

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information and electronic versions of all administrative rule publications are available at <http://www.rules.utah.gov/>.

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Environmental Quality Air Quality

Notice of Public Comment Period for the Wildfire Exceptional Event – August 2015

Federal regulations, 40 Code of Federal Regulations (CFR) Part 50, allow states to exclude air quality data that exceed or violate a National Ambient Air Quality Standard (NAAQS) if they can demonstrate that an "exceptional event" has caused the exceedance or violation. Exceptional events are unusual or naturally occurring events that can affect air quality but are not reasonably controllable or preventable using techniques implemented to attain and maintain the NAAQS.

Exceptional events may be caused by human activity that is unlikely to recur at a particular location, or may be due to a natural event. The Environmental Protection Agency (EPA) defines a "natural event" as an event in which human activity plays little or no direct causal role to the event in question. For example, a natural event could include such things as high winds, wild fires, and seismic/volcanic activity. In addition, the EPA will allow states to exclude data from regulatory determinations on a case-by-case basis for monitoring stations that measure values that exceed or violate the NAAQS due to emissions from fireworks displays from cultural events.

Federal regulations (40 CFR Part 50.14 (c) (3)(i)) require that all relevant flagged data, the reasons for the data being flagged, and a demonstration that the flagged data are caused by exceptional events be made available by the state for 30 days of public review and comment. These comments will be considered in the final demonstration of the event that is submitted to EPA. The following monitoring station air quality exceedances have been attributed to a wildfire exceptional event.

Brigham City
Logan
Ogden

The documentation for public review and comment to support removing these data from use in regulatory determinations will be available beginning November 1, 2015, at <http://www.deq.utah.gov/ProgramsServices/programs/air/exceptionalevents/index.htm> or at the Multi Agency State Office Building, 195 North 1950 West in Salt Lake City. In compliance with the American with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Brooke Baker, Office of Human Resources at (801) 536-4412 (TDD 536-4414).

The comment period will close at 5:00 p.m. on December 1, 2015. Comments postmarked on or before that date will be accepted. Comments may be submitted by electronic mail to jkarmazyn@utah.gov or may be mailed to:

*Joel Karmazyn
Utah Division of Air Quality
PO Box 144820
195 N 1950 W
Salt Lake City, UT 84114-4820*

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between October 02, 2015, 12:00 a.m., and October 15, 2015, 11:59 p.m. are included in this, the November 01, 2015, 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 Division 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 Division 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 December 1, 2015. 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 February 29, 2016, the agency may notify the Division 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 Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

**Administrative Services, Facilities
Construction and Management
R23-7
State Construction Contracts and Drug
and Alcohol Testing**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39825

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with the provisions of Section 63G-6a-1303 of the Utah Procurement Code.

SUMMARY OF THE RULE OR CHANGE: Section references for the Utah Procurement Code were updated, and the definition section, as well as Section R23-7-4 were amended to comply with the Utah Procurement Code.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-5-103(1)(e)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings that are expected. The rule was amended to update section references, as well as comply with the changes in the Utah Procurement Code as it relates to State Construction Contracts and Drug and Alcohol Testing.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings that are expected. The rule was amended to update section references, as well as comply with the changes in the Utah Procurement Code as it relates to State Construction Contracts and Drug and Alcohol Testing.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings that are expected. The rule was amended to update section references, as well as comply with the changes in the Utah Procurement Code as it relates to State Construction Contracts and Drug and Alcohol Testing.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings that are expected. The rule was amended to update section references, as well as comply with the changes in the Utah Procurement Code as it relates to State Construction Contracts and Drug and Alcohol Testing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for the affected persons. The rule was amended to update section references, as well as comply with the changes in the Utah Procurement Code as it relates to State Construction Contracts and Drug and Alcohol Testing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that the rule may have on businesses. There are no anticipated costs or savings that are expected. The rule was amended to update section references, as well as comply with the changes in the Utah Procurement Code as it relates to State Construction Contracts and Drug and Alcohol Testing.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
ROOM 4110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
◆ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bruce Whittington, Acting Director

R23. Administrative Services, Facilities Construction and Management.

R23-7. State Construction Contracts and Drug and Alcohol Testing.

R23-7-1. Purpose.

The purpose of this rule is to comply with the provisions of Section 63G-6a-1303 of the Utah Procurement Code[~~63G-6-604~~].

R23-7-2. Authority.

This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Utah State Building Board to make rules necessary for the discharge of the duties of the Division of Facilities Construction and Management as well as Subsection 63G-6a-1303(4) of the Utah Procurement Code[~~63G-6-604(4)~~].

R23-7-3. Definitions.

(1) The following definitions of Section 63G-6-604 shall apply to any term used in this Rule R23-7:

(a) "Contractor" means a person who is or may be awarded a state construction contract.

(b) "Covered individual" means an individual who:

(i) on behalf of a contractor or subcontractor provides services directly related to design or construction under a state construction contract; and

(ii) is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of an improvement to real property that is the subject of a state construction contract.

(c) "Drug and alcohol testing policy" means a policy under which a contractor or subcontractor tests a covered individual to establish, maintain, or enforce the prohibition of:

(i) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol, except the medically prescribed possession and use of a drug; or

(ii) the impairment of judgment or physical abilities due to the use of drugs or alcohol.

(d) "Random testing" means that a covered individual is subject to periodic testing for drugs and alcohol:

- (i) in accordance with a drug and alcohol testing policy; and
- (ii) on the basis of a random selection process.

(e) ~~For purposes of Subsection R23-7-4(5),~~ "State Executive Entity[~~state~~]" means a state executive branch: ~~[includes any of the following of the state:]~~

- (i) ~~[a-]~~department;
- (ii) ~~[a-]~~division including the Division of Facilities Construction and Management;
- (iii) ~~[an-]~~agency;
- (iv) ~~[a-]~~board;
- (v) ~~[a-]~~commission;
- (vi) ~~[a-]~~council;
- (vii) ~~[a-]~~committee;~~[-and]~~
- (viii) ~~[an-]~~institution[;]; ~~or~~

~~(ix) [including-]a state institution of higher education, as defined under Section 53B-3-102.~~

(f) "State construction contract" means a contract for design or construction entered into by the Division.

(g)(i) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(ii) "Subcontractor" includes a trade contractor or specialty contractor.

(iii) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

(2) In addition:

(a) "Board" means the State Building Board established pursuant to Section 63A-5-101.

(b) "Director" means the Director of the Division, including, unless otherwise stated, the Director's duly authorized designee.

(c) "Division" means the Division of Facilities Construction and Management established pursuant to Section 63A-5-201 as well as entities entering into state construction contracts under delegation authority by the Board or Director.

~~(d) "State" as used throughout Rule R23-7 means the State of Utah except that it also includes those entities described in Subsection R23-7-3(1)(e) as the term "state" is used in Subsection R23-7-4(5).~~

R23-7-4. Applicability.

(1) Except as provided in Rule[Section] R23-7-5, on and after July 1, 2010, the Division may not enter into a state construction contract (includes a contract for design or construction) unless the state

construction contract requires that the contractor (including designer) demonstrate to the Division that the Contractor[the following]:

~~[(a) A contractor shall demonstrate to the state public procurement unit that the contractor:~~

(a[i]) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the contractor;

(b[i]) posts in one or more conspicuous places notice to covered individuals hired by the contractor that the contractor has the drug and alcohol testing policy described in Rule[Subsection] R23-7-4(1)(a)([+]);~~[-and]~~

(c[i]) subjects the covered individuals to random testing under the drug and alcohol testing policy described in Subsection R23-7-4(1)(a)([+]) if at any time during the period of the state construction contract there are ten or more individuals who are covered individuals hired by the contractor[;]; and

(d) requires that as a condition of contracting with the contractor, a subcontractor:

(i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the subcontractor;

(ii) posts in one or more conspicuous places notice to covered individuals hired by the subcontractor that the subcontractor has the drug and alcohol testing policy described in Rule R23-7-4(d)(i); and

(iii) subjects the covered individuals hired by the subcontractor to random testing under the drug and alcohol testing policy described in Rule R23-7-4(d)(i) if at any time during the period of the state construction contract there are 10 or more individuals who are covered individuals hired by the subcontractor.

(2)(b) A contractor shall demonstrate to the Division under Rule 23-7-4(1) above, [which shall be demonstrated-]by a provision in the contract where the contractor acknowledges this Rule R23-7 and agrees to comply with all aspects of this Rule R23-7 and that the contractor require this compliance by[-that the contractor requires that as a condition of contracting with the contractor,] a subcontractor, which includes consultants under contract with the designer.[;]

~~[(i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the subcontractor;~~

~~(ii) posts in one or more conspicuous places notice to covered individuals hired by the subcontractor that the subcontractor has the drug and alcohol testing policy described in Subsection R23-7-4(1)(b)(i); and~~

~~(iii) subjects the covered individuals hired by the subcontractor to random testing under the drug and alcohol testing policy described in Subsection R23-7-4(1)(b)(i) if at any time during the period of the state construction contract there are ten or more individuals who are covered individuals hired by the subcontractor.~~

(2)(a) Except as otherwise provided in this Rule[Subsection] R23-7-4(2), if a contractor or subcontractor fails to comply with Rule[Subsection] R23-7-4(1), the contractor or subcontractor may be suspended or debarred in accordance with the Utah Procurement Code, Title 63G, Chapter 6a, Utah Code[is Rule R23-7].

(b) On and after July 1, 2010, the Division shall include in a state construction contract a reference to this Rule R23-7.

(c)(i) A contractor is not subject to penalties for the failure of a subcontractor to comply with Rule[Subsection] R23-7-4(1).

(ii) A subcontractor is not subject to penalties for the failure of a contractor to comply with Rule~~[Subsection]~~ R23-7-4(1).

(3)(a) The requirements and procedures a contractor shall follow to comply with Subsection R23-7-4(1) is that the contractor, by executing the construction contract with the Division, is deemed to certify to the Division that the contractor, and all subcontractors under the contractor that are subject to Rule R23-7-4(1), shall comply with all provisions of this Rule R23-7 as well as Section 63G-6a-1303 of the Utah Procurement Code.~~[63G-6-604; and that the contractor shall on a semi-annual basis throughout the term of the contract, report to the Division in writing information that indicates compliance with the provisions of Rule R23-7 and Section 63G-6-604.]~~

(b) A contractor or subcontractor may be suspended or debarred in accordance with the applicable Utah statutes and rules, if the contractor or subcontractor violates a provision of Section 63G-6a-1303 of the Utah Procurement Code or this Rule.~~[63G-6-604.]~~ The contractor or subcontractor shall be provided reasonable notice and opportunity to cure a violation of 63G-6a-1303 of the Utah Procurement Code or this Rule~~[Section 63G-6-604]~~ before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation.~~[-The greater the risk to person(s) or property as a result of noncompliance, the shorter this notice and opportunity to cure shall be, including the possibility that the notice may provide for immediate compliance if necessary to protect person(s) or property.]~~

(4) The failure of a contractor or subcontractor to meet the requirements of Subsection R23-7-4(1):

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Part 17, Procurement Appeals Board, or Part 18, Appeals to Court and Court Proceedings; ~~[Part 8, Legal and Contractual Remedies;]~~ and

(b) may not be used by a state executive entity.~~[public procurement unit;]~~ a prospective bidder, an offeror, a contractor, or a subcontractor as a basis for an action that would suspend, disrupt, or terminate the design or construction under a state construction contract.

(5)(a) After the Division enters into a state construction contract in compliance with Section 63G-6a-1303~~[63G-6-604]~~, the state (including the Division) is not required to audit, monitor, or take any other action to ensure compliance with Section 63G-6a-1303~~[63G-6-604]~~.

(b) The state is not liable in any action related to Section 63G-6a-1303~~[63G-6-604]~~ and this Rule R23-7, including not being liable in relation to:

(i) a contractor or subcontractor having or not having a drug and alcohol testing policy;

(ii) failure to test for a drug or alcohol under a contractor's or subcontractor's drug and alcohol testing policy;

(iii) the requirements of a contractor's or subcontractor's drug and alcohol testing policy;

(iv) a contractor's or subcontractor's implementation of a drug and alcohol testing policy, including procedures for:

(A) collection of a sample;

(B) testing of a sample;

(C) evaluation of a test; or

(D) disciplinary or rehabilitative action on the basis of a test

result;

(v) an individual being under the influence of drugs or alcohol; or

(vi) an individual under the influence of drugs or alcohol harming another person or causing property damage.

R23-7-5. Non-applicability.

(1) This Rule R23-7 and Section 63G-6a-1303~~[63G-6-604]~~ does not apply if the State Executive Entity (including the Division) determines that the application of this Rule R23-7 or Section 63G-6a-1303~~[63G-6-604]~~ would severely disrupt the operation of a procurement unit~~[state agency]~~ to the detriment of the procurement unit~~[state agency]~~ or the general public, including:

(a) jeopardizing the receipt of federal funds;

(b) causing the state construction contract to be~~[being]~~ a sole source contract; or

(c) causing the state construction contract to be~~[being]~~ an emergency procurement.

R23-7-6. Not Limit Other Lawful Policies.

(1) If a contractor or subcontractor meets the requirements of Section 63G-6a-1303~~[63G-6-604]~~ and this Rule R23-7, Section 63G-6a-1303 and this Rule R23-7 may not be construed to restrict the contractor's or subcontractor's ability to impose or implement an otherwise lawful provision as part of a drug and alcohol testing policy.

KEY: drug and alcohol testing, contracts, contractors

Date of Enactment or Last Substantive Amendment: [July 8, 2010]2015

Notice of Continuation: June 30, 2015

Authorizing, and Implemented or Interpreted Law: 63G-6

Administrative Services, Facilities Construction and Management **R23-32**

Rules of Procedure for Conduct of Utah State Building Board Meetings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39826

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish procedures for the conduct of Utah State Building Board meetings and to assist the public and anyone wishing to address the building board, whether in person or by other established means. The reason for the change in Section R23-32-8 is to address the services that shall be provided by the Department of Administrative Services.

SUMMARY OF THE RULE OR CHANGE: The changes address the services that shall be provided by the Department of Administrative Services to the board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-5-102(2)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings that are expected. The changes simply address the services that shall be provided by the Department of Administrative Services to the board.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings that are expected. The changes simply address the services that shall be provided by the Department of Administrative Services to the board.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings that are expected. The changes simply address the services that shall be provided by the Department of Administrative Services to the board.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings that are expected. The changes simply address the services that shall be provided by the Department of Administrative Services to the board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes simply address the services that shall be provided by the Department of Administrative Services to the board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses. The changes simply address the services that shall be provided by the Department of Administrative Services to the board.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
ROOM 4110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov

◆ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bruce Whittington, Acting Director

R23. Administrative Services, Facilities Construction and Management.

R23-32. Rules of Procedure for Conduct of Utah State Building Board Meetings.

R23-32-1. Purpose.

The purpose of this Rule R23-32 is to establish procedures for the conduct of Utah State Building Board meetings and to assist the public and anyone wishing to address the Building Board, whether in person or by other established means.

R23-32-2. Authority.

This Rule R23-32 is authorized under Subsection 63A-5-102(2) which directs that the Building Board "adopt rules of procedure for the conduct of its meetings." The Building Board has administrative rulemaking authority under Subsection 63A-5-103(1) (e).

R23-32-3. Definitions.

(1) "Attendance" means that person attending a Board meeting, either in person or through electronic means as authorized by this Rule.

(2) "Board" means the Utah State Building Board established under Title 63A, Chapter 5, Utah Code.

(3) "Chair" means the person appointed as Chair of the Board by the Governor pursuant to Title 63A, Chapter 5, Utah Code.

(4) "Director" means the Director of the Division of Facilities Construction and Management or duly authorized designee.

(5) "Division" means the Division of Facilities Construction and Management.

(6) "Electronic meeting" is as defined in Section 52-4-103.

(7) "GOPB Official" means the Director of the Governor's Office of Planning and Budget or duly authorized designee.

(8) "Open and Public Meetings Laws" means those laws provided by Title 52, Chapter 4, Utah Code.

(9) "Presiding Officer" means the Chair. The Chair may choose, either because of unavailability or other reason, an alternate Presiding Officer.

R23-32-4. Composition of Board.

(1) The Board consists of eight members, seven of whom are voting members appointed by the Governor for terms of four years.

(2) The GOPB Official is a nonvoting member of the Board. As a nonvoting member, the GOPB official shall not be considered as part of the quorum requirement for Board determinations. The GOPB Official shall advise the Presiding Officer of any designee appointed prior to any meeting that the designee will be attending.

R23-32-5. Calling for Meetings.

The Chair or any three voting members may call meetings of the Board. The Executive Director of the Department of Administrative Services, Director or GOPB Official may also call for a meeting upon consent of the Chair.

R23-32-6. Compliance with Open and Public Meeting Laws.

All meetings of the Board shall be conducted in accordance with the Open and Public Meetings Laws. All meetings are open to the public unless closed in whole or in part pursuant to the requirements of the Open and Public Meeting Laws.

R23-32-7. Presiding Officer and Basic Responsibilities.

(1) The Chair shall be the Presiding Officer at all Board meetings when present in person or through electronic means.

(2) The Chair may choose, either because of unavailability or other reason, an alternate Presiding Officer.

(3) The Presiding Officer shall be able to make motions and have a vote on each matter before the Board. The Presiding Officer may second motions.

(4) Unless otherwise directed by vote of the Board, the Presiding Officer shall be responsible for the operation of the meeting, shall have control over the items on the agenda, the order of the agenda, time limits that are needed, and other matters that relate to the orderly running of the meeting.

R23-32-8. Administrative and Staff Services.~~[Secretary to the Board.]~~

The Department of Administrative Services shall provide administrative and staff services to enable the Board to exercise its powers and discharge its duties, and shall provide necessary space and equipment for the Board.~~(1) The Director shall serve as Secretary to the Board. The Secretary shall be present at each meeting of the Board, shall provide the posting of notice, minutes, any required recording, and all secretarial-related requirements related to the Open and Public Meetings Laws. The Secretary shall coordinate with others that are needed for such compliance with the Open and Public Meetings Laws.~~

~~(2) The Secretary shall maintain a record of Board meetings which shall include minutes, agendas and submitted documents, including those submitted electronically, that shall be available at reasonable times to the public.]~~

R23-32-9. Meetings.

Meetings shall generally be held on the first Wednesday of the month at 9:00 a.m. at the Utah State Capitol in Salt Lake City, Utah. During Legislative Sessions, the Chair and Director may determine another location. The date, time and location may also be modified by the Chair and Director at any time when it is in the interest of the Board and the public.

R23-32-10. Notice and Agenda.

(1) Notice shall be given of all meetings in accordance with the Open and Public Meeting Laws.

(2) The Director and Presiding Officer shall confer a reasonable time prior to any Board meeting as to the items to be on the agenda. The Presiding Officer shall ultimately determine the matters to be on the agenda, unless a vote of the Board has been undertaken to direct an item to be placed on the agenda. Board members may also contact the Chair about any request for agenda items.

(3) The order of business shall be in the order placed on the agenda, unless the Presiding Officer or vote of the Board alters the order of business and there is no prejudice to interested persons that may have intended to attend the meeting.

(4) Members of the Board, the Division, governmental agencies and the public may submit a request to the Secretary to the Board that an item be placed on the agenda subject to review and approval by the Presiding Officer.

(5) Each agenda shall have an item on it regarding whether there are any matters to be placed on a future agenda.

R23-32-11. Attendance, Quorum and Voting.

(1) The quorum requirement for the Board is set forth in Utah Code Annotated Title 63A, Chapter 5.

(2) For any determination of the Board, it must be approved by a majority vote of those voting members present and it must receive an affirmative vote from at least three members.

(3) Voting shall be expressed publicly when called for by the Presiding Officer. An affirmative vote shall be recorded for all Board members present that neither vote negatively nor specifically abstain. The number of affirmative, negative and abstaining votes shall be announced by the Presiding Officer, and the specific members of such votes shall be recorded by the Secretary.

(4) Members must be in attendance, including by electronic means in accordance with this Rule, in order to vote.

R23-32-12. Motions, Second to a Motion, Discussion, Continuances and Resolutions.

(1) The GOPB Official may make and second motions, but shall not vote on any motion.

(2) Items may be continued to any subsequent meeting by vote of the Board.

(3) A second to a motion is required prior to discussion by Board members.

(4) After a motion is seconded, the Presiding Officer shall ask for discussion of the matter. The Presiding Officer shall call upon those that request to discuss the matter. The Presiding Officer retains the authority to place reasonable restrictions on the discussion that assure that the discussion is orderly and relevant to the motion. After the discussion, or if no Board member desires to discuss the matter, the Board shall proceed to vote on the matter without the need for a formal call to question.

(5) The Board may enact resolutions as are appropriate under their authority.

R23-32-13. Committees.

The Board may appoint committees to investigate or report on any matter which is of concern to the Board.

R23-32-14. Order at Meetings.

(1) The Presiding Officer shall preserve order and decorum at all meetings of the Board and shall determine questions of order, which may be subject to a vote of the Board.

