Section 63N-14-202.

R357-35-104. Program and Documentation Requirements.
(1) An awardee shall use program funds to pay the entity's master lease or mortgage costs.
(2) The office will not issue a grant until all required information and documentation is submitted and approved, as
determined by the office. Only complete applications will be considered submitted.

(3) A qualified business entity applicant shall submit to the office:
(a) a copy of a current and active master lease for each location;
(b) evidence of most recent master lease payment for each location;
(c) signed W-9 form;
(d) profit & loss statement for a four week period within twelve months of application date; and
(e) profit & loss statement of the four week period of revenue loss.

(4) A qualified startup entity applicant shall submit to the office:
(a) a copy of a current mortgage statement for each location;
(b) evidence of most recent mortgage payment for each location;
(c) signed W-9 form;
(d) profit & loss statement that establishes total expenses and total revenue for a four-week period after March 1, 2020.

R357-35-105. Revenue loss and award calculation.
(1) To measure monthly gross revenue loss the business's gross revenue for any four week period after March 1, 2020, as designated by the business, shall be compared to the business's gross revenue for a four week period designated by the business within 12 months of the application date.
(2) An awardee that previously received program funds will only be eligible for the difference between the total amount previously received and the amount the awardee is eligible for under the current statute and administrative code regime.

KEY: rent assistance, commercial rent, small business, commercial mortgage assistance
Date of Enactment or Last Substantive Amendment: September 1, 2020
Authorizing, and Implemented or Interpreted Law: 63N-14-202
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.): R152-49 Filing No. 50251

Agency Information
1. Department: Commerce
Agency: Consumer Protection
Building: Heber Wells
Street address: 160 E 300 S
City, state, zip: Salt Lake City, UT 84111
Mailing address: PO Box 146704
City, state, zip: Salt Lake City, UT 84114
Contact person(s):
Name: Daniel Larsen
Phone: 801-530-6145 Email: dblarsen@utah.gov

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

General Information
2. Rule catchline: R152-49. Immigration Consultants Registration Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is enacted in accordance with Subsection 13-2-5(1), which allows the Division of Consumer Protection (Division) to issue rules to administer and enforce chapters listed in Section 13-2-1, with Subsection 13-49-202(1), which allows the Division to prescribe the form of an application for registration as an immigration consultant, and with Subsection 13-49-301(1), which allows the Division to monitor the content of a contract for services performed by an immigration consultant.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division is unaware of any written 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:

This rule ensures that a complete application for registration as an immigration consultant includes all information necessary for the Division to efficiently process the application, and to verify that an applicant's contract and disclosure are drafted in accordance with Sections 13-49-301 and 13-49-303. During the Division's review of the rule, it identified an opportunity to reduce the amount of sensitive personal information an applicant must submit to the Division. The Division has submitted a proposed amendment under Filing No. 53044 in this issue, September 15, 2020, of the Bulletin. For the foregoing reasons, this rule should be continued, as amended.

Agency Authorization Information
Agency head or designee, and title: Daniel O'Bannon, Director Date: 08/31/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R251-110 Filing No. 50351
Agency Information
1. Department: Corrections
Agency: Administration
Street address: 14717 S Minuteman Dr
City, state, zip: Draper, UT 84020
Contact person(s):
Name: Phone: Email:
Steve Gehrke 385-237-8040 sgehrke@utah.gov

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

General Information
2. Rule catchline:
R251-110. Sex and Kidnap Offender Registration 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 under Sections 63G-3-201, 64-13-10, and 77-41, of the Utah Code. The purpose of this rule is to define the registrant requirement and process for obtaining sex and kidnap offenders registration information.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The purpose of the rule is to define the registrant requirement and process for obtaining sex and kidnap offendor registration information. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Mike Haddon, Executive Director
Date: 08/21/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R432-100 Filing No. 51071