(2) A person or persons creating a disturbance or otherwise obstructing the orderly process of a Board meeting may be ordered to be ejected from the meeting.

R23-32-15. Robert's Rules of Order.

All matters not covered by this Rule R23-32 shall be determined by either Robert's Rules of Order, latest published edition, an abbreviated edition of Robert's Rules of Order as determined by the Presiding Officer; or with abbreviated procedures as determined by the Presiding Officer.

R23-32-16. Electronic Meetings.

(1) Purpose. Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule R23-32-15 establishes procedures for conducting Board meetings by electronic means.

(2) Procedure. The following provisions govern any meeting at which one or more Board members appear electronically pursuant to Section 52-4-207:

(a) If one or more members of the Board desire to participate electronically, such member(s) shall contact the Director. The Director shall assess the practicality of facility requirements needed to conduct the meeting electronically in a manner that allows for the attendance, participation and monitoring as required by this Rule. If it is practical, the Presiding Officer shall determine whether to allow for such electronic participation, and the public notice of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Board not participating electronically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location and be provided in accordance with the Open and Public Meetings Laws.

(c) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. In addition, the notice shall describe how a Board member may participate in the meeting electronically.

(d) When notice is given of the possibility of a Board member appearing electronically, any Board member may do so and any voting Board member, whether at the anchor location or participating electronically, shall be counted as present for purposes of a quorum and may fully participate and vote. At the commencement of the meeting, or at such time as any Board member initially appears electronically, the Presiding Officer shall identify for the record all those who are appearing electronically. Votes by members of the Board who are not at the anchor location of the meeting shall be confirmed by the Presiding Officer.

(e) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. The anchor location shall be identified in the public notice for the meeting. Unless otherwise designated in the notice, the anchor location shall be a room in the Utah State Capitol Hill Complex where the Board would normally meet if the Board was not holding an electronic meeting.

(f) The anchor location will have space and facilities so that interested persons and the public may attend, monitor and participate in the open portions of the meeting, as appropriate.

R23-32-17. Suspension of the Rules.

By a vote of the Board, and to the extent allowed by law, any requirement of this Rule R23-32 may be suspended when necessary to better serve the public in the conduct of a Board meeting.

KEY: Building Board, conduct, meeting procedures

Date of Enactment or Last Substantive Amendment: [~~December 9, 2014~~]2015

Authorizing, and Implemented or Interpreted Law: 63A-5-102(2); 63A-5-103(1)(e)

Commerce, Occupational and Professional Licensing **R156-31b** Nurse Practice Act Rule

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39816
FILED: 10/08/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and Board of Nursing reviewed the rule and determined that amendments need to be made. The purpose of this filing is to: 1) add and clarify definitions for accreditation to be consistent with the new Nurse Practice Act amendments as enacted in H.B. 218 during the 2015 General Session of the legislature; 2) eliminate definitions that are no longer necessary; 3) clarify existing definitions; 4) eliminate redundant requirements; 5) clarify requirements for limited-time approval of non-accredited nursing education programs; and 6) clarify standards for out-of-state programs providing clinical experiences in Utah.

SUMMARY OF THE RULE OR CHANGE: In Section R156-31b-102, the definition for "accreditation" was revised to reflect consistency with the Nurse Practice Act as enacted during the 2015 General Session. The definitions for "ACEN", "CCNE", "COA", and "NLNAC" were removed. These definitions are no longer necessary based on the change to the definition of "accreditation". The definition for "licensure by equivalency" was revised to clarify requirements for this licensure option. The definition for "psychiatric mental health nursing specialty" was revised to reflect current nursing roles and practice. In Section R156-31b-301a, the reference to a specific accrediting body was removed. A specific reference is no longer needed with the revised definition of accreditation. In Section R156-31b-301c, the name of the certifying body for nurse anesthetists was updated to reflect the body's proper name. The language about the potential for the board to approve alternatives for supervision of a psychiatric mental health advanced practice registered nurse was removed. The board determined that there is no need for exceptions to the existing rule for statutorily required supervision of psychiatric mental health advanced practice registered nurses. Subsection R156-31b-309(3) was eliminated, based on a board determination that it was redundant. Subsection R156-31b-309(2) adequately describes the time-frame associated with issuance of an intern license for any advanced practice registered nurse. In Section R156-31b-602, The requirements for limited-time approval of non-accredited nursing education programs were

revised to: 1) clarify expectations of the non-accredited program by outlining requirements designed to protect the nursing student and support the program in achieving accreditation within a reasonable time-frame; and 2) reflect the revised definition of "accreditation" consistent with the Nurse Practice Act as enacted during the 2015 General Session. In Section R156-31b-609, the standards for out-of-state programs providing clinical experiences in Utah were revised to: 1) clarify that any out-of-state nursing program planning to place nursing students in Utah facilities or agencies need approval; 2) clarify that only nursing faculty providing face-to-face supervision of clinical experiences will need to be licensed in Utah or a Compact state; 3) clarify that the out-of-state programs must maintain accreditation and report to the Utah Board of Nursing any changes in accreditation status; and 4) describe requirements for an annual report to be submitted to the Utah Board of Nursing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the division's current budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments apply only to the nursing profession. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The division is not aware of any educational institution with a nursing education program that employs fewer than 50 employees. Therefore, there are no identified costs or savings for small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The division anticipates there are no identified costs or savings for other persons as a result of these proposed amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Non-accredited nursing education programs that are granted time-limited approval in Utah will incur costs associated with seeking limited-time approval. These programs will be required to establish a time-line for achieving accreditation and submit a written report which includes plans and processes consistent with its selected accrediting body. These programs will incur costs associated with developing and submitting this report; however, the program should already have developed this information for its accrediting body. In addition, the increased clarity of the Nurse Practice Act Rule is likely to decrease the time the program may have spent in the past seeking limited-time approval of the program. Compliance costs for non-accredited nursing education programs cannot be further estimated; costs should not increase beyond current levels. Nursing education programs based outside of Utah, seeking clinical experiences in Utah, will incur costs associated with seeking approval of their program in Utah. The majority of state boards of nursing

require a program based outside of its state border to submit an application and a fee. Utah does not require submission of any fees, the lack of fees is a benefit to these programs. In addition, increasing the clarity of the requirements for approval will minimize the time the program may have spent (e.g., contacting the division with questions) in the past seeking approval of the program. Eliminating the requirement for faculty to obtain licensure in Utah (if not licensed in a compact state) will decrease compliance costs for individual faculty. Compliance costs for out-of-state nursing education programs providing clinical experiences in Utah cannot be further estimated; costs should not increase beyond current levels.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing adds and clarifies definitions for accreditation to be consistent with the new Nurse Practice Act, enacted in 2015, deletes unnecessary definitions and redundant requirements, clarifies requirements for limited-time approval of non-accredited nursing education programs, and clarifies standards for out-of-state programs providing clinical experiences in Utah.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 11/12/2015 08:15 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-31b. Nurse Practice Act Rule.

R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in this rule:

- (1) "Accreditation" means [full approval] formal recognition and approval of a nurse education program by an

accrediting body for nursing education that is approved by the United States Department of Education. ~~prelicensing course of education by one of the following accrediting bodies:~~

- ~~(a) the ACEN;~~
- ~~(b) the CCNE; or~~
- ~~(c) the COA.~~

~~(2) "ACEN" means the Accreditation Commission for Education in Nursing, Inc.]~~

([3]2) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.

([4]3) "APRN" means advanced practice registered nurse.

([5]4) "APRN-CRNA" means advanced practice registered nurse with registered nurse anesthetist certification.

([6]5) "Approved continuing education" means:

(a) continuing education that has been approved by a nationally or internationally recognized approver of professional continuing education for health-related industries;

(b) nursing education courses offered by an approved education program as defined in Subsection R156-31b-102(7);

(c) health-related coursework taken from an educational institution accredited by a regional or national institutional accrediting body recognized by the U.S. Department of Education; and

(d) training or educational presentations offered by the Division.

([7]6) "Approved education program" means any nursing education program that meets the standards established in Section 58-31b-601 or Section R156-31b-602.[

~~(8) "CCNE" means the Commission on Collegiate Nursing Education.]~~

([9]7) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.[

~~(10) "COA" means the Council on Accreditation of Nurse Anesthesia Education Programs.]~~

([11]8) "Comprehensive nursing assessment" means:

(a) conducting extensive initial and ongoing data collection:

(i) for individuals, families, groups or communities; and

(ii) addressing anticipated changes in patient conditions as well as emergent changes in patient health status;

(b) recognizing alterations to previous patient conditions;

(c) synthesizing the biological, psychological, spiritual, and social aspects of the patient's condition;

(d) evaluating the impact of nursing care; and

(e) using data generated from the assessments conducted pursuant to this Subsection (a) through (d) to:

(i) make independent decisions regarding patient health care needs;

(ii) plan nursing interventions;

(iii) evaluate any possible need for different interventions; and

(iv) evaluate any possible need to communicate and consult with other health team members.

([12]9) "Contact hour" in the context of continuing education means 60 minutes, which may include a 10-minute break.

([13]10) "Delegate" means:

(a) to transfer to another nurse the authority to perform a selected nursing task in a selected situation;

(b) in the course of practice of an APRN who specializes in psychiatric mental health nursing, to transfer to any individual licensed as a mental health therapist selected psychiatric APRN supervisory clinical experiences within generally-accepted industry standards; or

(c) to transfer to an unlicensed person the authority to perform a task that, according to generally-accepted industry standards or law, does not require a nursing assessment as defined in Sections R156-31b-102([11]8) and ([17]14).

([14]11) "Delegator" means one or more persons assigned by a delegator to act on the delegator's behalf.

([15]12) "Delegator" means a person who assigns to another the authority to perform a task on behalf of the person.

([16]13)(a) "Disruptive behavior" means conduct, whether verbal or physical, that:

(i) is demeaning, outrageous, or malicious;

(ii) occurs during the process of delivering patient care; and

(iii) places a patient at risk.

(b) "Disruptive behavior" does not include criticism that is offered in good faith with the aim of improving patient care.

([17]14) "Focused nursing assessment" means an appraisal of a patient's status and situation at hand, including:

(a) verification and evaluation of orders; and

(b) assessment of:

(i) the patient's nursing care needs;

(ii) the complexity and frequency of the required nursing care;

(iii) the stability of the patient; and

(iv) the availability and accessibility of resources, including appropriate equipment, adequate supplies, and other appropriate health care personnel to meet the patient's nursing care needs.

([18]15) "Foreign nurse education program" means any program that originates or occurs outside of the United States.

([19]16) "Individualized healthcare plan" or "IHP" means a written document that outlines the provision of student healthcare services intended to achieve specific student outcomes.

([20]17) "Licensure by equivalency" applies only to the licensed practical nurse and may be warranted if the person seeking licensure:

(a) has, within the two-year period preceding the date of application, successfully completed course work in a Utah-based registered nurse program that meets the criteria established in Sections 58-31b-601 and R156-31b-602; or

(b)(i) is currently enrolled in ~~a fully~~an accredited Utah-based registered nurse education program; and

(ii) has completed course work that is certified by the education program provider as being equivalent to the course work of an ACEN-accredited practical nursing program, as verified by the nursing education program director or administrator.

([21]18) "LPN" means licensed practical nurse.

([22]19) "MAC" means medication aide certified.

([23]20) "Medication" means any prescription or nonprescription drug as defined in Subsections 58-17b-102(24), (37) or (61) of the Pharmacy Practice Act.[

~~(24) "NLNAC" means the National League for Nursing Accrediting Commission, which as of May 6, 2013, became known as the Accreditation Commission for Education in Nursing, Inc. or ACEN.]~~

([25]21) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

([26]22) "Non-approved education program" means any nurse prelicensing course of study that does not meet the criteria of Section 58-31b-601, including a foreign nurse education program.

([27]23) "Nurse" means:

(a) an individual licensed under Title 58, Chapter 31b as:

- (i) a licensed practical nurse;
- (ii) a registered nurse;
- (iii) an advanced practice registered nurse; or
- (iv) an advanced practice registered nurse-certified registered nurse anesthetist; or

(b) a certified nurse midwife licensed under Title 58, Chapter 44a.

([28]24) "Other specified health care professionals," as used in Subsection 58-31b-102(15), means an individual, in addition to a registered nurse or a licensed physician, who is permitted to direct the tasks of a licensed practical nurse, and includes:

- (a) an advanced practice registered nurse;
- (b) a certified nurse midwife;
- (c) a chiropractic physician;
- (d) a dentist;
- (e) an osteopathic physician;
- (f) a physician assistant;
- (g) a podiatric physician;
- (h) an optometrist;
- (i) a naturopathic physician; or
- (j) a mental health therapist as defined in Subsection 58-60-

102(5).

([29]25) "Patient" means one or more individuals:

- (a) who receive medical and/or nursing care; and
- (b) to whom a licensee owes a duty of care.

([30]26) "Patient surrogate" means an individual who has legal authority to act on behalf of a patient when the patient is unable to act or make decisions unaided, including:

- (a) a parent;
- (b) a foster parent;
- (c) a legal guardian; or
- (d) a person legally designated as the patient's attorney-in-

fact.

([31]27) "PN" means an unlicensed practical nurse.

([32]28) "Psychiatric mental health nursing specialty" means an expertise in psychiatric mental health, whether as a clinical nurse specialist or nurse practitioner licensed as an APRN.

([33]29) "Practitioner" means a person authorized by law to prescribe treatment, medication, or medical devices.

([34]30) "RN" means a registered nurse.

([35]31) "School" means any private or public institution of primary or secondary education, including a charter school, pre-school, kindergarten, or special education program.

([36]32) "Supervision" is as defined in Subsection R156-1-102a(4).

([37]33) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b is further defined in Section R156-31b-502.

R156-31b-301a. LPN License -- Education, Examination, and Experience Requirements.

(1) An applicant who has never obtained a license in any state or country shall:

- (a) demonstrate that the applicant:

(i) has successfully completed a PN prelicensing education program that meets the requirements of Section 58-31b-601;

(ii) has successfully completed a PN prelicensing education program that is equivalent to an approved program under Section 58-31b-601; or

(iii)(A) is enrolled in an RN prelicensing education program that meets the requirements of Section 58-31b-601; and

(B) has completed coursework that is equivalent to the coursework of an [ACEN]-accredited practical nurse program;

(b) pass the NCLEX-PN examination pursuant to Section R156-31b-301e; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(2) An applicant who holds a current LPN license issued by another country or state shall:

(a) demonstrate that the license issued by the other jurisdiction is active and in good standing as of the date of application;

(b) demonstrate that the PN prelicensing education completed by the applicant:

(i) is equivalent to PN prelicensing education approved in Utah as of the date of the applicant's graduation; and

(ii) if a foreign education program, meets all requirements outlined in Section R156-31b-301d;

(c) pass the NCLEX-PN examination pursuant to Section R156-31b-301e; and

(d) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(3) An applicant who holds a current LPN license in an interstate compact state shall apply for a license within 90 days of establishing residency in Utah and complete all requirements pursuant to R156-31b-301a(2).

(4) An applicant who has been licensed previously in Utah, but whose license has expired or lapsed, shall:

(a) if the applicant has not practiced as a nurse for up to five years, document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3);

(b) if the applicant has not practiced as a nurse for more than five years but less than eight years:

(i) pass the NCLEX-PN examination within 60 days following the date of application; or

(ii) successfully complete an approved re-entry program;

(c) if the applicant has not practiced as a nurse for more than eight years but less than 10 years:

(i) successfully complete an approved re-entry program; and

(ii) pass the NCLEX-PN examination within 60 days following the date of application; or

(d) if the applicant has not practiced as a nurse for 10 years or more, comply with this Subsection (1).

(5) An applicant who has been licensed in another state or country, but whose license has expired or lapsed, shall:

(a) comply with this Subsection (2)(b); and

(b) comply with this Subsection (4) as applicable; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

R156-31b-301c. APRN License -- Education, Examination, and Experience Requirements.

(1) An applicant who is not currently and validly licensed as an APRN in any state or country shall:

(a) demonstrate that the applicant holds a current, active RN license in good standing;

(b) demonstrate that the applicant has successfully completed an APRN prelicensing education program that meets the requirements of Subsection 58-31b-601(1) and Subsection 58-31b-302(4)(e);

(c) pass a national certification examination consistent with the applicant's educational specialty, pursuant to Section R156-31b-301e, and administered by one of the following credentialing bodies:

- (i) the American Nurses Credentialing Center Certification;
- (ii) the Pediatric Nursing Certification Board;
- (iii) the American Association of Nurse Practitioners;
- (iv) the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;

(v) the American Midwifery Certification Board, Inc.; or
 (vi) the ~~Council on Certification of Nurse Anesthetists~~ National Board of Certification and Recertification for Nurse Anesthetists;

(d) if the applicant specializes in psychiatric mental health nursing, demonstrate that the requirements outlined in this Subsection (2) are met; and

(e) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(2) Requirements for APRN Specializing in Psychiatric Mental Health Nursing:

(a) In accordance with Subsection 58-31b-302(4)(g), the supervised clinical practice in mental health therapy and psychiatric and mental health nursing shall consist of a minimum of 4,000 hours of psychiatric mental health nursing education and clinical practice, including mental health therapy, as follows.

(i) 1,000 hours shall be credited for completion of clinical experience in an approved education program in psychiatric mental health nursing.

(ii) The remaining 3,000 hours shall:

(A) be completed after passing the applicable national certification examination and within five years of graduation from an accredited master's or doctoral level educational program;

(B) include a minimum of 1,000 hours of mental health therapy practice; and

(C) include at least 2,000 clinical practice hours that are completed under the supervision of:

(I) an APRN specializing in psychiatric mental health nursing; or

(II) a licensed mental health therapist as delegated by the supervising APRN ~~and~~

~~(D) unless otherwise approved by the Board and Division, be completed while the individual seeking licensure is under the supervision of an individual who meets the requirements of this Subsection (2)(c)].~~

(b) An applicant who obtains all or part of the clinical practice hours outside of Utah may receive credit for that experience by demonstrating that the training completed is equivalent in all respects to the training required under this Subsection (2)(a).

(c)(i) An approved supervisor shall verify practice as a licensee engaged in the practice of mental health therapy for not less than 4,000 hours in a period of not less than two years.

(ii) Duties and responsibilities of a supervisor include:

(A) being independent from control by the supervisee such that the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(B) supervising not more than three supervisees unless otherwise approved by the Division in collaboration with the Board; and

(C) submitting appropriate documentation to the Division with respect to all work completed by the supervisee, including the supervisor's evaluation of the supervisee's competence to practice.

(3) An applicant who holds a current APRN license issued by another state or country shall:

(a) demonstrate that the license issued by the other state or country is current, active, and in good standing as of the date of application;

(b) demonstrate that the APRN prelicensing education completed by the applicant:

(i) if completed on or after January 1, 1987:

(A) is equivalent to APRN prelicensing education approved in Utah as of the date of the applicant's graduation; or

(B) constitutes a bachelor degree in nursing; and

(ii) if a foreign education program, meets all requirements outlined in Section R156-31b-301d;

(c) if the applicant specializes in psychiatric mental health nursing, demonstrate that the applicant has successfully engaged in active practice in psychiatric mental health nursing for not less than 4,000 hours in the three-year period immediately preceding the date of application; and

(d) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(4) An applicant who has been licensed previously in Utah, but whose license has expired, lapsed, or been on inactive status, shall:

(a) demonstrate current certification in the individual's specialty area; and

(b) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(5) An applicant who has been licensed previously in another state or country, but whose license has expired or lapsed, shall:

(a) comply with this Subsection (3)(b);

(b) demonstrate that the applicant is currently certified in the individual's specialty area; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

R156-31b-309. APRN Intern License.

(1) An individual who has completed all requirements outlined in Subsection R156-31b-301c(1) except the certification examination requirement may apply for an APRN intern license.

(2) In accordance with Section 58-31b-306, and unless this Subsection (3) or (4) applies, an intern license expires the earlier of:

(a) 180 days from the date of issuance;

(b) 30 days after the Division receives notice pursuant to this Subsection (4) that the applicant has failed the specialty certification examination; or

(c) upon issuance of an APRN license.

~~(3) [If an intern is applying for licensure as an APRN specializing in psychiatric mental health nursing, the intern license expires three years from the date of issuance.~~

—(4)—]The Division in collaboration with the Board may extend the term of any intern license upon a showing of extraordinary circumstances beyond the control of the applicant.

(5) It is the professional responsibility of an APRN intern:

(a) to inform the Division of examination results within ten calendar days of receipt; and

(b) to cause the examination agency to send the examination results directly to the Division.

R156-31b-602. Requirements for Limited-time Approval of Non-accredited Nursing Education Programs.

(1)(a) Pursuant to Subsection 58-31b-601(2), a nursing education program may, prior to obtaining an accreditation described in Subsection 58-31b-601(1), qualify for a limited time as an approved education program if the program provider demonstrates ~~[that application for accreditation has been made.]~~ to the satisfaction of the Board that the program:

(i) has established a timeline which allows for the initial accreditation visit to occur before the first students graduate;

(ii) understands the accreditation standards of its selected accrediting body as demonstrated in a written report which includes plans and processes consistent with the accrediting body for:

(A) curricular organization and delivery method;

(B) student learning outcomes;

(C) student support;

(D) program administration and organization;

(E) learning environment and facilities;

(F) clinical learning and placements; and

(G) faculty and nurse administrator qualifications;

(iii) clearly informs students and potential students about its accreditation status and the potential implications for future practice; and

(b) If the program provider is seeking accreditation from ~~[the ACEN or CCNE]~~ an accrediting body for nursing education as defined in Subsection R156-31b-102(1), the limited-time approval shall expire after 12 months unless Subsection (2) applies.

(c) If the program provider is seeking accreditation from the COA, the limited-time approval shall expire at the end of the COA initial review process unless this Subsection (2) applies.

(2)(a) A program that is granted limited-time approval pursuant to this Subsection (1) shall retain that approval if, during the applicable time period outlined in Subsection (1) it achieves candidate, applicant, or initial status with an accrediting body for nursing education that is approved by the United States Department of Education[:

~~(i) it achieves candidate status with the ACEN;~~

~~(ii) it achieves applicant status with the CCNE; or~~

~~(iii) it successfully completes the COA initial review process].~~

(b) A program that meets the qualifications described in this Subsection (2)(a) shall retain its limited-time approval until such time as the accrediting body makes a final determination on the program's application for accreditation.

(c) A program shall achieve full accreditation within five years of receiving candidate, applicant, or review status with the approved accrediting body.

(3) The provider of a program that receives limited-time approval pursuant to this Subsection (1) and (2) shall, pursuant to this Subsection (4), disclose to each student who enrolls:

(a) that program accreditation is pending;

(b) that any education completed prior to the accrediting body's final determination will satisfy, at least in part, state requirements for prelicensing education; and

(c) that, if the program fails to achieve accreditation, any student who has not yet graduated will be unable to complete a nurse prelicensing education program through the provider.

(4) The disclosure required by this Subsection (3) shall:

(a) be signed by each student who enrolls with the provider;

and

(b) at a minimum, state the following: "The nursing program in which you are enrolling has not yet been accredited. The program is being reviewed by the (accrediting body). Any education you complete prior to a final determination by the (accrediting body) will satisfy associated state requirements for licensure. However, if the (accrediting body) ultimately determines that the program does not qualify for accreditation, you will need to transfer into a different program in order to complete your nurse prelicensing education. There is no guarantee that another institution will accept you as a transfer student. If you are accepted, there is no guarantee that the institution you attend will accept the education you have completed at (name of institution providing disclosure) for credit toward graduation."

(5) If an accredited program receives notice or determines that its accreditation status is in jeopardy, the institution offering the program shall:

(a) immediately notify the Board of its accreditation status;

(b) immediately and verifiably notify all enrolled students in writing of the program's accreditation status, including:

(i) the estimated date on which the accrediting body will make its final determination as to the program's accreditation; and

(ii) the potential impact of a program's accreditation status on the graduate's ability to secure licensure and employment or transfer academic credits to another institution in the future; and

(c) attempt negotiations with other academic institutions to establish a transfer articulation agreement.

(6) If a program fails to achieve accreditation or loses its accreditation, the institution offering the program shall:

(a) submit a written report to the Board within ten days of receiving formal notification from the accrediting body;

(b) meet with the Board as soon as practicable after receiving formal notification from the accrediting body to discuss programmatic options including:

(i) an appeal of the accrediting body's action;

(ii) a one-time reapplication with an approved accrediting body for applicant or candidate status with an onsite evaluation by the accrediting body to be completed within three years of the date the accreditation was lost;

(iii) a one-time reapplication for limited-time program approval pursuant to Subsections R156-31b-602(1) through (4); or

(iv) written plans to close the program and cease operations.

(7) A program that has exhausted all limited-time approval options shall submit written plans to cease enrollment and close the program.

R156-31b-609. Standards for Out-of-State Programs Providing Clinical Experiences in Utah.

A nursing education program provider located in another state that desires to place nursing students in Utah agencies or institutions[use Utah health care facilities] for clinical or practica

experiences ~~[for one or more students]~~ shall, prior to placing a student, ~~[meet with the Board and]~~ demonstrate to the satisfaction of the Division and Board that the program:

- (1) ~~[has been]~~ is approved by the home state Board of Nursing;
- (2) ~~[has been fully]~~ is accredited by ~~[the ACEN, CCNE, or COA]~~ an accrediting body for nursing education that is approved by the United States Department of Education;
- (3) has ~~[clinical]~~ faculty who:
 - (a) are employed by the nursing education program;
 - (b) meet the requirements to be a faculty member as established by the accrediting body and the home state's Board of Nursing;
 - (c) are licensed in good standing in Utah or a Compact state if supervising face-to-face clinical or practica experiences; and
 - (d) are affiliated with an institution of higher education; and
 - (4) has a plan for selection and supervision of:
 - (a) faculty or preceptor; and
 - (b) the clinical activity, including:
 - (i) the selection of an appropriate clinical location, and
 - (ii) ~~[date range.]~~ ensuring that each preceptor is licensed in good standing in Utah or a Compact state;
 - (5) maintains its accreditation with an accrediting body for nursing education that is approved by the United States Department of Education; and
 - (a) reports any changes in its accreditation status to the Utah Board of Nursing in a timely manner;
 - (6) submits an annual report to the Utah Board of Nursing by August 1 of each year; and
 - (a) includes in the annual report:
 - (i) an overview of the number of students placed in Utah facilities;
 - (ii) an attestation that all face-to-face clinical faculty and preceptors used by the program are licensed in good standing in Utah or a Compact state; and
 - (iii) a verification that it is currently accredited, in good standing, with its accrediting body.

KEY: licensing, nurses

Date of Enactment or Last Substantive Amendment: ~~[April 7,]~~ 2015

Notice of Continuation: March 18, 2013

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)

Education, Administration
R277-118

LEA Post-employment Benefits Plans

NOTICE OF PROPOSED RULE
(Repeal)

DAR FILE NO.: 39836
FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed in response to H.B. 208, School District Postemployment Health Insurance Benefits, from the 2015 General Session. The state law is now inclusive of the provisions in Rule R277-118 making the rule no longer necessary.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is likely no cost or savings to the state budget by repealing this rule. State law now supersedes Rule R277-118.
- ◆ **LOCAL GOVERNMENTS:** There is likely no cost or savings to local government by repealing this rule. State law now supersedes Rule R277-118.
- ◆ **SMALL BUSINESSES:** There is likely no cost or savings to small businesses by repealing this rule. State law now supersedes Rule R277-118.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is likely no cost or savings to persons other than small businesses, businesses, or local government entities by repeal this rule. State law now supersedes Rule R277-118.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons by repealing this rule. State law now supersedes Rule R277-118.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from repealing this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.

[R277-118. LEA Post-employment Benefits Plans.

R277-118-1. Definitions.

_____ A. "Board" means the Utah State Board of Education.

_____ B. "GASB Statement 43" (or successor rule) means a Statement of the Governmental Accounting and Standards Boards that establishes uniform standards of financial reporting by state and local governmental entities for OPEB plans. This Statement provides standards for measurement, recognition, and display of the assets, liabilities, and, where applicable, net assets and changes in net assets of such funds and for related disclosures. GASB Statement 43 applies to financial reports of all state and local governmental entities, including public employee retirement systems.

_____ C. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and for purposes of this rule, the Utah Schools for the Deaf and the Blind.

_____ D. "Other post-employment benefits (OPEB)" means benefits after retirement, other than pension benefits, provided over an extended period of time and may include:

- _____ (1) healthcare;
- _____ (2) dental care; and
- _____ (3) life insurance.

_____ E. "Other post-employment benefits plan (OPEB plan)" means a plan approved by an LEA that provides post-employment benefits as identified in R277-118D to employees.

_____ F. "Qualified actuary" means a statistician who determines the present effects of future contingent events; especially one who calculates insurance and pension rates on the basis of empirically based tables. An actuary shall have appropriate credentials or experience or both.

_____ G. "Termination benefit plan" means benefit(s) (such as cash payments, health insurance supplements or bridge payments or sick leave payouts) offered to an employee as incentive(s) to retire or sever employment from an LEA voluntarily.

_____ H. "Trust or a set aside fund balance," for purposes of this rule, means a legal trust established consistent with requirements of state law or a designation of a portion of the LEA's maintenance and operations (M and O) fund balances. Either a trust or an LEA designation of fund balance liability would be dedicated to supporting an LEA's outstanding post-employment benefits.

R277-118-2. Authority and Purpose.

_____ A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-125 which appropriates funds to the Board to distribute to LEAs for employee retirement and social security payments.

_____ B. The purpose of this rule is to direct LEAs not to add new employee benefits, not to lengthen existing employee benefits and not to offer employee benefit plans to new employees unless LEAs maintain adequate ongoing assets to fund the plans. The rule provides required timelines for meeting the provisions of this rule.

R277-118-3. Other Post-Employment Benefit Plans; Exceptions; Funding of Liability; Compliance.

_____ A. LEAs shall not add enhanced benefits nor extend time periods for benefits to employees currently enrolled in and not enroll new members in post-retirement benefit plans.

_____ B. Exceptions to R277-118-3A

_____ (1) If an LEA has and desires to continue an outstanding OPEB liability for post-employment benefit plans, the LEA shall comply with GASB Statement 43, Paragraph 24 in the LEA's computation of its liability by a qualified actuary.

_____ (2) If an LEA has an existing OPEB plan and the plan is fully funded consistent with the provisions of GASB Statement 43, an LEA may make the plan open to new employees so long as it remains fully funded.

_____ (3) If an LEA's OPEB plan becomes less than fully funded at any time and the LEA has not provided the documentation for an exception under R277-118-B(2), the OPEB plan shall be closed to eligibility to new employees and shall lose its USOE-approved status.

_____ C. Funding of liability - If an LEA has an OPEB plan:

- _____ (1) the LEA must compute an annual required contribution (ARC) as provided in GASB Statement 43;
- _____ (2) the LEA shall contribute annually the amount of the ARC in a trust account or annually set aside as a designated fund balance the equivalent amount of the ARC; and
- _____ (3) have a plan consistent with the timeline of GASB Statement 43, Paragraph 24, to ensure compliance with this rule.

_____ D. Compliance

_____ (1) LEAs with OPEB plans shall comply with all outlined GASB Statement 43 financial reporting requirements.

_____ (2) If, due to adverse economic conditions, an LEA fails to meet the ARC requirement, the LEA shall provide to the Board a reasonable funding plan to bring the LEA into compliance with the actuarial timeline required in GASB Statement 43 by the end of the second year following the year of inadequate funding.

R277-118-4. Termination Benefits.

_____ An LEA may offer retirement or severance benefits in addition to retirement/severance benefits currently in place for one year only if the LEA has adequate funds to fully pay-out the benefits in the fiscal year in which the benefits are budgeted.

KEY: post-retirement benefits

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

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-125]

Education, Administration
R277-207
 Utah Professional Practices Advisory
 Commission (UPPAC), Disciplinary
 Rebuttable Presumptions

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39837

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to establish rebuttable presumptions for UPPAC and Utah State Board of Education (board) review of UPPAC cases.

SUMMARY OF THE RULE OR CHANGE: The new rule provides disciplinary presumptions for UPPAC and the board when considering whether to issue disciplinary letters or take action following a UPPAC investigation; and incorporates new mandatory revocations from H.B. 345, from the 2015 General Session.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Section 53A-6-306 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is likely no cost or savings to the state budget. The new rule provides presumptions for UPPAC and the board to consider when disciplining a licensed educator.

◆ **LOCAL GOVERNMENTS:** There is likely no cost or savings to local government. The new rule provides presumptions for UPPAC and the board to consider when disciplining a licensed educator.

◆ **SMALL BUSINESSES:** There is likely no cost or savings to small businesses. The new rule provides presumptions for UPPAC and the board to consider when disciplining a licensed educator.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is likely no cost or savings to persons other than small businesses, businesses, or local government entities. The new rule provides presumptions for UPPAC and the board to consider when disciplining a licensed educator.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons. The new rule provides presumptions for UPPAC and the board to consider when disciplining a licensed educator.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from this new rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.

R277-207. Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions.

R277-207-1. 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 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is to establish rebuttable presumptions for UPPAC and Board review of UPPAC cases.

R277-207-2. Rebuttable Presumptions.

(1) UPPAC and the Board shall consider the rebuttable presumptions in this section when evaluating a case of educator misconduct.

(2)(a) Revocation is presumed appropriate if an educator:

(i) is subject to mandatory revocation under Subsection 53A-6-501(5)(b);

(ii) is convicted of, admits to, or is found pursuant to an evidentiary hearing to have engaged in viewing child pornography, whether real or simulated, on or off school property;

(iii) is convicted three or more times of any combination of drug, alcohol, violence, or sexual offenses in the three years previous to the most recent conviction;

(iv) is convicted of an offense that requires the educator to register as a sex offender under Subsection 77-41-105(3);

_____ (v) except as provided in Subsection (2)(c), is convicted of any felony; or

_____ (vi) intentionally provides alcohol or illegal drugs to a minor.

_____ (b) Early release or work release permitted by the jail may not be considered by UPPAC or the Board for purposes of calculating the jail time in Subsection (2)(a)(iii).

_____ (c) An educator who is convicted of a felony may apply for a reinstatement hearing if the educator's felony is:

_____ (i) expunged; or

_____ (ii) reduced to a misdemeanor pursuant to Section 76-3-402.

_____ (3) Suspension of three years or more is presumed appropriate if an educator:

_____ (a) engages in a boundary violation of a sexually suggestive nature that is not sexually explicit conduct;

_____ (b) is convicted of child abuse if the conduct results in a conviction of a class A misdemeanor or higher;

_____ (c) is convicted of an offense that results in the educator being placed on court supervision for three or more years; or

_____ (d) is convicted of intentional theft or misappropriation of public funds.

_____ (4) Suspension of one to three years is presumed appropriate, if an educator:

_____ (a) willfully or knowingly creates, views, or gains access to sexually inappropriate material on school property or using school equipment;

_____ (b) is convicted of one or more misdemeanor violence offenses in the last 3 years;

_____ (c) is convicted of using physical force with a minor if the conviction is a class B misdemeanor or lower;

_____ (d) engages in repeated incidents of or a single egregious incident of excessive physical force or discipline to a child or student that:

_____ (i) does not result in a criminal conviction; and

_____ (ii) does not meet the circumstances described in Subsection 53A-11-802(2);

_____ (e) threatens a student physically, verbally, or electronically;

_____ (f) engages in a pattern of inappropriately fraternizing with a student under a circumstance not described in Subsection (3) (a);

_____ (g) engages in multiple incidents or a pattern of theft or misappropriation of public funds that does not result in a criminal conviction;

_____ (h) attends a school or school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or illegal drugs;

_____ (i) is convicted of two drug-related offenses or alcohol-related offenses in the three years previous to the most recent conviction;

_____ (j) engages in a pattern of or a single egregious incident of:

_____ (i) harassing;

_____ (ii) bullying; or

_____ (iii) threatening a co-worker or community member;

_____ (k) knowingly and deliberately falsifies or misrepresents information on an education-related document; or

_____ (l) knowingly and deliberately teaches, counsels, or assists a student in a manner that undermines or disregards the lawful, express directives of a parent.

_____ (5) A short-term suspension is presumed appropriate if an educator:

_____ (a) has three or more incidents of inappropriate conduct that would otherwise warrant lesser discipline; or

_____ (b) fails to report to appropriate authorities suspected child or sexual abuse.

_____ (6) A letter of admonition, letter of warning, or letter of reprimand, with or without probation, is presumed appropriate if an educator:

_____ (a) engages in a miscellaneous minimal boundary violation with a student or minor, whether physical, electronic, or verbal;

_____ (b) engages in minimal inappropriate physical contact with a student;

_____ (c) engages in unprofessional communications or conduct with a student, co-worker, community member, or parent;

_____ (d) engages in an inappropriate discussion with a student that violates state or federal law;

_____ (e) knowingly violates a requirement or procedure for special education needs;

_____ (f) knowingly violates a standardized testing protocol;

_____ (g) is convicted of one of the following with or without court probation:

_____ (i) a single driving under the influence of alcohol or drugs offense under Section 41-6a-502;

_____ (ii) impaired driving under Section 41-6a-502.5; or

_____ (iii) a charge that contains identical or substantially similar elements to the state's driving under the influence of alcohol or drugs law or under the law of another state or territory;

_____ (h) carelessly mismanages public funds or fails to accurately account for receipt and expenditure of public funds entrusted to the educator's care;

_____ (i) fails to make a report required by Rule R277-516;

_____ (j) is convicted of one or two misdemeanor offenses not otherwise listed;

_____ (k) engages in an activity that constitute or create the appearance of a conflict of interest with the educator's professional responsibility; or

_____ (l) engages in other minor violations of the Utah Educator Standards in Rule R277-515.

_____ (7) In considering a presumption described in this section, UPPAC or the Board shall consider deviating from the presumptions if:

_____ (a) the presumption does not involve a revocation mandated by statute; and

_____ (b) aggravating or mitigating factors exist that warrant deviation from the presumption.

_____ (8) An aggravating factor may include the following:

_____ (a) the educator has engaged in prior misconduct;

_____ (b) the educator presents a serious threat to a student;

_____ (c) the educator's misconduct directly involved a student;

_____ (d) the educator's misconduct involved a particularly vulnerable student;

_____ (e) the educator's misconduct resulted in physical or psychological harm to a student;

- (f) the educator violated multiple standards of professional conduct;
- (g) the educator's attitude does not reflect responsibility for the misconduct or the consequences of the misconduct;
- (h) the educator's misconduct continued after investigation by the LEA or UPPAC;
- (i) the educator holds a position of heightened authority as an administrator;
- (j) the educator's misconduct had a significant impact on the LEA or the community;
- (k) the educator's misconduct was witnessed by a student;
- (l) the educator was not honest or cooperative in the course of UPPAC's investigation;
- (m) the educator was convicted of crime as a result of the misconduct; and
- (n) any other factor that, in the view of UPPAC or the Board, warrants a more serious consequence for the educator's misconduct.
- (9) A mitigating factor may include the following:
 - (a) the educator's misconduct was the result of strong provocation;
 - (b) the educator was young and new to the profession;
 - (c) the educator's attitude reflects recognition of the nature and consequences of the misconduct and demonstrates a reasonable expectation that the educator will not repeat the misconduct;
 - (d) the educator's attitude suggests amenability to supervision and training;
 - (e) the educator has little or no prior disciplinary history;
 - (f) since the misconduct, the educator has an extended period of misconduct-free classroom time;
 - (g) the educator was a less active participant in a larger offense;
 - (h) the educator's misconduct was directed or approved, whether implicitly or explicitly, by a supervisor or person in authority over the educator;
 - (i) the educator has voluntarily sought treatment or made restitution for the misconduct;
 - (j) there was insufficient training or other policies that might have prevented the misconduct;
 - (k) any other factor that, in the view of UPPAC or the Board, warrants a less serious consequence for the educator's misconduct.
- (10)(a) UPPAC and the Board have sole discretion to determine the weight they give to an aggravating or mitigating factor.
 - (b) The weight UPPAC or the Board give an aggravating or mitigating factor may vary in each case and any one aggravating or mitigating factor may outweigh some or all other aggravating or mitigating factors.

KEY: educator, disciplinary presumptions
Date of Enactment of Last Substantive Amendment: 2015
Authorizing, Implemented, or Interpreted Law: Art X, Sec 3; 53A-6-306; 53A-1-401(3)

Education, Administration
R277-404
 Requirements for Assessments of
 Student Achievement

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 39838
 FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide opt out provisions required by S.B. 204, from the 2015 General Session and provide technical and conforming changes.

SUMMARY OF THE RULE OR CHANGE: The amendments provide opt out provisions for a parent to exempt their child from a state required assessment without further consequence by a local education agency (LEA); provide requirements that an LEA, school, and educator cannot use a student's score on a state required assessment to determine the student's academic grade or if the student may advance to the next grade level; and provide technical and conforming changes throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Sections 53A-1-603 through 53A-1-611 and Subsection 53A-1-401(3) and Subsection 53A-15-1403(9)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The amendments to this rule provide for greater parental rights in decision-making regarding state required assessments which will likely not result in a cost or savings to the state.
- ◆ **LOCAL GOVERNMENTS:** LEAs will follow the procedures provided in the amendments to this rule for excusing a student from taking a state required assessment. This will likely not result in a cost or savings to local government.
- ◆ **SMALL BUSINESSES:** The amendments to this rule provide for greater parental rights in the public school system which will likely not affect small businesses and not result in a cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** A parent will have greater control over their child's participation in state required assessments which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons. LEAs will follow the procedures provided for in this amended rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.

R277-404. Requirements for Assessments of Student Achievement.

R277-404-[2]1. Authority and Purpose.