Agency Information
1. Department: Health

Agency: Family Health and Preparedness, Licensing
Room no.: Suite 100
Building: Highland
Street address: 3760 S Highland Drive
City, state, zip: Salt Lake City, UT 84106
Mailing address: PO Box 144103
City, state, zip: Salt Lake City, UT 84114-4103
Contact person(s):
Name: Phone: Email:
Kristi Grimes 801-273-2821 kristigrimes@utah.gov

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

General Information
2. Rule catchline:
R432-100. General Hospital 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:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to provide regulations for hospital care 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:
There have been no written comments from any party 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:
There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information
Agency head or designee, and title: Joseph Miner, MD, Deputy Director
Date: 08/31/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R432-102 Filing No. 51066
Agency Information

1. Department: Health

Agency: Family Health and Preparedness, Licensing

Room no.: Suite 100

Building: Highland

Street address: 3760 S Highland Drive

City, state, zip: Salt Lake City, UT 84106

Mailing address: PO Box 144103

City, state, zip: Salt Lake City, UT 84114-4103

Contact person(s):

Name: Kristi Grimes

Phone: 801-273-2821

Email: kristigrimes@utah.gov

Agency Authorization Information

Agency head or designee, and title: Joseph Miner, MD, Deputy Director

Date: 08/31/2020

General Information

2. Rule catchline:

R432-102. Specialty Hospital - Chemical Dependency/Substance Abuse

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to provide regulations for a specialty hospital to provide inpatient chemical dependency/substance abuse 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:

There have been no written comments from any party 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:

There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title: Joseph Miner, MD, Deputy Director

Date: 08/31/2020

General Information

2. Rule catchline:

R432-106. Specialty Hospital-Critical Access

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to provide regulations for a specialty hospital-critical access 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:

There have been no written comments from any party 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:

There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title: Joseph Miner, MD, Deputy Director

Date: 08/31/2020
**Agency Authorization Information**

**Agency head or designee, and title:** Joseph Miner, MD, Deputy Director  
**Date:** 08/31/2020

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**Agency Information**

1. **Department:** Health  
2. **Agency:** Family Health and Preparedness, Licensing
   - **Room no.:** Suite 100  
   - **Building:** Highland  
   - **Street address:** 3760 S Highland Drive  
   - **City, state, zip:** Salt Lake City, UT 84106  
   - **Mailing address:** PO Box 144103  
   - **City, state, zip:** Salt Lake City, UT 84114-4103

**Contact person(s):**  
- **Name:** Kristi Grimes  
- **Phone:** 801-273-2821  
- **Email:** kristigrimes@utah.gov

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

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**General Information**

2. **Rule catchline:** R432-550. Birthing Centers

3. **A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

   Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to provide regulations for birthing center 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:**

   There have been no written comments from any party 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:**

   There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

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**Agency Authorization Information**

**Agency head or designee, and title:** Joseph Miner, MD, Deputy Director  
**Date:** 08/31/2020

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**Agency Information**

1. **Department:** Health  
2. **Agency:** Family Health and Preparedness, Licensing
   - **Room no.:** Suite 100  
   - **Building:** Highland  
   - **Street address:** 3760 S Highland Drive  
   - **City, state, zip:** Salt Lake City, UT 84106  
   - **Mailing address:** PO Box 144103  
   - **City, state, zip:** Salt Lake City, UT 84114-4103

**Contact person(s):**  
- **Name:** Kristi Grimes  
- **Phone:** 801-273-2821  
- **Email:** kristigrimes@utah.gov

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

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**General Information**

2. **Rule catchline:** R432-600. Abortion Clinic Rule

3. **A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

   Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to provide regulations for abortion clinic 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:**

   There have been no written comments from any party 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:**

   There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

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**Agency Authorization Information**

**Agency head or designee, and title:** Joseph Miner, MD, Deputy Director  
**Date:** 08/31/2020
### General Information

#### 2. Rule catchline:

**R501-14.** Human Service Program Background Screening

#### 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 and enacted through Sections 62A-2-106, 62A-2-120, 62A-2-121, and 62A-2-122. This rule clarifies the standards and procedures for approving, denying, or revoking a background screening for the Department of Human Services (Department).

#### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule, as authorized through Sections 62A-2-106, 62A-2-120, 62A-2-121, and 62A-2-122, establishes the standards and makes clarifications for the approving, denying, or revoking an applicant's background screening. This is an essential practice of the Department and its programs. Therefore, this rule should be continued.

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### Agency Authorization Information

**Agency head or designee, and title:** Mark Brasher, Executive Director  
**Date:** 08/28/2020

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### General Information

#### 2. Rule catchline:

**R590-130.** Rules Governing Advertisements of Insurance

#### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 31A-2-201(3) authorizes the Insurance Commissioner to make rules to implement the provisions of Title 31A, Insurance Code. Section 31A-23a-402 authorizes the Insurance Commissioner to define unfair or deceptive acts or practices in the business of insurance. This rule sets advertising guidelines to assure clear and truthful disclosure of the benefits, limitations, and exclusions of policies sold as insurance, and sets procedures for enforcement of this rule by the Department of Insurance (Department).

#### 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 has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because some licensees are still using misleading and deceptive information and advertising in the sale of insurance. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Steve Gooch, Public Information Officer 1 Date: 09/01/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R590-258 Filing No. 51431

Agency Information
1. Department: Insurance
Agency: Administration
Room no.: 3110
Building: State Office Building
Street address: 450 N State St.
City, state, zip: Salt Lake City, UT 84114
Mailing address: PO Box 146901
City, state, zip: Salt Lake City, UT 84114-6901
Contact person(s):
Name: Steve Gooch Phone: 801-538-3803 Email: sgooch@utah.gov
Please address questions regarding information on this notice to the agency.

General Information
2. Rule catchline: R590-258. Email Address Requirement

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 31A-2-201(3) authorizes the Insurance Commissioner to adopt rules to implement the provisions of Title 31A, Insurance Code. Section 31A-23a-412 requires licensees to provide current contact information to the Department of Insurance (Department). Subsection 46-4-501(1) authorizes state governmental agencies to make rules relating to electronic transactions and records.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Email communication with licensees remains the most effective and efficient means of communicating rule updates, alerts, and notifications. The Department requires current contact information to notify licensees of upcoming renewal deadlines and alert them of changes to state statute or Department rule. Continuation of the rule is critical to maintaining open, efficient, and effective governance. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Steve Gooch, Public Information Officer 1 Date: 09/01/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R592-1 Filing No. 51461

Agency Information
1. Department: Insurance
Agency: Title and Escrow Commission
Room no.: 3110
Building: State Office Building
Street address: 450 N State St.
City, state, zip: Salt Lake City, UT 84114
Mailing address: PO Box 146901
City, state, zip: Salt Lake City, UT 84114-6901
Contact person(s):
Name: Steve Gooch Phone: 801-538-3803 Email: sgooch@utah.gov
Please address questions regarding information on this notice to the agency.

General Information
2. Rule catchline: R592-1. Title Insurance Licensing
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsections 31A-2-404(2)(a)(ii) and (b) direct the Title and Escrow Commission to make rules pertaining to the licensing of a title licensee and require the concurrence of the Commission in the issuance and renewal of title licensee licenses.

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 of Insurance (Department) has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The law requires that the Title and Escrow Commission concur with the Insurance Commissioner in the issuance and renewal of title licenses. This rule sets the procedure to do this. This has been a useful process because it has opened a dialogue between the Department and members of the title industry who know the players, and whether there are issues and concerns that should be addressed regarding licensure. Therefore, this rule should be continued. In addition, the Title and Escrow Commission, which has rulemaking authority over rules in Title R592, Title and Escrow Commission, voted to continue this rule by a vote of 5-0.