[A-](1) This rule is authorized by:

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

(b) Sections 53A-1-603 through 53A-1-611, which direct the Board to adopt rules for the maintenance and administration of U-PASS[;];

(c) Subsection 53A-15-1403(9)(6)b, which requires the Board to adopt rules to establish a statewide procedure for excusing a student from taking certain assessments[;]; and

(d) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[B-](2) The purpose of this rule is to:

(a) provide consistent definitions; and

(b) [to] assign responsibilities and procedures for a Board developed and directed comprehensive assessment system for all students, as required by state and federal law.

R277-404-[1]2. Definitions.

[A-] "Board" means the Utah State Board of Education[;]

[B-](1) "Benchmark reading assessment" means an assessment:

(a) determined by the Board for a student[s] in grade 1 through 3; and

(b) administered to a student[s] at the beginning, midpoint, and end of year[;].

[C-](2)(a) "College readiness assessment" means an assessment adopted by the Board that includes a college admissions

test that provides an assessment of language arts, mathematics, and science, that is most commonly used by local universities to assess student preparation for college.

(b) [The e] "College readiness assessment" may include:

(i) the Armed Services Vocational Aptitude Battery or [ASVAB]; and

(ii) a battery of assessments that is predictive of success in higher education.

(c) "College readiness assessment" includes the American College Testing exam[;] or [ACT].

[D-] "Educator" means an individual licensed under Section 53A-6-104 and who meets the requirements of R277-501[;]

[E-](3) "English Learner" or [EL] student" means a student who is learning in English as a second language.

[F-](4) "English language proficiency assessment" means an assessment:

(a) designated by the [USOE] Superintendent; and

(b) designed to measure the acquisition of the academic English language for an English Learner[s] student.

[G-](5) "Family Educational Rights and Privacy Act of 1974" or [FERPA], 20 U.S.C. 1232g, means a federal law designed to protect the privacy of students' education records. [The law is hereby incorporated by reference.]

[H-] "Individualized Education Program (IEP)" means an individualized instructional and assessment plan for students who are eligible for special education services under the Individuals with Disabilities Education Act of 2004.

I. "LEA" means local education agency, including local school boards/ public school districts and schools, and charter schools[;]

[J-](6) "National Assessment of Education Progress" or [NAEP] [is] means the national achievement assessment administered by the United States Department of Education to measure and track student academic progress.

[K-](7) "Online [W]riting [A]ssessment" means a Board-designated online assessment to measure writing performance for a student[s] in grades 3 through 11.

[L-](8) "Pre-post" means an assessment administered at the beginning of the school year and at the end of the school year to determine individual student growth in academic proficiency [which] that has occurred during the school year.

[M-](9) "State [administered] required assessment" means an [formative, interim, summative SAGE, Utah alternate assessment, benchmark reading assessment, EXPLORE, PLAN, or the ACT] assessment described in Subsection 53A-15-1403(9)(a).

[N-](10) "Student Assessment of Growth and Excellence" or [SAGE] means a [summative] computer adaptive assessment for:

(a) English language arts grades 3 through 11;

(b) mathematics;

(i) grades 3 through 8[;]; and

(ii) Secondary I, II, and III; and

(c) science;

(i) grades 4 through 8[;];

(ii) earth science[;];

(iii) biology[;];

(iv) physics; and

(v) chemistry.

~~[O-](11)~~ "Section 504 accommodation plan" means a plan:

~~(a)~~ required by Section 504 of the Rehabilitation Act of 1973 [~~means a plan~~]; and

~~(b)~~ designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

~~[P-](12)~~ "Summative adaptive assessment[s]" means an assessment[s]:

~~(a)~~ administered upon completion of instruction to assess a student's achievement[-];

~~(b)~~ [~~The assessments are~~] administered online under the direct supervision of a licensed educator [~~and are~~];

~~(c)~~ designed to identify student achievement on the standards for the respective grade and course[-]; and

~~(d)~~ [~~The assessments~~] measure the full range of student ability by adapting to each student's responses, selecting more difficult questions when a student answers correctly and less difficult questions when a student answers incorrectly.

~~[Q- "USOE" means the Utah State Office of Education.]~~

~~[R-](13)~~ "Utah alternate assessment" means:

~~(a)~~ an assessment instrument designated by the [USOE]Superintendent for a student[s] in special education with a disability[ies] so severe the[y] student [are]is not able to participate in the components of U-PASS even with an assessment accommodation[s] or modification[s]; and

~~(b)~~ [~~The Utah alternative assessment~~] measures progress on the Utah core instructional goals and objectives in the student's [individual education program (IEP)].

~~[S-](14)~~ "Utah eTranscript and Record Exchange" or [("UTREx")] means a system that allows:

~~(a)~~ an LEA and USOE to electronically exchange an individual detailed student record[s] to be exchanged electronically between public education LEAs and the USOE, and allows]; and

~~(b)~~ electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

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

~~(1)~~a summative adaptive assessment[s] of a student[s] in grades 3 through 12 in basic skills courses;

~~(2)~~b an online writing assessment in grades 3 through 11, as part of SAGE;

~~(3)~~c a college readiness assessment[s]; and

~~(4)~~d summative assessment of a student[s] in grade 3 to measure reading grade level using grade 3 SAGE English Language Arts.

R277-404-3. Board Responsibilities.

~~[A-](1)~~ The Board[s] [~~shall maintain a~~] comprehensive assessment system for all students in grades K-12 [~~This assessment system shall~~] includes:

~~(1)~~a summative adaptive assessment[s] in:

~~(i)~~ English language arts for grades 3 through 11;

~~(ii)~~ mathematics for grades 3 through 8;

~~(iii)~~ secondary math 1, 2, and 3; [~~and~~];

~~(iv)~~ science for grades 4 through 8; and

~~(v)~~ earth systems, biology, physics and chemistry;

~~(2)~~b an [O]online [W]writing [A]assessment for grades 3 through 11;

~~(3)~~c pre-post kindergarten assessment for a kindergarten student[s] as determined by the LEA;

~~(4)~~d one benchmark reading assessment approved by the Board for students in grades 1 through 3 and administered to students at the beginning, midpoint and end of year;

~~(5)~~e grade 3 end of year summative reading assessment using grade 3 SAGE English Language Arts;

~~(6)~~f Utah's alternate assessment, for an eligible student[s] with a disability[ies];

~~(7)~~g an English language proficiency [test]assessment;

~~(8)~~h National Assessment of Educational Progress (NAEP);

~~(9)~~i college readiness assessment[s] for:

~~(i)~~ grade 11 and optional college; and

~~(ii)~~ career readiness assessment[s] in grade 8 or 9 and 10, as determined by the LEA; and

~~(10)~~j reporting by the [USOE]Superintendent of U-PASS results [~~to include~~].

~~(a)~~2 The report required by Subsection (1)(j) shall include:

~~(a)~~ student performance based on information that is disaggregated with respect to race, ethnicity, gender, English proficiency, eligibility for special education services, and free or reduced price school lunch status;

~~(b)~~ security features to maintain the integrity of the system, including statewide uniform assessment dates, assessment administration protocols, and training; and

~~(c)~~ summative adaptive assessment results disseminated by [USOE]the Superintendent to an LEA[s], parent[s], and other[s], as appropriate, consistent with FERPA.

~~[B-](3)~~ The Board shall provide specific rules, administrative guidelines, timelines, procedures, and assessment ethics training and requirements for all required assessments.

R277-404-4. LEA Responsibilities.

~~[A-](1)~~ An LEA[s] shall develop a comprehensive assessment system plan to include the assessments described in Subsection R277-404-3[A-](1).

~~(2)~~ The plan shall, at a minimum, include:

~~(1)~~a professional development for an educator[s] to fully implement the assessment system;

~~(2)~~b training for an educator[s] and an appropriate paraprofessional[s] in the requirements of assessment administration ethics; [~~and~~]

~~(3)~~c training for an educator[s] and an appropriate paraprofessional[s] to utilize assessment results effectively to inform instruction; and

~~(4)~~d adequate oversight of test administration to ensure compliance with Section 53A-1-603[+] as follows:

~~(a)~~i an LEA[s] or online provider[s] shall test all enrolled students unless a student[s] have] has a written parental excuse under Subsection 53A-15-1403(9);

~~(b)~~ii a [S]student[s] participating in the Statewide Online Education Program [~~shall be~~]is assessed consistent with Section 53A-15-1210; and

~~(c)~~iii a [T]third party vendor[s] or contractor[s] may not administer or supervise U-PASS [~~assessments~~].

~~[B-]~~(3) An LEA[s] shall make all policies and procedures consistent with the law, Board rules for standardized assessment administration, and the USOE Testing Ethics Policy, approved by the Board August 8, 2014, incorporated by reference, and located at USOE, 250 East 500 South, Salt Lake City, or online at <http://www.schools.utah.gov/assessment/Directors/Resources.aspx>.

~~[C-]~~(4) At least once each school year, an LEA[s] shall provide professional development for all educators, administrators, and standardized assessment administrators concerning guidelines and procedures for standardized assessment administration, including educator responsibility for assessment security and proper professional practices.

~~[D-]~~(5) LEA assessment staff shall use the USOE Testing Ethics Policy in providing training for all assessment administrators~~[f]~~ and proctors.

~~[E-]~~(6) An LEA[s] may not release state assessment data publicly until authorized to do so by the ~~[USOE]~~ Superintendent.

R277-404-5. School Responsibilities.

(1) An LEA, school, or educator may not use a student's score on a state required assessment to determine:

(a) the student's academic grade, or a portion of the student's academic grade, for the appropriate course; or

(b) whether the student may advance to the next grade level.

~~[A-]~~(2) An LEA[s~~f~~] and school[s] shall require an educator[s] and assessment administrator[s~~f~~] and proctor[s] to individually sign the Testing Ethics signature page provided by ~~[the]~~ USOE acknowledging or assuring that the educator administrators assessments consistent with ethics and protocol requirements.

~~[B-]~~(3) All educators and assessment administrators shall conduct assessment preparation, supervise assessment administration, provide assessment results, and complete error resolution.

~~[C-]~~(4) All educators and assessment administrators~~[f]~~ and ~~proctors~~ shall securely handle and return all protected assessment materials, where instructed, in strict accordance with the procedures and directions specified in assessment administration manuals, LEA rules and policies, Board rules, USOE Testing Ethics Policy, and state applications of federal requirements for funding.

~~[D-]~~(5) A student's IEP, EL, or Section 504 accommodation plan team shall determine an individual student's participation in statewide assessments.

R277-404-6. Student and Parent Participation in Student Assessments in Public Schools; Parental Exclusion from Testing and Safe Harbor Provisions.

~~[A-]~~(1)(a) Parents are primarily responsible for their children's education and have the constitutional right to determine which aspects of public education, including assessment systems, in which their children participate.

(b) Parents may further exercise their inherent rights to exempt their children from a state ~~[administered]~~required assessment without further consequence by an LEA.

~~[B-]~~(2) An LEA[s] shall administer state ~~[administered]~~required assessments to all students unless:

(1)a) the Utah alternate assessment is approved for specific students consistent with federal law and as specified in a student's IEP; or

(2)b) students are excused by a parent or guardian under Section 53A-15-1403(9) and as provided in this rule.

~~[C-]~~(3)(a) A parent may exercise the right to exempt their child from a state ~~[administered]~~required assessment.

(b) Except as provided in Subsection (3)(c), ~~[U]~~upon exercising the right to exempt a child from a state ~~[administered]~~required assessment under this provision, an LEA may not impose an adverse consequence on a child as a result of the exercise of rights under this provision.

(c) If a parent exempts the parent's child from the basic civics test required in Sections 53A-13-109.5 and R277-700-8, the parent's child is not exempt from the graduation requirement in Subsection 53A-13-109.5(2), and may not graduate without successfully completing the requirements of Sections 53A-13-109.5 and R277-700-8.

(4)(a) In order to exercise the right to exempt a child from a state ~~[administered]~~required assessment under this provision and insure the protections of this provision, a parent shall ~~[annually complete the Board approved parent excuse form a minimum of one (1) day prior to the administration of the state administered assessment and provide the form to the responsible school-];~~

(i) fill out:

(A) the Parental Exclusion from State Assessment Form provided on USOE's website; or

(B) an LEA specific form as described in Subsection (4)(b); and

(ii) submit the form:

(A) to the principal or LEA either by email, mail, or in person; and

(B) on an annual basis and at least one day prior to beginning of the assessment.

(b) An LEA may create an LEA specific form for a parent to fill out as described in Subsection (4)(a)(i)(B) if:

(i) the LEA includes a list of local LEA assessments that a parent may exempt the parent's student from as part of the LEA's specific form; and

(ii) the LEA's specific form includes all of the information described in the Parental Exclusion from State Assessment Form provided on USOE's website as described in Subsection (4)(a)(i)(A).

(5)(a) A teacher, principal, or other LEA administrator may contact a parent to verify that the parent submitted a parental exclusion form described in Subsection (4)(a)(i).

(b) An LEA may request, but may not require, a parent to meet with a teacher, principal, or other LEA administrator regarding the parent's request to exclude the parent's student from taking a state required assessment.

~~[D-]~~(6) School grading, teacher evaluations, and student progress reports or grades may not be negatively impacted by students excused from taking a state ~~[administered]~~required assessment.

~~[E-]~~(7) Any assessment ~~[not mandated by the Board as defined in R277-404-1M]that is not a state required assessment, the administration of ~~[such]~~the assessments, and the consequence of taking or failing to take ~~[such]~~the assessments ~~[shall be]~~is governed by polic[ies]y ~~[to be]~~adopted by each LEA.~~

~~[F-]~~(8) An LEA[s] shall provide a student's individual test results and scores to the student's parent or guardian upon request and consistent with the protection of student privacy.

~~[G-](9)~~ An LEA may not reward a student for taking a state ~~[administered]~~ required assessment ~~[as defined in R277-404-4M].~~

R277-404-7. Public Education Employee Compliance with Assessment Requirements, Protocols, and Security.

~~[A-](1)~~ An ~~[E]ducator[s], test administrator[s/]~~ or proctor[s], administrator[s], ~~[and]~~ or school employee[s] may not:

(~~[1]~~a) provide a student[s] directly or indirectly with a specific question[s], answer[s], or the content of any specific item in a standardized assessment prior to assessment administration;

(~~[2]~~b) download, copy, print, take a picture[s] of, or make any facsimile of protected assessment material prior to, during, or after assessment administration without express permission of the ~~[USOE]~~ Superintendent and an LEA administrator[s];

(~~[3]~~c) change, alter, or amend any student online or paper response or any other standardized assessment material[s] at any time in ~~[such]~~ a way that alters the student's intended response;

(~~[4]~~d) use any prior form of any standardized assessment, ~~[including pilot assessment materials[]], that the Superintendent has not[-been] released[-by the USOE]~~ in assessment preparation without express permission of ~~[the]~~ USOE and an LEA administrator[s];

(~~[5]~~e) violate any specific assessment administrative procedure specified in the assessment administration manual, ~~[or]~~ violate any state or LEA standardized assessment policy or procedure, or violate any procedure specified in ~~[the]~~ USOE Testing Ethics Policy;

(~~[6]~~f) fail to administer a state required assessment;

(~~[7]~~g) fail to administer a state required assessment within the designated assessment window;

(~~[8]~~h) submit falsified data;

(~~[9]~~i) allow a student[s] to copy, reproduce, or photograph an assessment item[s] or component[s]; or

(~~[10]~~j) knowingly do anything that would affect the security, validity, or reliability of standardized assessment scores of any individual student, class, or school.

~~[B-](2)~~ A school employee shall promptly report a ~~[H]~~ assessment violation[s] or irregularit[ies] to a building administrator, an LEA superintendent or director, or ~~[the]~~ USOE.

~~[C-](3)~~ An ~~[E]ducator[s]~~ who violates ~~th[ese]~~ is rule[s] or an assessment protocol ~~[s-are]~~ is subject to Utah Professional Practices Advisory Commission or Board disciplinary action consistent with R277-515.

~~[D-](4)~~ All assessment material[s], questions, and student responses for required assessments ~~[shall be]~~ is designated protected, consistent with Section 63G-2-305, until released by the ~~[USOE]~~ Superintendent.

~~[E-](5)(a)~~ Each LEA shall ensure that all assessment content is secured so that only authorized personnel have access and that assessment materials are returned to USOE following testing, as required by the ~~[USOE]~~ Superintendent.

(b) An ~~[H]~~ individual educator[s] or school employee[s] may not retain or distribute test materials, in either paper or electronic form, for purposes inconsistent with ethical test administration or beyond the time period allowed for test administration.

R277-404-8. Time Periods for Assessment Administration.

~~[A-](1)~~ An LEA educator[s] or trained employee[s] shall administer assessments required under R277-404-3 consistent with the following schedule:

(~~[1]~~a) ~~[A]~~ all summative adaptive assessments, an online writing assessment, and a Utah alternative assessment for ~~[elementary and secondary, English language arts, math, science[]], within the [USOE] Superintendent's annually designated assessment windows[-].~~

(~~[2]~~b) ~~[The]~~ English language proficiency assessment:

(a) ~~[i]~~ ~~[LEA educators or trained employees shall administer the assessment]~~ annually to all English Learner students identified as Level 1 Entering, Level 2 Beginning, Level 3 Developing, Level 4 Expanding, or enrolled for the first time in the LEA at any time during the school year to show student progress; and

(b) ~~[ii]~~ ~~[LEA educators or trained employees shall submit [English language proficiency assessment] materials to the [USOE-] Superintendent's identified scoring provider for scanning and scoring on a schedule defined by the [USOE-] Superintendent;~~

(~~[3]~~c) ~~[LEA educators or trained employees shall administer]~~ pre-post kindergarten assessment for a kindergarten student[s] as determined by the LEA during assessment windows determined by the LEA ~~[-].~~

(~~[4]~~d) ~~[LEA educators or trained employees shall administer]~~ one benchmark reading assessment determined by the Board for grade 1, grade 2, and grade 3 students in the beginning, midpoint, and end of the school year ~~[-].~~

(~~[5]~~e) ~~[LEA educators or trained employees shall administer]~~ grade 3 end of year summative reading assessment using grade 3 SAGE English Language Arts ~~[-]; and~~

(~~[6]~~f) ~~[LEA educators or trained employees shall administer]~~ NAEP assessments determined and required annually by the United States Department of Education and administered to students as directed by United States Department of Education.

~~[B-](2)~~ An LEA educator[s] or trained employee[s] shall complete all required assessment procedures prior to the end of the ~~[USOE defined]~~ assessment window ~~[s)]~~ defined by the Superintendent.

~~[C-](3)(a)~~ An LEA[s] that ha[ve]s an alternative schedule[s] shall submit an annual testing plan to the ~~[USOE]~~ Superintendent by September 1 annually.

(b) The plan shall:

(~~[1]~~i) set dates for summative adaptive assessment administration for courses taught face to face or online;

(~~[2]~~ii) set dates to assess students at the point in the course where students have had approximately the same amount of instructional time as students on a traditional full year schedule; and

(~~[3]~~iii) provide a course level assessment schedule to the ~~[USOE]~~ Superintendent before instruction begins for the course.

R277-404-9. Data Exchanges.

~~[A-](1)~~ The USOE IT Section shall communicate regularly with an LEA[s] regarding the required format[s] for electronic submission of required data.

~~[B-](2)~~ An LEA[s] shall update UTREx data using the processes and according to schedule ~~[s)]~~ determined by the ~~[USOE]~~ Superintendent.

~~[C.](3)~~ An LEA[s] shall ensure that any computer software for maintaining or submitting LEA data is compatible with data reporting requirements ~~[as determined]~~established in Rule R277-484.

~~[D.](4)~~ The ~~[USOE]~~Superintendent shall provide direction[s] to a~~[H]~~n LEA[s] detailing the data exchange requirements for each assessment.

~~[E.](5)~~ ~~[Each]~~An LEA shall verify that it has satisfied all the requirements of the ~~[USOE-provided]~~Superintendent's directions~~[-have been satisfied]~~ described in this section.

~~[F.](6)~~ Consistent with Utah law, the ~~[USOE]~~Superintendent shall return assessment results from all required assessments to the school before the end of the school year.

KEY: assessment, student achievement

Date of Enactment or Last Substantive Amendment: ~~[June 23,] 2015~~

Notice of Continuation: September 13, 2013

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-603 through 53A-1-611; 53A-1-401(3)

Education, Administration R277-438 Dual Enrollment

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39839
FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-438 is amended to provide technical and conforming changes to the rule and bring the rule into compliance with Utah Code.

SUMMARY OF THE RULE OR CHANGE: The amendments to Rule R277-438 clarify a student's right to dual enroll simultaneously in a private or home school and a public school. The amendments also distinguish dual enrollment from the statutory requirement to allow a home, private, charter, or online school student to participate in activities at another public school. The amendments also provide changes to numbering and make technical corrections throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Section 53A-11-102.5 and Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(b)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments to this rule provide clarification and technical and conforming changes throughout, which likely will not result in a cost or savings to the state.

◆ **LOCAL GOVERNMENTS:** The amendments to this rule provide clarification and technical and conforming changes throughout, which likely will not result in a cost or savings to local government.

◆ **SMALL BUSINESSES:** The amendments to this rule provide clarification and technical and conforming changes throughout, which likely will not result in a cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to this rule provide clarification and technical and conforming changes throughout, which likely will not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons. The amendments to this rule provide clarification and technical and conforming changes throughout the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.

R277-438. Dual Enrollment.

R277-438-~~[2]~~1. Authority and Purpose.

~~[A.](1)~~ This rule is authorized by:

~~(a)~~ Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system under the ~~[b]~~Board;

~~(b)~~ ~~[by]~~ Subsection 53A-1-402(1)(b), which directs the Board to establish rules and minimum standards for access to programs; ~~[-and by Section 53A-11-102.5 directing the Board to~~

~~make rules to permit home school, charter and online students and private school students to participate in public school extracurricular or co-curricular school activities.]~~

~~(c) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities; and~~

~~(d) Section 53A-11-102.5, which governs dual enrollment.~~

~~[B-](2) The purpose of this rule is to provide consistent statewide procedures and criteria for a home school and private school student's[?] participation in a public school course, co-curricular activit[ies]y, or program. [A further purpose is to provide procedures and criteria for charter school and online school students to participate in traditional public school activities consistent with R277-494.]~~

R277-438-[1]2. Definitions.

~~[A. "Accredited" means evaluated and approved under the standards of the Northwest Accreditation Commission or the accreditation standards of the Board, available from the USOE-Accreditation Specialist.~~

~~_____ B. "Board" means the Utah State Board of Education.~~

~~_____ C. "Charter school" means a school acknowledged as a charter school by a local board of education under Section 53A-1a-515 and by R277-470, or by the Board under Section 53A-1a-505.]~~

~~(1) "Co-curricular activity" means a school district or school activity, course, or experience that includes a required regular school day component and an after school component, including a special program or activity such as a program for a gifted and talented student, a summer program, and a science or history fair.~~

~~[D-](2) "Dual enrollment student" means a student who is enrolled simultaneously in [publie];~~

~~(a) a private school [and in a] or home school[?]; and~~

~~(b) a [Utah charter school, a Utah online school, or a regularly established private] public school.~~

~~[E-](3) "Eligibility" means a student's fitness and availability to participate in a school course, activit[ies]y, or program governed by this rule. [Eligibility] that is determined by a number of factors, including:~~

~~(a) residency [of student and legal guardian];~~

~~(b) scholarship[?];~~

~~(c) age[?]; and~~

~~(d) the number of semesters of participation in a particular course, activity, or program.~~

~~[F-](4) "Full-time student" means a student earning the school district designated number[(s)] and type[(s)] of credits required for participation in a [extracurricular or interscholastic] course, activit[ies]y, or program in the school district in which the student's parent [or legal guardian] resides.~~

~~[G-](5) "Home school" means a school in the state comprised of one or more students officially excused from compulsory public school attendance under Section 53A-11-102.~~

~~[H. "Online school" means a school:~~

~~_____ (1) that provides the same number of classes consistent with the requirement of similar resident schools;~~

~~_____ (2) that delivers course work via the internet;~~

~~_____ (3) that has designated a readily accessible contact person; and~~

~~_____ (4) that provides the range of services to public education students required by state and federal law.~~

~~I. "Previous academic grading period" means the most recent period as defined by the school district for which a student received a recorded grade.]~~

~~[J-](6) "Private school" means a school [satisfying the following criteria] in the state that:~~

~~([1]a) is maintained by a private individual[s] or corporation[s];~~

~~([2]b) is maintained and operated not at public expense;~~

~~([3]c) is generally supported, in part at least, by tuition fees or charges;~~

~~([4]d) operate[d]s as a substitute for, and giv[ing]es the equivalent of, instruction required in a public school[s];~~

~~([5]e) employ[ing]s a teacher[s] able to provide the same quality of education as a public school teacher[s];~~

~~([6]f) is established to operate indefinitely and independently, not dependent upon age of the students available or upon individual family situations; and~~

~~([7]g) is licensed as a business by the [Utah] Department of [Business Regulations] Commerce.~~

~~(7)(a) "Resident school" means a public school:~~

~~(i) that is under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards; and~~

~~(ii) within whose boundaries a student's custodial parent resides.~~

~~(b) "Resident school" does not mean a charter school or online school.~~

~~[K. "School participation fee" means the fee paid by the charter/online school to the traditional school consistent with the fee schedule of R277-494-4 for student participation in extracurricular or co-curricular school activities.]~~

~~[L-](8) "Student participation fee" means [the] a fee charged to all participating [charter/online and traditional school] students by the resident school for [designated extracurricular] enrollment in a course, program, or co-curricular school activit[ies]y consistent with Rule R277-407.~~

~~[M. "USOE" means the Utah State Office of Education.]~~

R277-438-3. Private and Home School Student Participation in a Public School Course, [Extracurricular or] Co-curricular [School] Activit[ies]y, or Program.

~~[A-](1) A [S]tudent[s] who is exempt[ed] from compulsory public school education by [the] a local school board for instruction in a private or home school[s] may [be eligible for] enroll in the student's resident school as a dual enrollment student and participat[ion]e in a [extracurricular or] course, co-curricular [public school] activit[ies]y, or program at the student's resident school [provided they are] if the student tak[ing]es courses comparable to [traditional] resident school courses or earn[ing]s credit under options outlined in Section R277-700-6 in at least as many of the designated courses as required by the local school board of a student[s] for participation in th[at]e course, co-curricular activity, or program.~~

~~(2) A public school that is not the student's resident school may allow a private or home school student to enroll in the public school, including in a single course or program, as a dual enrollment student, at the discretion of the public school.~~

~~[B.] The private or home school student may only participate in extracurricular or co-curricular school day activities at the school within whose boundaries the student's custodial parent(s) or legal guardian resides.]~~

~~[C.](3) A [D]dual enrollment student[s shall be] is eligible [for]to participate in a [extracurricular or]course, co-curricular[-school] activit[ies]y, or program:~~

~~(a) consistent with the eligibility standards for [fully-enrolled traditional public school]a full-time student[s], including providing a report card[s] and citizenship information to [activity sponsors and coaches]the resident school or other school described in Subsection (2) upon request[-];~~

~~(b) in accordance with Section 53A-11-102.5; and~~

~~(c) in accordance with the provisions of Subsection 53A-11-102.6(2)(d).~~

R277-438-4. Fees for Private and Home School Students.

~~[A.] Private and home school students are responsible for student participation fees in the same manner as full-time public school students.]~~

~~[B.] A school or school district shall waive a [-S]student participation fee[s] for a dual enrollment private[-, charter, online] or home school student[s shall be waived by the school or school district] if:~~

~~(1) the student[s are] is eligible; and~~

~~(2) the parent[s] provides required documentation under Section 53A-12-103 and Rule R277-407, School Fees.[-The charter or online schools shall be responsible for payment of waived fees to the resident school district.]~~

~~[R277-438-5. Utah Charter and Utah Online School Student Participation in Extracurricular or Co-curricular School Activities.~~

~~A. Utah charter school and Utah online school students shall be eligible to participate in extracurricular and co-curricular school activities at their public schools of residence consistent with Section 53A-1a-519, Section 53A-2-214, and R277-494.~~

~~B. Charter schools and online schools may determine if the schools shall allow students to participate in extracurricular or co-curricular school activities at the students' resident schools understanding:~~

~~(1) That the charter/online school is responsible for the school participation fees associated with the designated activity consistent with Section R277-494-4;~~

~~(2) If the charter/online school allows one student to participate in a given activity, the charter/online school shall allow all interested students to participate;~~

~~(3) That the charter/online school is responsible for the school participation fee;~~

~~(4) That the student shall be allowed to participate only upon payment of the school participation fee by the school;~~

~~(5) That the charter/online school shall cooperate fully with all resident schools regarding students' participation in try-outs, practices, pep rallies, team fund raising efforts, scheduled games and required travel and provision of complete and prompt reports of student academic and citizenship progress or grades, upon request; and~~

~~(6) That charter/online students' parents are responsible for the students' transportation to the school with which the student participates; and~~

~~(7) That the charter/online school is responsible for any student participation fees required of all student participants in the activity if the participating student is eligible for fee waivers under R277-407.]~~

R277-438-[6]5. Miscellaneous Issues.

~~[A.](1) A dual enrollment student attending an activit[ies]y or a portion of [the]a school day under [the provisions of]-Section 53A-11-102.5 [shall be]is subject to the same behavior and discipline rights and requirements of a full-time[-resident school] student.~~

~~[B.](2) A dual enrollment student who attends an activity or a portion of the school day [shall be]is subject to the administrative scheduling and teacher discretion of the [traditional]public school.~~

~~[C.](3)(a) A dual enrollment student with a disabilit[ies]y may participate as a dual enrollment student consistent with[-Utah] law, this rule and [Code of Federal Regulations (CFR)-Vol. 64, No. 48, Section]34 CFR 300.450 through 300.455.~~

~~(1) If a student with disabilities who attends a charter or online school desires to participate in dual enrollment, the charter/online school is responsible for accommodations or extra costs to the student's resident school for the student's participation.]~~

~~(2)(b) [The]A public school that enrolls a dual enrollment student shall prepare an IEP for a student described in Subsection (3)(a) [shall have a services plan in place] prior to the student's participation in dual enrollment using comparable procedures to those required for identifying and evaluating public school students[;].~~

~~(3)(c) A [-S]student[s] with a disabilit[ies]y seeking dual enrollment [shall be]is entitled to services [only in the same proportional amount that the number of private school students residing in the district is to the total number of students with disabilities in the district]for the time, or for the number of courses, the student is enrolled in the public school, based on the decision of the student's IEP team.~~

~~(4)(d) Decisions about the scheduling and manner of services provided [shall be]is the responsibility of the enrolling public school and school district personnel.~~

~~(5)(e) A [-S]school[s and] or a school district[s are] is not prohibited from providing a service[s] to a student[s] who [are]is not enrolled full time in excess of those required by [R277-438-6]this section.~~

KEY: public education, dual enrollment

Date of Enactment or Last Substantive Amendment: [November 10, 2008]2015

Notice of Continuation: March 14, 2014

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-402(1)(b); 53A-11-102.5

Education, Administration
R277-477
Distributions of Funds from the Interest
and Dividends Account and
Administration of the School LAND
Trust Program

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 39840
 FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-477 is amended to provide additional language to clarify the timeline and deadlines for a school community council to submit a School LAND Trust plan to an approving entity and revise the expenditure language to make the requirements and guidelines more general.

SUMMARY OF THE RULE OR CHANGE: The amended rule requires a School LAND Trust Program approving entity to establish a timeline, including deadlines, for a school's council to submit a School LAND Trust plan to the approving entity. The changes also delete the majority of the current approved/unapproved expenditures list and replace the list with more general guidelines and requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Subsection 53A-1-401(3) and Subsection 53A-16-101.5(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is likely no cost or savings to the state budget. The changes to the rule provide clarification to school community councils on timelines and deadlines and simplify expenditure requirements and guidelines to make them more general.
- ◆ **LOCAL GOVERNMENTS:** There is likely no cost or savings to local government. The changes to the rule provide clarification to school community councils on timelines and deadlines and simplify expenditure requirements and guidelines to make them more general.
- ◆ **SMALL BUSINESSES:** There is likely no cost or savings to small businesses. The changes to the rule provide clarification to school community councils on timelines and deadlines and simplify expenditure requirements and guidelines to make them more general.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is likely no cost or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule provide clarification to school community councils on timelines and deadlines and simplify expenditure requirements and guidelines to make them more general.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons. The changes to the rule provide clarification to school community councils on timelines and deadlines and simplify expenditure requirements and guidelines to make them more general.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.

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

R277-477-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which places general control and supervision of the public school system under the Board;
 - (b) Subsection 53A-16-101.5(4), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and
 - (c) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.
- (2) The Board is the primary beneficiary representative and advocate for the beneficiaries of the School Trust corpus and the School LAND Trust Program.
- (3) The purpose of this rule is to:
 - (a) provide financial resources to a public school to implement a component of a school's improvement plan or charter document in order to enhance and improve student academic achievement;
 - (b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust Program funds allocated to the school;

(c) provide direction in the distribution of funds from the Interest and Dividends Account, as funded in Subsection 53A-16-101.5(3);

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

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

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

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

R277-477-2. Definitions.

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

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

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

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

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

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

(4) "Digital citizenship" means the same as that term is defined in Section 53A-1a-108.

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

(6) "Funds" means interest and dividends income as defined in Subsection 53A-16-101.5(3).

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

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

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

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

(10) "School Children's Trust Director" means the Director appointed by the Board under Section 53A-16-101.6.

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

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

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

(a) a school community council as required by Section 53A-1a-108 and Rule R277-491;

(b) a charter school trust land council as required by Subsection 53A-16-101.5(9); or

(c) an approved exemption under this rule.

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

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

(a) have a charter trust land council;

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

(c) receive training about Section 53A-1a-108.1.

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

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

(a) no later than April 1; or

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

(6)(a) An approving entity:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

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

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

(ii) request that the school revise the plan, consistent with Section 53A-16-101.5.

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

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

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

(9)(a) A council member shall have the opportunity to provide a digital signature indicating the member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.

(b) Entering the council member's name and email address into the Council Membership and Signature Form page on the School LAND Trust website and using that system to collect the digital signature shall suffice to meet the requirements of this Subsection (9).

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

~~[(10)(a) An LEA governing board shall establish a timeline, including a deadline, for a school to submit the school's School LAND Trust plan.~~

~~_____ (b) The deadline described in Subsection (10)(a) may be no later than May 1 of each year.~~

~~_____ (c) Timelines set by an LEA governing board shall allow for council reconsideration and amendment of the School LAND Trust plan if the local board of education rejects a plan.]~~

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

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

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

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

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

~~[(12)]11(a) Prior to approving a plan, an approving entity shall review a School LAND Trust plan under the approving entity's purview to confirm that a School LAND Trust plan contains:~~

~~_____ (i) academic goals;~~

~~_____ (ii) specific steps to meet the academic goals described in Subsection (12)(a)(i);~~

~~_____ (iii) measurements to assess improvement; and~~

~~_____ (iv) specific expenditures focused on student academic improvement.~~

~~[(b)(i) The Superintendent shall review a School LAND Trust plan for compliance with statute and rule.]~~

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

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

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

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

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

~~[(13)]13 [The USOE shall only distribute funds to a school with an approved School LAND Trust plan and that meets all other requirements]If an approving entity fails to comply with Subsection (12)(c), the School Children's Trust Director shall report the failure to the Audit Committee of the Board as described in Section R277-477-9.~~

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

~~[(1) Acceptable uses of School LAND Trust Program funds include the following:~~

~~_____ (a) a credit recovery course or program;~~

~~_____ (b) a study skills class;~~

~~_____ (c) a college entrance exam preparation class;~~

~~_____ (d) an academic field trip;~~

~~_____ (e) classroom equipment or materials, including flashcards, math manipulatives, a calculator, microscope, map, or book;~~

~~_____ (f) a teacher, teacher aide, tutor, or other personnel if an employee paid out of School LAND Trust funds spends at least 75% of the employee's time interacting with, instructing, or preparing to instruct a student in an approved academic area;~~

~~_____ (g) professional development directly tied to a school's academic goals, including a faculty meal, per diem, and travel required as a part of a professional development program;~~

~~_____ (h) student focused educational technology, including hardware and software, a computer cart, work station, projector, and smart board.~~

~~_____ (i) a book, textbook, workbook, library book, bookcase, magazine, and audio-visual material;~~

~~_____ (j) a student planner; and~~

~~_____ (k) a nominal student incentive that is academic in nature or of nominal total cost.~~

~~_____ (2) Expenditures ineligible for School LAND Trust Program funding include the following:~~

~~_____ (a) security costs;~~

~~_____ (b) phone, cell phone, electric, HVAC, or other utility;~~

~~_____ (c) a facility, building, or maintenance costs;~~

~~_____ (d) sports and playground equipment;~~

~~_____ (e) an athletic or intramural program;~~

~~_____ (f) an extra-curricular non-academic expenditure;~~

~~_____ (g) an audio-visual system in a non-classroom location;~~

~~_____ (h) a non-academic field trip;~~

~~_____ (i) an expense for a council meeting, parent night, orientation, training, or similar meeting or event;~~

~~_____ (j) mailing costs;~~

~~_____ (k) accreditation costs;~~

~~_____ (l) administrative, clerical, or secretarial costs, technical support, or maintenance, including for repair of an item not purchased with School LAND Trust funds;~~

~~_____ (m) cash or cash equivalent incentives, including a gift card of any type regardless of the recipient;~~

~~_____ (n) furniture;~~

~~_____ (o) a staff bonus; and~~

~~_____ (p) a similar non-instructional item or program.~~

~~_____ (3)(a) A School LAND Trust plan may budget and spend no more than the lesser of \$5,000 or 20% of the school's annual allocation of funds for in-school civic and character education, including student leadership skills training and positive behavior intervention.~~

~~_____ (i) A school may designate funds for an in-school civic and character education program or activity if the plan clearly describes how the program or activity will directly affect student academic achievement.~~

~~_____ (ii) A school may use funds to provide digital citizenship training as described in Section 53A-1a-108.~~

~~_____ (b) Notwithstanding other provisions in this rule, a school may use funds as needed to implement students' IEPs.]~~

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

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

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

~~_____ (a) to cover the fixed costs of doing business;~~

~~_____ (b) for construction, maintenance, facilities, overhead, security, or athletics; or~~

~~_____ (c) to pay for non-academic in-school, co-curricular, or extracurricular activities.~~

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

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

~~_____ (i) \$5,000; or~~

~~_____ (ii) 20% of the school's annual allocation of School LAND Trust Program funds.~~

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

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

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

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

(1) A local school board shall report the prior year expenditure of distributions for each school and adjust the current year distribution of funds received from the School LAND Trust Program as described in Section 53A-16-101.5, as necessary to maintain an equal per student distribution within a school district based on school openings and closings, boundary changes, and other enrollment changes occurring after the fall enrollment report.

(2)(a) For purposes of this Subsection (2) and Subsection (3), "qualifying charter school" means a charter school that:

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

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

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

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

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

(ii) at least 0.4%.

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

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

(i) the base payment described in Subsection (2)(c); or

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

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

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

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

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

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

(b) The approving entity shall:

(i) consider the amendment for approval; and

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

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

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

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

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

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

(a) the entity has reviewed the plan; and

(b) the plan meets the requirements of statute and rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) any other necessary and appropriate corrective action.

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

KEY: schools, trust lands funds

Date of Enactment or Last Substantive Amendment: 2015

Notice of Continuation: August 13, 2015

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

Education, Administration**R277-494****Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39841

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-494 is amended to include provisions related to home and private school student participation in extracurricular or co-curricular activities and to provide technical and conforming changes to the rule.

SUMMARY OF THE RULE OR CHANGE: The amendments include provisions related to home and private school student

participation in extracurricular or co-curricular activities and provide changes to numbering and terminology throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Subsection 53A-1-401(3) and Subsection 53A-1a-519(6)(a) and Subsection 53A-2-214(6)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is likely no cost or savings to the state budget. The amendments to this rule provide clarification for participation in extracurricular and co-curricular activities and provide technical and conforming changes.

♦ LOCAL GOVERNMENTS: There is likely no cost or savings to local government. The amendments to this rule provide clarification for participation in extracurricular and co-curricular activities and provide technical and conforming changes.

♦ SMALL BUSINESSES: There is likely no cost or savings to small businesses. The amendments to this rule provide clarification for participation in extracurricular and co-curricular activities and provide technical and conforming changes.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is likely no cost or savings to persons other than small businesses, businesses, or local government entities. The amendments to this rule provide clarification for participation in extracurricular and co-curricular activities and provide technical and conforming changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons. The amendments to this rule provide clarification for participation in extracurricular and co-curricular activities and provide technical and conforming changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.

R277-494. Charter, Online, Home, and Private School[~~and Online~~] Student Participation in Extracurricular or Co-curricular School Activities.

R277-494-[2]1. Authority and Purpose.

[A-](1) This rule is authorized by:

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

(b) Subsection 53A-1-401(3), which permits the Board to adopt rules in accordance with its responsibilities[;];

(c) Subsection 53A-1a-519(6)(a)[?], ~~that~~ which directs the Board to make rules establishing fees for a charter school student's participation in extracurricular or co-curricular activities at ~~school district~~ certain public schools[;]; and

(d) Subsection 53A-2-214(6), which directs the Board to make rules establishing fees for an online student's participation in extracurricular or co-curricular activities at ~~school district~~ certain public schools.

[B-](2) The purpose of this rule is to inform school districts, charter and online schools, and parents of:

(a) school participation fees; and

(b) state-determined requirements for a charter school or a public online school student to participate in an extracurricular[~~athletics and~~] activit[ies]y at a student's boundary school.

R277-494-[1]2. Definitions.