General Information

2. Rule catchline:

R722-350. Certificate of Eligibility

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 77-40-111 authorizes the Department of Public Safety (Department) to promulgate rules to implement procedures for the application and issuance of certificates of eligibility.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no written comments received during and since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is authorized under Section 77-40-111 and is necessary in order to outline procedures for an individual to apply for a certificate of eligibility for expungement of a record from their criminal history. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Steve Gooch, Public Information Officer 1
Date: 09/01/2020

Agency Authorization Information

Agency head or designee, and title: Jess L. Anderson, Commissioner
Date: 08/26/2020

Agency Information

1. Department: Public Safety

Agency: Criminal Investigations and Technical Services, Criminal Identification
Street address: 3888 W 5400 S
City, state, zip: Taylorsville, UT 84129
Contact person(s):
Name: Kim Gibb
Phone: 801-556-8198
Email: kgibb@utah.gov

Agency Information

1. Department: Workforce Services

Agency: Employment Development
Building: Olene Walker Building
Street address: 140 E 300 S
City, state, zip: Salt Lake City, Utah 84111
General Information

2. Rule catchline:
R986-100. Employment 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:

Subsection 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Section 35A-3-303 directs the Department to administer public assistance programs assigned to the Department. Section 35A-3-301 authorizes the Department to pay financial assistance to those participating in the family employment program. Section 35A-3-401 et seq. authorizes the Department to pay general assistance. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-1-303 authorizes the Department to adopt rules governing adjudicative procedures. The Utah Administrative Procedures Act, Title 63G, Chapter 4, defines the procedures the Department must follow in administrative hearings.

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 received written comments concerning an amendment to Section R986-100-117 regarding unauthorized purchases using financial assistance benefits. The majority of the comments supported the amendment. The Department received one comment opposing the amendment, arguing this rule goes beyond the limitations discussed in Section 35A-3-302 and any restriction on the use of cash benefits is unreasonable and unenforceable. The comment questioned whether the Department would restrict customers from making purchases at convenience stores and whether the Department was tracking individual purchases and questioned how the Department would inform customers about the change and enforce this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to provide a framework under both state and federal law for the release of information, what programs are assigned to the Department and covered by these rules, residency requirements, how to apply for assistance, the requirement to provide and verify information provided to the Department, overpayments, due process rights including the right to appeal, and how to appeal an unfavorable Department decision. Without this rule the Department would be unable to administer its programs and pay benefits as directed by Title 35A. Regarding the opposition to the amendment to Section R986-100-117, the director of the Eligibility Services Division met with the commenter to answer the commenter’s questions before the implementation of the rule change. The amendment is an appropriate interpretation of Section 35A-3-302, which limits the use of an electronic benefits card in certain establishments. The amendment clarifies the appropriate use of financial benefits that are intended to support families. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Casey R. Cameron and Greg Paras, Deputy Directors
Date: 08/21/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code R986-200
Ref (R no.): Filing No. 52195

Agency Information

1. Department: Workforce Services
Agency: Employment Development
Building: Olene Walker Building
Street address: 140 E 300 S
City, state, zip: Salt Lake City, UT 84111
Mailing address: PO Box 45244
City, state, zip: Salt Lake City, UT 84145-0244

Contact person(s):
Name: Phone: Email:
Amanda B. McPeck 801-517-4709 ampeck@utah.gov

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

General Information

2. Rule catchline:
R986-200. Family Employment Program

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Subsection 35A-3-302(5)(b) authorizes the Department to make rules to establish eligibility for the Family Employment Program. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-3-304(4) authorizes the Department to define full-time work. Section 35A-1-303 authorizes the Department to adopt rules governing adjudicative procedures. The Utah Administrative Procedures Act, Title 63G, Chapter 4, defines the procedures the Department must follow in administrative hearings.