[A-](1) "Activity fee[s]" means a fee[s] that:

(a) ~~are~~ is approved by a local school board or public school[~~and~~];

(b) is charged to all students to participate in an ~~y or all~~ activit[ies]y sponsored by or through the public school[;]; and

(c) ~~Fees vary among districts and schools and~~ entitles a public school student to:

(i) participate in a ~~regular~~ school activit[ies]y[;];

(ii) ~~to~~ try out for an extracurricular or co-curricular school activit[ies]y[;];

(iii) ~~to~~ receive transportation to an activit[ies]y[;]; and

(iv) ~~to~~ attend a regularly scheduled public school activit[ies]y.

[B-] "Board" means the Utah State Board of Education.

C. "Charter school" means a school acknowledged as a charter school by a chartering entity under Sections 53A-1a-515, 53A-1a-521, and R277-470 or by the Board under Section 53A-1a-505.]

[D-](2) "Co-curricular activity" means a school district or school activity, course, or experience that includes a required regular school day component and an after school component[;]; including a special program[s] or activit[ies]y such as a program[s] for a gifted and talented student[s], a summer program[s], and a science [~~and~~] or history fair[s ~~are co-curricular activities~~].

[E-](3) "Extracurricular activity" means an athletic program or activity sponsored by [~~the~~] a public school and offered,

competitively or otherwise, to a public school student[s] outside of the regular school day or program.

[F.] "Online school" means a school:

- ~~(1) that provides the same number of classes consistent with the requirement of similar public schools;~~
- ~~(2) that delivers course work via the internet;~~
- ~~(3) that has designated a readily accessible contact person; and~~
- ~~(4) that provides the range of services to public education students required by state and federal law.]~~

(4) "Online school" means a formally constituted public school that offers full-time education delivered primarily over the internet.

(5) "Qualifying school" means:

(a) for purposes of a charter school student, a school described in Subsection 53A-1a-519(1);

(b) for purposes of an online school student, a school described in Subsection 53A-2-214(2); and

(c) for purposes of a private or home school student, a school described in Subsection 53A-11-102.6(2)(c).

[G.] "Pay to play fees" means the fees charged to a student to participate in a specific school-sponsored extracurricular or co-curricular activity. All fees shall be approved annually by the local board of education.]

[H.](6) "[Student's s]School of enrollment" means the public school [in which the student is enrolled consistent with Section 53A-11-101 et seq.]that maintains the student's cumulative file, enrollment information and transcript for purposes of high school graduation.

[K.](7) "School participation fee" means the fee paid by the charter[~~l~~] or online school to [the boundary]a qualifying school consistent with Subsections R277-494-[4]3(2) or R277-494-4(2) for student participation in an extracurricular [or co-curricular]or co-curricular activit[ies]y.

[H.] "Student's boundary school" means the school the student is designated to attend according to where the student's legal guardian lives or the school where the student is enrolled under Section 53A-2-206.5 et seq.]

[J.] "Student fee waivers" means all expenses for an activity that are waived for student participation in the activity consistent with Section 53A-12-103 et seq. and R277-407.]

[L.](8) "Student participation fee" means the fee charged to all participating[~~charter/online and traditional school~~] students by [the boundary]a qualifying school for a designated extracurricular or co-curricular activit[ies]y consistent with Rule R277-407.

R277-494-3. [Requirements for Payment and Participation Integral to the Schedule]Charter and Online School Student Participation in Extracurricular Activities at Another Public School.

[A.](1) A charter or online school[~~shall allow~~] student may participat[ion]e in an extracurricular activit[ies]y [designated under R277-494-1E upon]at a qualifying school if:

(a) the extracurricular activity is not offered by the student's charter or online school;

(b) the student satisf[act]ion of[ies] requirements and payments of this rule and];

(i) for a charter school student, the requirements of Subsection 53A-1a-519(3);

(ii) for an online school student, the requirements of Subsection 53A-2-214(3); and

(iii) the requirements of this rule;

(c) [satisfaction of school district]the student meets the qualifying school's standards and requirements[-]; and

(d) the student's parent agrees to provide the student transportation to the qualifying school for the extracurricular activity.

(2)(a) A charter or online school of enrollment shall determine if the charter or online school will allow students to participate in extracurricular school activities at qualifying schools.

(b) If a charter or online school allows one student to participate in an extracurricular activity at a qualifying school, the charter or online school shall allow all interested students to participate.

[B.](c) A charter or online school student's school of enrollment shall pay a school participation fee of \$75.00 per student[~~shall be paid by the student's school of enrollment~~] to the [boundary]qualifying school at which the charter or online school student desires to participate.

(d) Upon annual payment of the school participation fee, the student may participate in all extracurricular school activities [as defined in R277-494-1E]at the school during the school year for which the student is qualified and eligible.

(e) A charter or online school of enrollment shall cooperate fully with all qualifying schools:

(i) regarding students' participation in try-outs, practices, pep rallies, team fund raising efforts, scheduled games, and required travel; and

(ii) by providing complete and prompt reports of student academic and citizenship progress or grades, upon request.

[C.](3)(a) The school participation fee [paid by the charter or online school]described in Subsection (2)(c) is in addition to:

(i) [individual]a student participation fee[s] for a specific extracurricular activit[ies]y; and

(ii) the activity fee[s] charged to all students in [the]a [secondary]qualifying school to supplement a school activit[ies]y as assessed by the school consistent with this rule.

(4) Except as provided in Subsection (6), a charter or online school [S]student who participates in an extracurricular activity at a qualifying school shall pay a student participation fee[s] or required activity fee[s ~~shall be paid~~] to the [boundary]qualifying school [by the participating student]in accordance with deadlines set by the qualifying school.

[D.](5) All fees, including school participation fees, student participation fees, and activity fees shall be paid prior to a charter or online school student's participation in an activity at the qualifying school.

[E.](6) If a participating charter or online school student qualifies for a fee waiver[s], in accordance with Rule R277-470, the charter or online student's school of enrollment shall pay all waived student participation fees[~~shall be paid~~] to the [boundary]qualifying school[~~by the student's school of enrollment~~] prior to the student's participation in an activity at the qualifying school.

R277-494-4. [Additional Provisions]Charter or Online School Student Participation in Co-Curricular Activities.

(1)(a) A charter or online school student may participate in a co-curricular activity at a qualifying school if:

(i) the co-curricular activity is not offered by the student's charter or online school;

(ii) the student satisfies:

(A) for a charter school student, the requirements of Subsection 53A-1a-519(3);

(B) for an online school student, the requirements of Subsection 53A-2-214(3); and

(C) the requirements of this rule;

(iii) the student meets the qualifying school's standards and requirements; and

(iv) the student's parent agrees to provide the student transportation to the qualifying school for the co-curricular activity.

[A-](1)(b) A [C]charter[;] or online school [and traditional] may negotiate with [schools may negotiate to allow student] a public school other than a school described in Subsection (1) to participat[ion]e in a co-curricular activit[ies]y at the other public school, [such as]including:

(i) a debate, drama, or choral program[s];

(ii) a specialized course[s] or program[s] offered during the regular school day[;]; and

(iii) a school's [district-]sponsored enrichment program[s] or activit[ies]y.

(b) [Participating charter/online students shall be required to]A student who participates in a co-curricular activity described in Subsection (1)(a) shall meet:

(i) [a]the same attendance, discipline, and course requirements expected of [all boundary]the public school's full-time students[;];

(ii) for a charter school student, the requirements of Subsection 53A-1a-519(3); and

(iii) for an online school student, the requirements of Subsection 53A-2-214(3).

(2)(a) A charter or online school of enrollment shall determine if the school will allow students to participate in co-curricular school activities at qualifying schools.

(b) If a charter or online school allows one student to participate in a co-curricular activity at a qualifying school, the charter or online school shall allow all interested students to participate.

(c) A charter or online school student's school of enrollment shall pay a school participation fee of \$75.00 per student to the qualifying school at which the charter or online school student desires to participate.

[B-](3) A charter [and]or online school student participating under this rule shall meet all eligibility requirements and timelines of the [boundary]public school.

R277-494-5. Private or Home School Student Participation in Extracurricular Activities.

(1) In accordance with Section 53A-11-102.6, a private or home school student may participate in an extracurricular activity at a qualifying school if:

(a) for a private school student, the extracurricular activity is not offered by the student's private school;

(b) the student satisfies the requirements of:

(i) Section 53A-11-102.6; and

(ii) this rule; and

(c) the student meets the qualifying school's standards and requirements.

(2) Except as provided in Subsection (3), a private or home school student shall pay a student participation fee or required activity fee to the qualifying school:

(a) before the student may participate in the extracurricular activity at the qualifying school; and

(b) in accordance with deadlines set by the qualifying school.

(3) If a private or home school student qualifies for a fee waiver in accordance with Rule R277-407, the qualifying school shall waive the student participation fee or required activity fee in accordance with the requirements of Rule R277-407, School Fees.

R277-494-6. Private or Home School Student Participation in Co-curricular Activities.

A private or home school student may participate in a co-curricular activity at a public school in accordance with the dual enrollment provisions of rule R277-438.

KEY: extracurricular, co-curricular, activities, student participation

Date of Enactment or Last Substantive Amendment: [December 9, 2013]2015

Notice of Continuation: October 15, 2015

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401(3); 53A-1a-519(6)(a); 53A-2-214(6)

Education, Administration
R277-611
 Certified Volunteer Instructors and
 Material Approval Requirements and
 Process for Firearm Safety in the
 Public Schools

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 39842

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-611 is amended to provide additional language requiring ongoing monitoring consistent with Section 53A-15-1503 and make technical and conforming changes to the rule.

SUMMARY OF THE RULE OR CHANGE: The amendments provide for a certified volunteer to submit to ongoing monitoring in addition to the already required background check and provide technical and conforming changes throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Subsection 53A-1-401(3) and Subsection 53A-13-106(5)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is likely no cost or savings to the state budget. Certified volunteers wishing to provide firearm safety training in a public school shall submit to ongoing monitoring in addition to the already required background check.
- ◆ LOCAL GOVERNMENTS: There is likely no cost or savings to local government. Certified volunteers wishing to provide firearm safety training in a public school shall submit to ongoing monitoring in addition to the already required background check.
- ◆ SMALL BUSINESSES: There is likely no cost or savings to small businesses. Certified volunteers wishing to provide firearm safety training in a public school shall submit to ongoing monitoring in addition to the already required background check.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is likely no additional cost or savings to persons other than small businesses, businesses, or local government entities. Certified volunteers wishing to provide firearm safety training in a public school shall submit to ongoing monitoring in addition to the already required background check.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons. If a certified volunteer wishes to provide firearm safety training in a public school, the certified volunteer will submit to ongoing monitoring in addition to the already required background check.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.

R277-611. Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools.

R277-611-[2]1. Authority and Purpose.

- [A:](1) This rule is authorized ~~[under]~~by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board[;];
 - (b) Subsection 53A-13-106(5), which directs the Board to make rules specific to limited areas of firearm safety instruction in the public schools[;]; and
 - (c) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.
- [B:](2) The purpose of this rule is to:
- (a) provide a definition of certified volunteer for purposes of providing firearm safety training in [the]a public school[s];~~[to]~~
 - (b) direct [school districts and charter schools]LEAs to designate~~[a process for designated]~~ public school areas that may be used for firearm safety training for adults or students or both;~~[and to]~~
 - (c) direct a local board to~~[have a process or committee or both for]~~ review ~~[of]~~ materials that may be used under the ~~[school district's or charter school's]~~LEA's authority to teach firearm safety; and~~[to]~~
 - (d) provide for voluntary firearm safety training of public school district employees or school community members or both on public school property at times determined by the local ~~school board [of education]~~or local governing board.

R277-611-[4]2. Definitions.

- [A:](1) "Certified volunteer" means an individual who:
- (a) volunteers to teach [school district]an LEA employee[s] or student[s] in [the]a public school[s] about firearm safety; and~~[The individual shall provide documentation of training from designated training entities prior to providing firearm safety instruction to public school students or employees on public school property]~~
 - (b) is certified as required by Section R277-611-3.
- [B:](2) "Public school classroom[s] or auditorium[s]" means a[ny] classroom or auditorium in a public school:
- (a) identified as available and appropriate; and
 - (b) designated by [the school]an LEA, superintendent, or director as available for firearm safety instruction.
- [C: "Firearm safety education classes" means classes or courses taught by designated individuals during the regular school day or outside of the regular school day as determined by the local board of education.]
- [D: "LEA" means a school district, school or charter school.]

R277-611-3. Certified Volunteers and Proof of Certification of Instructors.

- [A:](1)(a) An [school district or charter school]LEA may allow a volunteer[s] who [have been]is certified by the Utah Bureau

of Criminal Identification to teach firearm safety on public school property consistent with ~~[district]~~ LEA policy and direction.

(b) A list of certified firearms instructors by county is available through the Utah Department of Public Safety.

~~[B-](2)~~ A certified ~~[V]~~ volunteer[s] shall provide documentation of required training to the designated school administrator prior to the advertisement or notice of available training.

~~[C-](3)~~ An[y] individual ~~[that]~~ who provides or participates in training to a public school age child~~[ren]~~ on public school property shall:

(a) ~~[have-]~~ complete~~[d]~~ a fingerprint background check and submit to ongoing monitoring consistent with ~~[Section 53A-3-410]~~ the requirements of Title 53A, Chapter 15, Part 15, Background Checks; and

(b) have ~~[had-]~~ the background check reviewed by ~~[appropriate school district]~~ an LEA administrator[s] prior to instructing a public school age student[s].

(4) A volunteer ~~[or instructor shall not be considered]~~ is not certified under Subsection 53A-13-106(5)(d) by the ~~[school district]~~ LEA until the background check process is completed.

R277-611-4. School District Review of Firearm Safety Materials Used in Public Schools.

~~[A-](1)~~ A certified ~~[V]~~ volunteer~~[-firearm safety instructors]~~ who ~~[have been]~~ is approved to provide instruction to a public school-age student[s] or a public school employee[s] shall submit material~~[s they]~~ that the certified volunteer proposes to use in the~~[ir]~~ instruction or training for review by the local ~~[LEA]~~ school board or local governing board prior to the training.

~~[B-The](2)~~ An LEA shall have adequate time to review the submitted material[s] and ~~[shall-]~~ approve or disapprove the material[s] in a timely manner.

~~[C-](3)~~ An LEA shall use standards for review of materials that include:

(1)a) ~~[A]~~ age-appropriateness of material[s] for the LEA's audience;

(2)b) ~~[N]~~ neither a bias against firearms nor a bias in favor of firearms;

(3)c) ~~[F]~~ the selection and approval of material[s] that would not personally enrich or benefit the ~~certified~~ volunteer~~[-instructor]~~; and

(4)d) ~~[O]~~ other reasonable and objective standards that apply to the review of similar instructional material[s].

R277-611-5. Voluntary Training of Adults and Public Education Employees on Public School Property.

~~[A-](1)~~ An LEA may allow a community group[s] to use public school property for voluntary firearm safety training for a public school employee[s] or interested community member[s].

~~B. Community groups shall be allowed to use public school property for voluntary firearm safety training]~~ under conditions used to approve public school buildings for non-curriculum uses.

~~[C-](2)~~ An LEA shall give the greatest consideration to ~~[A]~~ availability of space and the safety of school age children and school employees ~~[shall be given the greatest consideration-]~~ in the

approval of a request~~[s for]~~ to use~~[-of]~~ public education property for voluntary firearm safety training and instruction.

R277-611-6. Use of Public School Property for Firearm Safety Instruction.

~~[A-](1)~~ An LEA[s] may designate which classroom[s] or auditorium[s] or other appropriate public school area[s] may be used for firearm safety training or instruction or both.

~~[B-](2)~~ An LEA[s] shall give first priority to curriculum-related groups in allowing firearm safety instruction to be held on public school property.

~~[C-](3)~~ An LEA[s] shall give the safety of all students and community patrons the greatest consideration in allowing for firearm safety instruction or training on public school property.

~~[D-](4)~~ If appropriate or necessary, at the LEA's discretion, the LEA may post notice in and around a public school area~~[s that are]~~ designated for firearm instruction and training.

~~[E-](5)~~ Live ammunition ~~[shall]~~ may not be brought on public school property as a part of firearm safety instruction.

KEY: firearms, instruction

Date of Enactment or Last Substantive Amendment: ~~[November 8, 2010]~~ 2015

Notice of Continuation: October 15, 2015

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-13-106(5); 53A-1-401(3)

Education, Administration R277-921 Strengthening College and Career Readiness Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39843

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new Rule R277-921 is created in response to H.B. 198 Strengthening College and Career Readiness, from the 2015 General Session, which creates the Strengthening College and Career Readiness Pilot Program.

SUMMARY OF THE RULE OR CHANGE: The new rule provides procedures and criteria for applying for and awarding college and career readiness grants for school counselors to complete a course or courses and be awarded a certificate that certifies the school counselor is highly skilled at providing college and career counseling to students.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. X, Sec. 3 and Section 53A-15-1601 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is likely no cost or savings to the state budget. Existing staff will administer this program within existing budgets.

◆ **LOCAL GOVERNMENTS:** There is likely no cost or savings to local government. A local education agency (LEA) may apply for college and career readiness grants for its school counselors. The 2015 legislature appropriated funding for the program.

◆ **SMALL BUSINESSES:** There is likely no cost or savings to small businesses. This rule applies to a public education program grant for school counselors and does not affect small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is likely no cost or savings to persons other than small businesses, businesses, or local government entities. The 2015 legislature appropriated funds for college and career readiness grants for school counselors to take courses consistent with this rule and program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are likely no compliance costs for affected persons. School counselors will receive funding to complete courses consistent with this rule and the college and career readiness program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

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

R277. Education, Administration.**R277-921. Strengthening College and Career Readiness Program.****R277-921-1. Authority and Purpose.**

(1) This rule is authorized by:

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

(b) Subsection 53A-1-401(3), which authorizes the Board to adopt rules in accordance with its responsibilities; and

(c) Section 53A-15-1601, which requires the Board to make rules regarding the program.

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

(a) procedures and criteria for applying for and awarding a grant; and

(b) reporting requirements for a grantee.

R277-921-2. Definitions.

(1) "Certificate" means the certificate described in Subsection 53A-15-1601(3)(a) that a school counselor may receive through participation in the program.

(2) "Grant" means payment of a course fee for a course required to earn the certificate.

(3) "Program" means the Strengthening College and Career Readiness Program created in Section 53A-15-1601.

(4) "School counselor" means a person who:

(a) holds a Utah School Counselor License;

(b) has a master's degree or higher from an accredited institution;

(c) is an employee of an LEA who provides counseling and information to a student about an educational or career choice;

(d) has received an evaluation as effective or higher through the LEA's evaluation system; and

(e) is recommended to participate in the program by a supervisor.

R277-921-3. Grant Application.

(1) An LEA may apply for a grant on behalf of a school counselor by submitting an application:

(a) provided on USOE's website;

(b) to the Superintendent; and

(c) except as provided in Subsection (2), on or before June 30.

(2) If the annual appropriation for the program exceeds the grant requests, the Superintendent may extend the deadline specified in Subsection (1)(c) by posting a new deadline on USOE's website.

R277-921-4. Procedure and Criteria for Awarding Grant.

(1) If the grant applications exceed the annual appropriation for the program, the Superintendent shall give preference in awarding a grant to an applicant if:

(a) the school where the school counselor works has a state approved Comprehensive Counseling and Guidance Program;

(b) the school where the school counselor works meets the school counselor-to-student ratio of 1:350, according to Rule R277-462; and

(c) the school counselor is licensed as a school counselor according to Rule R277-506.

(2) A school counselor who fails to complete a course that is paid for by a grant shall repay the course fee to the Superintendent.

R277-921-5. Reporting Requirements for Grantee.

After completing the course work necessary to receive the certificate, the school counselor shall submit to the Superintendent:

(1) an action plan to implement the skills developed through earning the certificate to improve students' college and career readiness; and

(2) an application that is provided on USOE's website to add the certificate to the school counselor's license.

KEY: counseling, grant program, college and career readiness
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401(3); 53A-15-1601

Environmental Quality, Air Quality **R307-101-2** Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39823

FILED: 10/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/25/2015, the EPA proposed conditional approval of sections of Utah's PM2.5 State Implementation Plan (SIP). As a condition for approving the SIP, EPA is requiring the state to amend Section R307-101-2. The state sent a letter to the EPA on 08/04/2015 that committed to revising the SIP. These amendments will satisfy that commitment.

SUMMARY OF THE RULE OR CHANGE: This rule removes the definition of PM2.5 precursors.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Removing the definition of PM2.5 precursors will create no costs or savings for the state budget because PM2.5 precursors are not included in any other part of Utah's rules.
- ◆ LOCAL GOVERNMENTS: Removing the definition of PM2.5 precursors will create no costs or savings for local government because PM2.5 precursors are not included in any other part of Utah's rules.
- ◆ SMALL BUSINESSES: Removing the definition of PM2.5 precursors will create no costs or savings for small

businesses because PM2.5 precursors are not included in any other part of Utah's rules.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Removing the definition of PM2.5 precursors will create no costs or savings for other persons because PM2.5 precursors are not included in any other part of Utah's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Removing the definition of PM2.5 precursors will create no compliance costs for affected persons because PM2.5 precursors are not included in any other part of Utah's rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Removing the definition of PM2.5 precursors will have no fiscal impact on businesses because PM2.5 precursors are not included in any other part of Utah's rules.

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

ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the director, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the director if the director determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-8.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Board" means Air Quality Board. See Section 19-2-102(8) (a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden

loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Chargeable Pollutant" means any regulated air pollutant except the following:

(1) Carbon monoxide;

(2) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection;

(3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Clean Air Act" means federal Clean Air Act as amended in 1990.

"Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is provided by the National Weather Service.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Condensable PM2.5" means material that is vapor phase at stack conditions, but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid particulate matter immediately after discharge from the stack.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Director" means the Director of the Division of Air Quality. See Section 19-1-103(1).

"Division" means the Division of Air Quality.

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission" means the act of discharge into the atmosphere of an air contaminant or an effluent which contains or may contain an air contaminant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air contaminant which has been emitted by the source operation, equipment, or control apparatus;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board, the director or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to

the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means 40 CFR Part 60, Appendix A, Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources," and Alternate 1, "Determination of the opacity of emissions from stationary sources remotely by LIDAR."

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Filterable PM2.5" means particles with an aerodynamic diameter equal to or less than 2.5 micrometers that are directly emitted by a source as a solid or liquid at stack or release conditions and can be captured on the filter of a stack test train.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of

ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

(a) The following areas are considered maintenance areas for ozone:

- (i) Salt Lake County, effective August 18, 1997; and
- (ii) Davis County, effective August 18, 1997.

(b) The following areas are considered maintenance areas for carbon monoxide:

- (i) Salt Lake City, effective March 22, 1999;
- (ii) Ogden City, effective May 8, 2001; and
- (iii) Provo City, effective January 3, 2006.

(c) The following areas are considered maintenance areas for PM10:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005; and

(ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005; and

(iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005.

(d) The following area is considered a maintenance area for sulfur dioxide: all of Salt Lake County and the eastern portion of Tooele County above 5600 feet, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair and replacement;

(2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source

(8) the addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the director determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(a) when the director has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any, and

(b) the director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.

(9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the Utah State Implementation Plan; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to R307:

(1) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or

(b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

(c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

(2) any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;

(3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of

these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum or reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than

250 tons of refuse per day;

- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants;
- (u) Fossil-fuel boilers (or combination thereof) totaling

more than 250 million British Thermal Units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

(1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

(a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.

(b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.

(c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means an area designated by the Environmental Protection Agency as nonattainment under Section 107, Clean Air Act for any National Ambient Air Quality Standard. The designations for Utah are listed in 40 CFR 81.345.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA reference or equivalent method.

~~["PM2.5 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM2.5, and has been identified in the applicable implementation plan for PM2.5 as significant for the purpose of developing control measures. Specifically, PM2.5 precursors include SO₂, NO_x, and VOC.~~

] "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Pollution Control Project" means any activity or project at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:

(1) The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;

(2) An activity or project to accommodate switching to a fuel which is less polluting than the fuel used prior to the activity or project, including, but not limited to natural gas or coal reburning, or the cofiring of natural gas and other fuels for the purpose of controlling emissions;

(3) A permanent clean coal technology demonstration project conducted under Title II, sec. 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or

(4) A permanent clean coal technology demonstration project that constitutes a repowering project.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Primary PM2.5" means the sum of filterable PM2.5 and condensable PM2.5.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the emission inventory at the time of enactment;

(2) Was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) Is equipped with low-NOx burners prior to the time of commencement of operations following reactivation; and

(4) Is otherwise in compliance with the requirements of the Clean Air Act.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Regulated air pollutant" means any of the following:

(a) Nitrogen oxides or any volatile organic compound;

(b) Any pollutant for which a national ambient air quality standard has been promulgated;

(c) Any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection;

(e) Any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(1) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(2) The director shall give expedited consideration to permit applications for any source that satisfies the requirements of this

definition and is granted an extension under section 409 of the Clean Air Act.

"Representative Actual Annual Emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two-year period after a physical change or change in the method of operation of unit, (or a different consecutive two-year period within 10 years after that change, where the director determines that such period is more representative of source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the director shall:

(1) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, filings with the State of Federal regulatory authorities, and compliance plans under title IV of the Clean Air Act; and

(2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Road" means any public or private road.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Secondary PM2.5" means particles that form or grow in mass through chemical reactions in the ambient air well after dilution and condensation have occurred. Secondary PM2.5 is usually formed at some distance downwind from the source.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy);

Nitrogen oxides: 40 tpy;

Sulfur dioxide: 40 tpy;

PM10: 15 tpy;

PM2.5: 10 tpy;

Particulate matter: 25 tpy;

Ozone: 40 tpy of volatile organic compounds;

Lead: 0.6 tpy.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as solvents, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial

Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air contaminant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"Volatile Organic Compound (VOC)" means VOC as defined in 40 CFR 51.100(s), effective as of the date referenced in R307-101-3, is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

KEY: air pollution, definitions

Date of Enactment or Last Substantive Amendment: [~~August 7, 2014~~]**2015**

Notice of Continuation: May 8, 2014

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

**Environmental Quality, Air Quality
R307-110-28
Regional Haze**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 39849
FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to amend Utah's Regional Haze State Implementation Plan (SIP) so that it includes Utah's Five-Year Progress Report on Regional Haze. Federal regulations require the progress report to be in the form of a SIP revision. Although the substance of the report has already been published for public comment, a rule must be proposed to incorporate the report into the SIP so that it conforms with state procedures regarding SIP revisions.

SUMMARY OF THE RULE OR CHANGE: This rule incorporates the Five-Year Progress Report on Regional Haze into Utah's air quality rules.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates The Utah State Implementation Plan, Section XX, Regional Haze, published by DEQ, 10/07/2015

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no impact on the state budget. The progress report does not impose any substantive requirements on third parties. It is merely a report on the progress and status of Utah's Regional Haze SIP.
- ◆ **LOCAL GOVERNMENTS:** There will be no impact on local government. The progress report does not impose any substantive requirements on third parties. It is merely a report on the progress and status of Utah's Regional Haze SIP.
- ◆ **SMALL BUSINESSES:** There will be no impact on small businesses. The progress report does not impose any substantive requirements on third parties. It is merely a report on the progress and status of Utah's Regional Haze SIP.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no impact because the progress report does not impose any substantive requirements on third parties. It is merely a report on the progress and status of Utah's Regional Haze SIP.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs because the progress report does not impose any substantive requirements on third parties. It is merely a report on the progress and status of Utah's Regional Haze SIP.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. The progress report does not impose any substantive requirements on third parties. It is merely a report on the progress and status of Utah's Regional Haze SIP.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-28. Regional Haze.

The Utah State Implementation Plan, Section XX, Regional Haze, as most recently amended by the Utah Air Quality Board on [September xx, 2015]December 2, 2015, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
Date of Enactment or Last Substantive Amendment: 2015
Notice of Continuation: February 1, 2012
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)
 (e)

Environmental Quality, Air Quality
R307-312-5
Hot Mix Asphalt Plants

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 39844
 FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/25/2015, the EPA proposed conditional approval of sections of Utah's PM2.5 State Implementation Plan (SIP). As a condition for approving the SIP, EPA is requiring the state to amend Section R307-312-5. The state sent a letter to the EPA on 08/04/2015, that committed to revising the SIP. This amendment will partially satisfy that commitment.

SUMMARY OF THE RULE OR CHANGE: The rule currently states that "production shall be determined by scale house records or equivalent method on a daily basis." EPA requested three equivalent methods. DAQ is proposing to replace "equivalent method" with "belt scale records" and "manifest statements." The rule now provides three equivalent methods as EPA requested.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There will be no costs or savings for the state budget because the rule already allowed "equivalent methods." The amendment now gives specific examples of equivalent methods to help regulated entities understand what methods are permitted.
 ♦ **LOCAL GOVERNMENTS:** There will be no costs or savings for local government because the rule already

allowed "equivalent methods." The amendment now gives specific examples of equivalent methods to help regulated entities understand what methods are permitted.

♦ **SMALL BUSINESSES:** There will be no costs or savings for small businesses because the rule already allowed "equivalent methods." The amendment now gives specific examples of equivalent methods to help regulated entities understand what methods are permitted.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs or savings for other persons because the rule already allowed "equivalent methods." The amendment now gives specific examples of equivalent methods to help regulated entities understand what methods are permitted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons because the rule already allowed "equivalent methods." The amendment now gives specific examples of equivalent methods to help regulated entities understand what methods are permitted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. The rule already allowed "equivalent methods." The amendment now gives specific examples of equivalent methods to help regulated entities understand what methods are permitted.

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 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-312. Aggregate Processing Operations for PM2.5 Nonattainment Areas.

R307-312-5. Hot Mix Asphalt Plants.

(1) The filterable PM2.5 emission rate from a hot mix asphalt plant dryer shall not exceed 0.024 grains per dscf.

(a) Filterable PM2.5 emissions shall be determined by 40 CFR 51, Appendix M, Method 201A.

(2) From November 1 to March 1, a hot mix asphalt plant burning a fuel other than natural gas or liquefied petroleum gas (LPG) shall not produce more than 50% of its rated capacity.

(a) Production shall be determined by scale house records, belt scale records or [~~equivalent method~~] manifest statements on a daily basis.

(b) Compliance shall be based on either the daily amount of hot mix asphalt produced averaged over the operating day or the daily amount of hot mix asphalt produced while burning a fuel other than natural gas or LPG averaged over the time the plant is operating while burning a fuel other than natural gas or LPG each day.

(c) Compliance shall be determined by production records and fuel records.

KEY: air pollution, aggregate, asphalt, concrete

Date of Enactment or Last Substantive Amendment: [~~February 1, 2013~~] **2015**

Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104; 19-2-109

Environmental Quality, Air Quality
R307-328-4
Loading of Tank Trucks, Trailers,
Railroad Tank Cars, and Other
Transport Vehicles

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39845

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/25/2015, the EPA proposed conditional approval of sections of Utah's PM2.5 State Implementation Plan (SIP). As a condition for approving the SIP, EPA is requiring the state to amend Section R307-328-4. The state sent a letter to the EPA on 08/04/2015, that committed to revising the SIP. This amendment will partially satisfy that commitment.

SUMMARY OF THE RULE OR CHANGE: The rule states that gasoline loading shall be performed by "submerged filling or alternative equivalent methods." DAQ is proposing to remove "alternative equivalent methods" because filling should be performed via submerged delivery to reduce VOC generation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no costs or savings to the state budget because there is no equivalent method to

"submerged filling." As a result, removing the phrase "equivalent method" will only have the impact of more clearly describing the appropriate method for gasoline loading.

◆ **LOCAL GOVERNMENTS:** There will be no costs or savings for local government because there is no equivalent method to "submerged filling." As a result, removing the phrase "equivalent method" will only have the impact of more clearly describing the appropriate method for gasoline loading.

◆ **SMALL BUSINESSES:** There will be no costs or savings for small businesses because there is no equivalent method to "submerged filling." As a result, removing the phrase "equivalent method" will only have the impact of more clearly describing the appropriate method for gasoline loading.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs or savings for other persons because there is no equivalent method to "submerged filling." As a result, removing the phrase "equivalent method" will only have the impact of more clearly describing the appropriate method for gasoline loading.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no costs for affected persons because there is no equivalent method to "submerged filling." As a result, removing the phrase "equivalent method" will only have the impact of more clearly describing the appropriate method for gasoline loading.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses because there is no equivalent method to "submerged filling." As a result, removing the phrase "equivalent method" will only have the impact of more clearly describing the appropriate method for gasoline loading.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
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 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.**R307-328. Gasoline Transfer and Storage.****R307-328-4. Loading of Tank Trucks, Trailers, Railroad Tank Cars, and Other Transport Vehicles.**

(1) No person shall load or permit the loading of gasoline into any gasoline cargo tank unless the emissions from such vehicle are controlled by use of a vapor collection and control system and submerged or bottom filling. RACT shall be required and in no case shall vapor emissions to the atmosphere exceed 0.640 pounds per 1,000 gallons transferred.

(2) Such vapor collection and control system shall be properly installed and maintained.

(3) The loading device shall not leak.

(4) The loading device shall utilize the dry-break loading design couplings and shall be maintained and operated to allow no more than an average of 15 cc drainage per disconnect for 5 consecutive disconnects.

(5) All loading and vapor lines shall be equipped with fittings which make a vapor tight connection and shall automatically close upon disconnection to prevent release of the organic material.

(6) A gasoline storage and transfer installation that receives inbound loads and dispatches outbound loads ("bulk plant") need not comply with R307-328-4 if it does not have a daily average throughput of more than 3,900 gallons (15,000 or more liters) of gasoline based upon a 30-day rolling average. Such installations shall on-load and off-load gasoline by use of bottom or submerged filling [~~or alternate equivalent methods~~]. The emission limitation is based on operating procedures and equipment specifications using Reasonably Available Control Technology as defined in EPA documents EPA 450/2-77-026 October 1977, "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," and EPA-450/2-77-035 December 1977, "Control of Volatile Organic Emissions from Bulk Gasoline Plants." The design effectiveness of such equipment and the operating procedures must be documented and submitted to and approved by the director.

(7) Hatches of gasoline cargo tanks shall not be opened at any time during loading operations except to avoid emergency situations or during emergency situations. Pressure relief valves on storage tanks and gasoline cargo tanks shall be set to release at the highest possible pressure, in accordance with State or local fire codes and National Fire Prevention Association guidelines. Pressure in the vapor collection system shall not exceed the gasoline cargo tank pressure relief setting.

(8) Each owner or operator of a gasoline storage or dispensing installation shall conduct testing of vapor collection systems used at such installation and shall maintain records of all tests for no less than two years. Testing procedures of vapor collection systems shall be approved by the director and shall be consistent with the procedures described in the EPA document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA-450/2-78-051.

(9) Semi-annual testing shall be conducted and records maintained of such test. The frequency of tests may be altered by the director upon submittal of documentation which would justify a change.

(10) The vapor collection and vapor processing equipment shall be designed and operated to prevent gauge pressure in the gasoline cargo tank from exceeding 18 inches of water and prevent vacuum from exceeding 6 inches of water. During testing and monitoring, there shall be no reading greater than or equal to 100

percent of the lower explosive limit measured at 1.04 inches around the perimeter of a potential leak source as detected by a combustible gas detector. Potential leak sources include, but are not limited to, piping, seals, hoses, connections, pressure or vacuum vents, and vapor hoods. In addition, no visible liquid leaks are permitted during testing or monitoring.

KEY: air pollution, gasoline transport, ozone

Date of Enactment or Last Substantive Amendment: [~~June 7, 2011~~] **2015**

Notice of Continuation: February 1, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(1)(a)

Environmental Quality, Air Quality

R307-405-3

Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39846

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to EPA's good cause final rule to remove portions of its PSD and title V permitting regulations, the Division of Air Quality is proposing changes to Section R307-405-3. These changes will align Utah's rules with EPA's regulations.

SUMMARY OF THE RULE OR CHANGE: This rule removes the greenhouse gas tailoring rule that regulated new and existing stationary sources.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment will save the state budget any costs associated with enforcement and compliance with the greenhouse gas tailoring rule.

◆ **LOCAL GOVERNMENTS:** This amendment will not likely affect local governments because the rule would have been administered at the state level.

◆ **SMALL BUSINESSES:** This amendment will not likely affect small businesses because most small businesses were not regulated under the rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other persons will not likely be affected by this rule. The rule was mainly regulating businesses and government entities. Any other persons affected will likely save money as a result of the rule because the rule is repealing the requirement that some greenhouse gas sources are regulated.

COMPLIANCE COSTS FOR AFFECTED PERSONS:
 Affected persons will save money regarding compliance because they will no longer have to comply with the greenhouse gas tailoring rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
 This rule will likely have a positive fiscal impact on businesses. Large businesses that were regulated under this rule will no longer incur any costs associated with compliance. Most small businesses will not see an impact because they were not regulated under this rule before the amendment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.
 R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).**

R307-405-3. Definitions.

(1) Except as provided in (2) and (9) below, the definitions contained in 40 CFR 52.21(b) are hereby incorporated by reference.

(2)(a) In the definition of "baseline area" in 40 CFR 52.21(b)(15)(ii)(b) insert the words "or R307-405" after "Is subject to 40 CFR 52.21".

(b) "Reviewing Authority" means the director.

(c)(i) The term "Administrator" shall be changed to "director" throughout R307-405, except as provided in (ii).

(ii) The term "Administrator" shall be changed to "EPA Administrator" in the following incorporated sections:

- (A) 40 CFR 52.21(b)(17),
- (B) 40 CFR 52.21(b)(37)(i),
- (C) 40 CFR 52.21(b)(43),
- (D) 40 CFR 52.21(b)(48)(ii)(c),
- (E) 40 CFR 52.21(b)(50)(i),

- (F) 40 CFR 52.21(l)(2),
- (G) 40 CFR 52.21(p)(2), and
- (H) 40 CFR 51.166(q)(2)(iv).

(d) The following definitions or portions of definitions that apply to the equipment repair and replacement provisions are not incorporated because these provisions were vacated by the DC Circuit Court of Appeals on March 17, 2006:

- (i) in the definition major modification in 40 CFR 52.21(b)(2), the second sentence in subparagraph (iii)(a),
- (ii) the definition of "process unit" in 40 CFR 52.21(b)(55),
- (iii) the definition of "functionally equivalent component" in 40 CFR 52.21(b)(56),
- (iv) the definition of "fixed capital cost" in 40 CFR 52.21(b)(57), and
- (v) the definition of "total capital investment" in 40 CFR 52.21(b)(58).

(e) In the definition of "Regulated NSR pollutant" in 40 CFR 52.21(b)(50), subparagraph (iv) shall be changed to read, "Any pollutant that otherwise is subject to regulation under the Act." A new subparagraph (v) shall be added that reads, "The term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the federal Clean Air Act, or added to the list pursuant to section 112(b)(2) of the federal Clean Air Act, and which have not been delisted pursuant to section 112(b)(3) of the federal Clean Air Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the federal Clean Air Act."

(3) "Air Quality Related Values," as used in analyses under 40 CFR 52.21 (p) that is incorporated by reference in R307-405-17, means those special attributes of a Class I area, assigned by a federal land manager, that are adversely affected by air quality.

(4) "Heat input" means heat input as defined in 40 CFR 52.01(g), that is hereby incorporated by reference.

(5) "Title V permit" means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to R307-415.

(6) "Title V Operating Permit Program" means R307-415.

(7) The definition of "Good Engineering Practice (GEP) Stack Height" as defined in R307-410 shall apply in this rule.

(8) The definition of "Dispersion Technique" as defined in R307-410 shall apply in this rule.

(9) "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of 40 CFR Chapter I, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(a) "Greenhouse gases (GHGs)," the air pollutant defined in 40 CFR 86.1818-12(a) (Federal Register, Vol. 75, Page 25686) as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraph[s] (d) ~~through (e)~~ of this section.

(b) For purposes of paragraphs (c) through (e) of this section, the term "tons per year (tpy) CO2 equivalent emissions (CO2e)" shall represent an amount of GHGs emitted, and shall be computed as follows:

(i) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of 40 CFR Part 98 - Global Warming Potentials, that is hereby incorporated by reference (Federal Register, Vol. 74, Pages 56395-96).

(ii) Sum the resultant value from paragraph (b)(i) of this section for each gas to compute a tpy CO₂e.

(c) The term "emissions increase" as used in paragraph[s] (d) [~~through (e)~~] of this section shall mean that both a significant emissions increase (as calculated using the procedures in 40 CFR 52.21 (a)(2)(iv) that is incorporated by reference in R307-405-2) and a significant net emissions increase (as defined in paragraphs 40 CFR 52.21(b)(3) and (b)(23) that is incorporated by reference in R307-405-3) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO₂e instead of applying the value in paragraph 40 CFR 52.21(b)(23) (ii).

(d) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

(i) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(ii) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more[~~]; and~~

~~(e) Beginning July 1, 2011, in addition to the provisions in paragraph (d) of this section, the pollutant GHGs shall also be subject to regulation:~~

~~(i) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or~~

~~(ii) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more].~~

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

Date of Enactment or Last Substantive Amendment: [~~February 2, 2012~~]**2015**

Notice of Continuation: January 28, 2014

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

Environmental Quality, Air Quality R307-415-3 Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39847
FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to EPA's good cause final rule to remove portions of its PSD and title V permitting regulations, the

Division of Air Quality is proposing changes to Section R307-405-3. These changes will align Utah's rules with EPA's regulations.

SUMMARY OF THE RULE OR CHANGE: This rule removes the greenhouse gas tailoring rule that regulated new and existing stationary sources.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment will save the state budget any costs associated with enforcement and compliance with the greenhouse gas tailoring rule.