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 received written comments concerning an amendment creating a new section, R986-200-250, regarding unauthorized purchases using financial assistance benefits. The majority of the comments supported the amendment. The Department received one comment opposing the amendment, arguing the rule goes beyond the limitations discussed in Section 35A-3-302 and any restriction on the use of cash benefits is unreasonable and unenforceable. The comment questioned whether the Department was tracking individual purchases and questioned how the Department would inform customers about the change and enforce the rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to establish eligibility standards for the Family Employment Program including income limits, how to count household size, citizenship requirements, participation requirements, specified relative assistance requirements, time limits, drug testing, and other program eligibility standards. Without this rule, the Department could not administer the program or determine eligibility or pay level. Regarding the opposition to the amendment to Section R986-200-250, the director of the Eligibility Services Division met with the commenter to answer the commenter’s questions before the implementation of the rule change. The amendment is an appropriate interpretation of Section 35A-3-302, which limits the use of an electronic benefits card in certain establishments. The amendment clarifies the appropriate use of financial benefits that are intended to support families. Therefore, this rule should be continued.

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<td>Casey R. Cameron and Greg Paras, Deputy Directors</td>
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requirement for an employment plan and the penalty for failure to follow the plan. Therefore, this rule should be continued.

Agency Authorization Information

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<tr>
<td>Casey R. Cameron and Greg Paras, Deputy Directors</td>
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R986-400 Filing No. 52198

Agency Information

1. Department: Workforce Services
Agency: Employment Development
Building: Olene Walker Building
Street address: 140 E 300 S
City, state, zip: Salt Lake City, UT 84111
Mailing address: PO Box 45244
City, state, zip: Salt Lake City, UT 84145-0244
Name: Amanda B. McPeck
Phone: 801-517-4709
Email: ampeck@utah.gov

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

General Information

2. Rule catchline:
R986-400. General Assistance

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-3-103 directs the Department to administer public assistance programs assigned to the Department. Section 35A-3-401 et seq. authorizes the Department to pay general assistance.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to set eligibility standards for individuals applying for assistance including the need to participate in an employment plan, the penalty for failure to participate and time limits. Without this rule, there would be no standards for administering this program. Therefore, this rule should be continued.

Agency Authorization Information

<table>
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<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
<th>08/21/2020</th>
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<tr>
<td>Casey R. Cameron and Greg Paras, Deputy Directors</td>
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R986-500 Filing No. 52200

Agency Information

1. Department: Workforce Services
Agency: Employment Development
Building: Olene Walker Building
Street address: 140 E 300 S
City, state, zip: Salt Lake City, UT 84111
Mailing address: PO Box 45244
City, state, zip: Salt Lake City, UT 84145-0244
Name: Amanda B. McPeck
Phone: 801-517-4709
Email: ampeck@utah.gov

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

General Information

2. Rule catchline:
R986-500. Adoption Assistance

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-3-103 directs the Department to administer public assistance programs assigned to the Department. Section
35A-3-308 directs the Department to provide assistance to certain pregnant individuals.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to determine eligibility for adoption assistance, services available to clients, time limits for receipt of benefits and safekeeping on these sensitive records. Without this rule, there would be no standards for administration of the program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Casey R. Cameron and Greg Paras, Deputy Directors
Date: 08/21/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R986-700 Filing No. 52321

Agency Information
1. Department: Workforce Services
Agency: Employment Development
Building: Office of Child Care
Street address: 140 E 300 S
City, state, zip: Salt Lake City, UT 84111
Mailing address: PO Box 45244
City, state, zip: Salt Lake City, UT 84145-0244
Contact person(s):
Name: Amanda B. McPeck Phone: 801-517-4709
Email: ampeck@utah.gov

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

General Information
2. Rule catchline:
R986-700. Child Care Assistance

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Section 35A-1-303 authorizes the Department to adopt rules governing adjudicative procedures. The Utah Administrative Procedures Act, Title 63G, Chapter 4, defines the procedures the Department must follow in administrative hearings. Section 35A-3-103 directs the Department to administer public assistance programs assigned to the Department. Section 35A-3-301 authorizes the Department to pay financial assistance to those participating in the family employment program. Section 35A-3-401 et seq. authorizes the Department to pay general assistance. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-3-310 directs the Department to administer the child care program. Section 35A-3-310.5 directs the Department to perform criminal background checks on providers.

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 in the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to establish eligibility standards for both parents and providers. It is also necessary to explain the payment methods and the consequences for failure to follow program standards. This rule also explains how to obtain a criminal background check and which offenses will be disqualifying. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Casey R. Cameron and Greg Paras, Deputy Directors
Date: 08/28/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R986-800 Filing No. 52202

Agency Information
1. Department: Workforce Services
Agency: Employment Development
Building: Olene Walker Building
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Agency Authorization Information

General Information

2. Rule catchline:
R986-800. Displaced Homemaker Program

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-3-103 directs the Department to administer public assistance programs assigned to the Department. Section 35A-3-114 directs the Department to establish this program and provide services as funding permits.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to establish eligibility standards for the program and explain what services are available. Without this rule, there would be no standards for administration of the program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Casey R. Cameron and Greg Paras, Deputy Directors
Date: 08/21/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R986-900  Filing No. 52212

Agency Information
1. Department: Workforce Services
Agency: Employment Development
Building: Olene Walker Building
Street address: 140 E 300 S
City, state, zip: Salt Lake City, UT 84111
Mailing address: PO Box 45244
City, state, zip: Salt Lake City, UT 84145-0244

Contact person(s):
Name: Phone: Email:
Amanda B. McPeck 801-517-4709 ampeck@utah.gov

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

General Information

2. Rule catchline:
R986-900. Supplemental Nutrition Assistance Program (SNAP)

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-3-103 directs the Department to administer public assistance programs assigned to the Department. The Supplemental Nutrition Assistance Program (SNAP, or "Food Stamps") has been assigned to the Department.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to show which options the Department has taken when the federal regulations offer an option in administering SNAP. This rule also lists all of the current waivers the Department has received from the federal government. Therefore, this rule should be continued.
Agency Authorization Information

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<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
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<tr>
<td>Casey R. Cameron and Greg Paras, Deputy Directors</td>
<td>08/21/2020</td>
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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).

<table>
<thead>
<tr>
<th>NOTICE OF FIVE-YEAR REVIEW EXTENSION</th>
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<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
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<tr>
<td>R765-649</td>
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**Agency Information**

1. **Department:** Regents (Board of)  
   **Agency:** Administration  
   **Street address:** 60 S 400 W  
   **City, state, zip:** Salt Lake City, UT 84025  
   **Contact person(s):** Geoffrey Landward

**General Information**

2. **Rule catchline:** R765-649. Utah Higher Education Assistance Authority (UHEAA) Privacy Policy

3. **Reason for requesting the extension and the new deadline date:** The Department is still reviewing whether this policy is necessary or if changes need to be made and seek an extension to complete that internal review with stakeholders. The new deadline is 12/16/2020.

**Agency Authorization Information**

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<th>Agency head or designee, and title:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>Geoffrey Landward, Deputy Commissioner</td>
<td>08/18/2020</td>
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Please address questions regarding information on this notice to the agency.

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.

Administrative Services
Finance
No. 52867 (Repeal and Reenact): R25-7 Travel-Related Reimbursements for State Employees
Published: 08/01/2020
Effective: 09/07/2020

No. 52932 (Amendment): R25-21 Medical Cannabis Payment Provider Standard
Published: 08/01/2020
Effective: 09/07/2020

Agriculture and Food
Plant Industry
No. 52919 (Amendment): R68-24 Industrial Hemp Research Pilot Program for Growers
Published: 07/15/2020
Effective: 09/04/2020

No. 52917 (Amendment): R68-27 Cannabis Cultivation
Published: 07/15/2020
Effective: 09/04/2020

Commerce
Occupational and Professional Licensing
No. 52950 (Amendment): R156-79 Hunting Guides and Outfitters Licensing Act Rule
Published: 08/01/2020
Effective: 09/08/2020

Education
Administration
No. 52870 (Amendment): R277-404 Requirements for Assessments of Student Achievement
Published: 07/15/2020
Effective: 08/24/2020

No. 52912 (Amendment): R277-473 Utah Computer Science Grant
Published: 07/15/2020
Effective: 08/24/2020

No. 52871 (Repeal): R277-624 Electronic Cigarette Products in Schools
Published: 07/15/2020
Effective: 08/24/2020

No. 52872 (Amendment): R277-752 Special Education Intensive Services Fund
Published: 07/15/2020
Effective: 08/24/2020

Environmental Quality
Air Quality
No. 52814 (Amendment): R307-101 Definitions
Published: 07/01/2020
Effective: 09/03/2020

No. 52815 (Amendment): R307-150 Emission Inventories
Published: 07/01/2020
Effective: 09/03/2020

No. 52816 (Amendment): R307-401 Permit: New and Modified Sources
Published: 07/01/2020
Effective: 09/03/2020

No. 52817 (Amendment): R307-415 Fees for Operating Permits
Published: 07/01/2020
Effective: 09/03/2020

No. 52818 (Amendment): R307-801 Purpose and Authority
Published: 07/01/2020
Effective: 09/03/2020
NOTICES OF RULE EFFECTIVE DATES

Waste Management and Radiation Control, Waste Management
No. 52765 (Amendment): R315-270 Hazardous Waste Permit Program -- Permit Modification at the Request of the Permittee
Published: 06/15/2020
Effective: 08/17/2020

Water Quality
No. 52911 (Amendment): R317-1 Requirements for Waste Discharges
Published: 07/15/2020
Effective: 08/27/2020

Health
Child Care Center Licensing Committee
No. 52829 (Repeal and Reenact): R381-60 Hourly Child Care Centers
Published: 07/01/2020
Effective: 09/01/2020

No. 52830 (Repeal and Reenact): R381-70 Out of School Time Child Care Programs
Published: 07/01/2020
Effective: 09/01/2020

No. 52832 (Repeal and Reenact): R381-100 Child Care Centers
Published: 07/01/2020
Effective: 09/01/2020

Disease Control and Prevention, Epidemiology
No. 52934 (Amendment): R386-702 Communicable Disease Rule
Published: 08/01/2020
Effective: 09/08/2020

Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health
No. 52750 (Amendment): R388-805 Ryan White Part B Program
Published: 06/01/2020
Effective: 09/01/2020

Health Care Financing, Coverage and Reimbursement Policy
No. 52936 (New Rule): R414-1C Coronavirus Public Health Emergency Period
Published: 08/01/2020
Effective: 09/07/2020

Family Health and Preparedness, Child Care Licensing
No. 52850 (Repeal and Reenact): R430-8 Exemptions From Child Care Licensing
Published: 07/01/2020
Effective: 09/01/2020

No. 52851 (Repeal and Reenact): R430-50 Residential Certificate Child Care
Published: 07/01/2020
Effective: 09/01/2020

No. 52849 (Repeal and Reenact): R430-90 Licensed Family Child Care
Published: 07/01/2020
Effective: 09/01/2020

Human Resource Management
Administration
No. 52913 (Amendment): R477-7 Postpartum Recovery Leave Postponed
Published: 07/15/2020
Effective: 08/24/2020

Human Services
Administration, Administrative Hearings
No. 52874 (Amendment): R497-100 Adjudicative Proceedings
Published: 07/15/2020
Effective: 09/01/2020

Natural Resources
Wildlife Resources
No. 52844 (Repeal and Reenact): R657-56 Walk-in Access
Published: 08/01/2020
Effective: 09/08/2020

No. 52843 (Amendment): R657-60 Aquatic Invasive Species Interdiction
Published: 08/01/2020
Effective: 09/08/2020

Public Safety
Peace Officer Standards and Training
No. 52730 (Amendment): R728-409 Suspension, Revocation, or Relinquishment of Certification.
Published: 05/15/2020
Effective: 08/25/2020

Transportation
Program Development
No. 52931 (Amendment): R926-11 Clean Fuel Vehicle Decal Program
Published: 08/01/2020
Effective: 09/09/2020

Workforce Services
Housing and Community Development
No. 52888 (New Rule): R990-400 Pandemic Housing Assistance
Published: 07/15/2020
Effective: 08/26/2020