◆ **LOCAL GOVERNMENTS:** This amendment will not likely affect local governments because the rule would have been administered at the state level.

◆ **SMALL BUSINESSES:** This amendment will not likely affect small businesses because most small businesses were not regulated under the rule. If there were a small businesses that fell under the regulation of this rule, then the affect of this amendment would be a positive in terms of costs. This rule eliminates the greenhouse gas tailoring rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other persons will not likely be affected by this rule. The rule was mainly regulating businesses and government entities. Any other persons affected will likely save money as a result of the rule because the rule is repealing the requirement that some greenhouse gas sources are regulated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons will save money regarding compliance because they will no longer have to comply with the greenhouse gas tailoring rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will likely have a positive fiscal impact on businesses. Large businesses that were regulated under this rule will no longer incur costs associated with compliance. Most small businesses will not see an impact either way because they were not regulated under this rule before the amendment.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-415. Permits: Operating Permit Requirements.

R307-415-3. Definitions.

(1) The definitions contained in R307-101-2 apply throughout R307-415, except as specifically provided in (2).

(2) The following additional definitions apply to R307-415.

"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

"Administrator" means the Administrator of EPA or his or her designee.

"Affected States" are all states:

(a) Whose air quality may be affected and that are contiguous to Utah; or

(b) That are within 50 miles of the permitted source.

"Air Pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, or radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source, including requirements that have been promulgated or approved by the Board or by the EPA through rulemaking at the time of permit issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the State Implementation Plan;

(b) Any term or condition of any approval order issued under R307-401;

(c) Any standard or other requirement under Section 111 of the Act, Standards of Performance for New Stationary Sources, including Section 111(d);

(d) Any standard or other requirement under Section 112 of the Act, Hazardous Air Pollutants, including any requirement concerning accident prevention under Section 112(r)(7) of the Act;

(e) Any standard or other requirement of the Acid Rain Program under Title IV of the Act or the regulations promulgated thereunder;

(f) Any requirements established pursuant to Section 504(b) of the Act, Monitoring and Analysis, or Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification;

(g) Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;

(h) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;

(i) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act,

unless the Administrator has determined that such requirements need not be contained in an operating permit;

(j) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act;

(k) Any standard or other requirement under rules adopted by the Board.

"Area source" means any stationary source that is not a major source.

"Designated representative" shall have the meaning given to it in Section 402 of the Act and in 40 CFR Section 72.2, and applies only to Title IV affected sources.

"Draft permit" means the version of a permit for which the director offers public participation under R307-415-7i or affected State review under R307-415-8(2).

"Emissions allowable under the permit" means a federally-enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit, including a work practice standard, or a federally-enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any hazardous air pollutant. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act, Acid Deposition Control.

"Final permit" means the version of an operating permit issued by the director that has completed all review procedures required by R307-415-7a through 7i and R307-415-8.

"General permit" means an operating permit that meets the requirements of R307-415-6d.

"Hazardous Air Pollutant" means any pollutant listed by the Administrator as a hazardous air pollutant under Section 112(b) of the Act.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraphs (a), (b), or (c) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987. Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be considered in determining whether a stationary source is a major source under this definition.

(a) A major source under Section 112 of the Act, Hazardous Air Pollutants, which is defined as: for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of such hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or

production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

(b) A major stationary source of air pollutants, as defined in Section 302 of the Act, that directly emits or has the potential to emit, 100 tons per year or more of any air pollutant ~~[subject to regulation,]~~ including any major source of fugitive emissions or fugitive dust of any such pollutant as determined by rule by the Administrator. The fugitive emissions or fugitive dust of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to any one of the following categories of stationary source:

- (i) Coal cleaning plants with thermal dryers;
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants, furnace process;
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or Section 112 of the Act.

(c) A major stationary source as defined in part D of Title I of the Act, Plan Requirements for Nonattainment Areas, including:

- (i) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f)(1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to Section 184 of the Act, sources with the potential to emit 50 tons per year or more of volatile organic compounds;

(iii) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide;

(iv) For PM-10 particulate matter nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM-10 particulate matter.

"Non-Road Vehicle" means a vehicle that is powered by an internal combustion engine (including the fuel system), that is not a self-propelled vehicle designed for transporting persons or property on a street or highway or a vehicle used solely for competition, and is not subject to standards promulgated under Section 111 of the Act (New Source Performance Standards) or Section 202 of the Act (Motor Vehicle Emission Standards).

"Operating permit" or "permit," unless the context suggests otherwise, means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to these rules.

"Part 70 Source" means any source subject to the permitting requirements of R307-415, as provided in R307-415-4.

"Permit modification" means a revision to an operating permit that meets the requirements of R307-415-7f.

"Permit revision" means any permit modification or administrative permit amendment.

"Permit shield" means the permit shield as described in R307-415-6f.

"Proposed permit" means the version of a permit that the director proposes to issue and forwards to EPA for review in compliance with R307-415-8.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) the operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million in second quarter 1980 dollars; or

(ii) the delegation of authority to such representative is approved in advance by the director;

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of R307-415, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency;

(d) For Title IV affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act, Acid

Deposition Control, or the regulations promulgated thereunder are concerned;

(ii) The responsible official as defined above for any other purposes under R307-415.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any hazardous air pollutant.

~~["Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally applicable regulation codified by the Administrator in subchapter C of 40 CFR Chapter I, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:~~

~~(a) "Greenhouse gases (GHGs)," the air pollutant defined in 40 CFR 86.1818-12(a) (Federal Register, Vol. 75, Page 25686) as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tons per year (tpy) CO₂ equivalent emissions;~~

~~(b) The term "tpy CO₂ equivalent emissions (CO₂e)" shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of 40 CFR Part 98--Global Warming Potentials, that is hereby incorporated by reference (Federal Register, Vol. 74, Pages 56395-96), and summing the resultant value for each to compute a tpy CO₂e.]~~

"Title IV Affected source" means a source that contains one or more affected units as defined in Section 402 of the Act and in 40 CFR, Part 72.

KEY: air pollution, greenhouse gases, operating permit, emission fees

Date of Enactment or Last Substantive Amendment: ~~[March 7, 2012]~~2015

Notice of Continuation: June 6, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-109.1; 19-2-104

**Environmental Quality, Air Quality
R307-801
Utah Asbestos Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39848

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed rule amends Rule R307-801 so that it reflects changes to and is made consistent with H.B. 229,

2015 General Session, Utah Air Conservation Act modifications. The proposed rule includes modifications recommended by staff and the regulated community to help the division better administer the Utah Asbestos Program.

SUMMARY OF THE RULE OR CHANGE: The rule was amended to regulate Libby Amphibole as required by the Utah Legislature. The rule was also amended to make procedural changes to the administration of the asbestos program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 40 CFR 61M and 40 CFR 763E and Subsection 19-2-104(1)(d) and Subsections 19-2-104(3)(r) and (t)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The state budget will be impacted if the state needs to demolish a building that contains Libby Amphibole as defined by this regulation. It is unknown how many buildings in the state of Utah contain this substance, but the costs will be correlated with the amount of buildings that do contain Libby Amphibole.

◆ **LOCAL GOVERNMENTS:** Local government will be impacted if that government needs to demolish a building that contains Libby Amphibole as defined by this regulation. It is unknown how many buildings in the state of Utah contain this substance, but the costs will be correlated with the amount of buildings that do contain Libby Amphibole.

◆ **SMALL BUSINESSES:** Small businesses will be impacted if they need to demolish a building that contains Libby Amphibole as defined by this regulation. It is unknown how many buildings in the state of Utah contain this substance, but the costs will be correlated with the amount of buildings that do contain Libby Amphibole.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other persons will be impacted if they need to demolish a building that contains Libby Amphibole as defined by this regulation. It is unknown how many buildings in the state of Utah contain this substance, but the costs will be correlated with the amount of buildings that do contain Libby Amphibole. There are also health costs benefits of this rule. For example, possibly lower instances of mesothelioma.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons will now have to hire a certified asbestos worker to demolish a building containing Libby Amphibole as defined by the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will be impacted if they need to demolish a building that contains Libby Amphibole as defined by this regulation. It is unknown how many buildings in the state of Utah contain this substance, but the costs will be correlated with the amount of buildings that do contain Libby Amphibole. A minority of businesses that deal with asbestos removal and abatement will see a positive fiscal impact because of the expansion of regulated material under the asbestos rule.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-801. Utah Asbestos Rule.

R307-801-1. Purpose and Authority.

This rule establishes procedures and requirements for asbestos abatement or renovation projects and training programs, procedures and requirements for the certification of persons and companies engaged in asbestos abatement or renovation projects, and work practice standards for performing such projects. This rule is promulgated under the authority of Utah Code Annotated 19-2-104(1)(d), (3)(~~f~~)(~~a~~)(~~i~~) through (~~iii~~), (3)(~~s~~)(~~b~~)(~~iv~~)(A), (B), and (C), (3)(~~f~~)(~~b~~)(~~v~~), ~~and~~ (6)(a), and (6)(b). Penalties are authorized by Utah Code Annotated 19-2-115. Fees are authorized by Utah Code Annotated 19-1-201(2)(i).

R307-801-2. Applicability and General Provisions.

(1) Applicability.

(a) The following persons are operators and are subject to the requirements of R307-801:

(i) Persons who contract for hire to conduct asbestos abatement, renovation, or demolition projects in regulated facilities;

(ii) Persons who conduct asbestos abatement, renovation, or demolition projects in areas where the general public has unrestrained access; ~~or~~

(iii) Persons who conduct asbestos abatement, renovation, or demolition projects in school buildings subject to AHERA or who conduct asbestos inspections in facilities subject to TSCA Title II[-]; or

(iv) Persons who perform regulated work activities or renovation projects in single or multifamily residential structures where they do not live or intend to live immediately after the regulated work activity or renovation project is complete.

(b) The following persons are subject to certification requirements:

(i) Persons required by TSCA Title II or R307-801 to be accredited as inspectors, management planners, project designers, renovators, asbestos abatement supervisors, or asbestos abatement workers;

(ii) Persons who work on asbestos abatement projects as asbestos abatement workers, asbestos abatement supervisors, inspectors, project designers, or management planners; ~~and~~

(iii) Persons who perform regulated work activities or renovation projects in single or multifamily residential structures where they do not live or intend to live immediately after the regulated work activity or project is complete; or

(i~~ii~~v) Companies that conduct asbestos abatement projects, renovation projects, inspections, create project designs, or prepare management plans in regulated facilities.

(c) Homeowners or condominium owners performing renovation or demolition activities in or on their own residential facilities where they live, that are otherwise not subject to the Asbestos NESHAP, are not subject to the requirements of this rule, however, a condominium complex of more than four units is subject to this rule and may also be subject to the Asbestos NESHAP ~~and R307-801~~ regulation.

(d) Contractors for hire performing renovation or demolition activities are required to follow the inspection provisions of R307-801-9 and R307-801-10 and the notification provisions of R307-801-11 and R307-801-12.

(2) General Provisions.

(a) All persons who are required by R307-801 to obtain an approval, certification, determination, or notification from the director ~~must~~ shall obtain it in writing.

(b) Persons wishing to deviate from the certification, notification, work practices, or other requirements of R307-801 may do so only after requesting and obtaining the written approval of the director.

R307-801-3. Definitions.

The following definitions apply to R307-801:

"Adequately Wet" means to sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material is not adequately wet. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"Amended Water" means a mixture of water and a chemical wetting agent that provides control of asbestos fiber release.

"AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and the Environmental Protection Agency implementing regulations, 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools.

"AHERA Facility" means any structure subject to the federal AHERA requirements.

"Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, ~~and~~ actinolite-tremolite, and Libby amphibole.

"Asbestos Abatement Project" means any activity involving the removal, repair, demolition, salvage, disposal, cleanup, or other disturbance of regulated asbestos-containing material greater than the small scale short duration (SSSD) amount of asbestos-containing material.

"Asbestos Abatement Supervisor" means a person who is certified according to R307-801-6 and is responsible for ensuring work is conducted in accordance with the regulations and best work practices for asbestos abatement or renovation projects.

"Asbestos Abatement Worker" means a person who is certified according to R307-801-6 and performs asbestos abatement or renovation projects.

"Asbestos-Containing Material (ACM)" means any material containing more than 1% asbestos by the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM), or, if the asbestos content is greater than a trace amount of asbestos, but less than 10% asbestos, the asbestos concentration shall be determined by point counting using PLM or any other method acceptable to the director.

"Asbestos-Containing Waste Material (ACWM)" means any waste generated from regulated asbestos-containing material (RACM) that contains any amount of asbestos and is generated by a source subject to the provisions of R307-801. This term includes filters from control devices, friable asbestos-containing waste material, and bags or other similar packaging contaminated with asbestos. As applied to demolition and renovation projects, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

"Asbestos Inspection" means any activity undertaken to identify the presence and location, or to assess the condition, of asbestos-containing material or suspected asbestos-containing material, by visual or physical examination, or by collecting samples of the material. This term includes re-inspections of the type described in AHERA, 40 CFR 763.85(b), of known or assumed asbestos-containing material which has been previously identified. The term does not include the following:

(a) Periodic surveillance of the type described in AHERA, 40 CFR 763.92(b), solely for the purpose of recording or reporting a change in the condition of known or assumed asbestos-containing material;

(b) Inspections performed by employees or agents of federal, state, or local government solely for the purpose of regulatory oversight and/or determining compliance with applicable statutes or regulations; or

(c) Visual inspections of the type described in AHERA, 40 CFR 763.90(i), solely for the purpose of determining completion of response actions.

"Asbestos Inspection Report" means a written report as specified in R307-801-10(6) describing an asbestos inspection performed by a certified asbestos inspector.

"Asbestos NESHAP" means the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M, [the] National Emission Standard for Asbestos.

"Asbestos Removal" means the stripping of friable ACM from regulated facility components or the removal of structural components that contain or are covered with friable ACM from a regulated facility.

"Category I Non-Friable Asbestos-Containing Material" means asbestos-containing packings, gaskets, resilient floor coverings, or asphalt roofing products containing more than 1% asbestos as determined by using the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM).

"Category II Non-Friable Asbestos-Containing Material" means any material, excluding Category I non-friable ACM, containing more than 1% asbestos as determined by using the methods specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM) that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Condominium" means a building or complex of buildings in which units of property are owned by individuals and common parts of the property, such as the grounds, common areas, and building structure, are owned jointly by the condominium unit owners.

"Containerized" means sealed in a leak-tight and durable container.

"Debris" means friable or regulated asbestos-containing material that has been dislodged and has fallen from its original substrate and position or which has fallen while remaining attached to substrate sections or fragments.

"Demolition Project" means the wrecking, salvage, or removal of any load-supporting structural member of a regulated facility together with any related handling operations, or the intentional burning of any regulated facility. This includes the moving of an entire building, but excludes the moving of structures, vehicles, or equipment with permanently attached axles, such as trailers, motor homes, and mobile homes that are specifically designed to be moved.

"Director" means the Director of the Utah Division of Air Quality.

"Disturb" means to disrupt the matrix, crumble, pulverize, or generate visible debris from ACM or RACM.

"Emergency Abatement or Renovation Project" means any asbestos abatement or renovation project which was not planned and results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden as determined by the director. This term includes operations necessitated by non-routine failure of equipment, natural disasters, fire, or flooding, but does not include situations caused by the lack of planning.

"Encapsulant" means a permanent coating applied to the surface of friable ACM for the purpose of preventing the release of asbestos fibers. The encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Friable Asbestos-Containing Material [~~(Friable ACM)~~]" means any asbestos-containing material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

"Glove bag" means an impervious plastic bag-like enclosure, not ~~more than~~ to exceed 60 x 60 inches, affixed around an asbestos-containing material, with glove-like appendages through which material and tools may be handled.

"General Building Remodeling Activities" means the alteration in any way of one or more regulated structure components, excluding asbestos abatement, renovation, and demolition projects.

"Government Official" means an engineer, building official, or health officer employed by a governmental jurisdiction that has a responsibility for public safety or health in the jurisdiction where the structure is located.

"High-Efficiency Particulate Air (HEPA)" means a filtration system capable of trapping and retaining at least 99.97% of all mono-dispersed particles 0.3 micron in diameter.

"Inaccessible" means in a physically restricted or obstructed area, or covered in such a way that detection or removal is prevented or severely hampered.

"Inspector" means a person who is certified according to R307-801-6, conducts asbestos inspections, or oversees the preparation of asbestos inspection reports.

"Libby Amphibole" means loose-fill vermiculite type insulation material originating in Libby, Montana, or elsewhere, used in regulated facilities subject to this rule and has greater than 1% asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite, as defined earlier in this section, and winchite, richterite, tremolite, magnesio-riebeckite, magnesio-arfvedsonite, and edenite using United States Environmental Protection Agency Method EPA/600/R93/116 or other method as approved by the director.

"Management Plan" means a document that meets the requirements of AHERA for management plans for asbestos in schools.

"Management Planner" means a person who is certified according to R307-801-6 and oversees the preparation of management plans for school buildings subject to AHERA.

"Model Accreditation Plan (MAP)" means 40 CFR Part 763, Subpart E, Appendix C, Asbestos Model Accreditation Plan.

"NESHAP Amount" means combined amounts in a project that total:

- (a) 260 linear feet (80 linear meters) of pipe covered with RACM;
- (b) 160 square feet (15 square meters) of RACM used to cover or coat any duct, boiler, tank, reactor, turbine, equipment, structural member, or regulated facility component; or
- (c) 35 cubic feet (one cubic meter) of RACM removed from regulated facility structural members or components where the length and area could not be measured previously.

"NESHAP Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building, (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential co-operative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation, or building that was previously subject to the Asbestos NESHAP is not excluded, regardless of its current use or function.

"NESHAP-Sized Project" means any project that involves at least the NESHAP amount of ACM.

"Non-Friable Asbestos-Containing Material" means any material containing more than 1% asbestos, as determined using the methods specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM), that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Open Top Catch Bag" means either an asbestos waste bag or six mil polyethylene sheeting which is sealed at both ends and used by certified asbestos abatement workers, in a manner not to disturb the matrix of the asbestos-containing material, to collect preformed RACM pipe insulation in either a crawl space or pipe chase less than six feet high or less than three feet wide.

"Phased Project" means either an asbestos abatement, renovation, or demolition project that contains multiple start and stop dates corresponding to separate operations or areas where the entire asbestos abatement, renovation, or demolition project cannot or will not be performed continuously.

"Preformed RACM Pipe Insulation" means prefabricated asbestos-containing thermal system insulation on pipes formed in

sections that can be removed without disturbing the matrix of the asbestos-containing material.

"Project Designer" means a person who is certified according to R307-801-6 and prepares a design for an asbestos abatement project in school buildings subject to AHERA or prepares an asbestos clean-up plan in a regulated facility where an asbestos disturbance greater than the SSSD amount has occurred.

"Regulated Asbestos-Containing Material (RACM)" means friable ACM, Category I non-friable ACM that has become friable, Category I non-friable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or Category II non-friable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation project operations.

"Regulated Facilities" means residential facilities, AHERA facilities, or NESHAP facilities where:

- (a) A sample has been identified and analyzed to contain, or is assumed under R307-801-10(5) to contain, greater than 1% asbestos; and
- (b) The material from where the sample was collected will be disturbed and rendered friable during the abatement, demolition, or renovation activities.

"Regulated Facility Component" means any part of a regulated facility including equipment.

"Renovation Project" means any activity involving the removal, repair, salvage, disposal, cleanup, or other disturbance of greater than the SSSD amount of RACM, but less than the NESHAP amount of RACM, and the intent of the project is not asbestos abatement or demolition. Renovation Projects can be performed in NESHAP or residential facilities, but cannot be performed in AHERA facilities.

"Renovator" means a person who is certified according to R307-801-6 and is responsible for ensuring work that is conducted on a renovation project is performed in accordance with the regulatory requirements and best work practices for a greater than the SSSD amount of RACM, but less than the NESHAP amount of RACM, where the intent of the project is to perform a renovation project and not to perform an asbestos abatement or demolition project. Renovation projects can be performed in NESHAP or residential facilities but cannot be performed in AHERA facilities.

"Residential Facility" means a building used primarily for residential purposes, has four or fewer units, and is otherwise not subject to the Asbestos NESHAP, and is not a residential outbuilding structure of less than 100 square feet.

"Small-Scale, Short-Duration (SSSD)" means a project that removes or disturbs less than three square feet or three linear feet of RACM in a regulated facility.

"Sprayed-on or Painted-on Ceiling Treatment" means a surfacing material or treatment that has been applied to the ceiling, regardless of application method. The application of paint that has no added materials is not considered a ceiling treatment.

"Strip" means to take off ACM from any part of a regulated facility or a regulated facility component.

"Structural Member" means any load-supporting member of a regulated facility, such as beams and load-supporting walls or any non-load supporting member, such as ceilings and non-load supporting walls.

"Suspect or Suspected Asbestos-Containing Material" means all building materials that have the potential to contain asbestos, except building materials made entirely of glass, fiberglass, wood, metal, or rubber.

"Training Hour" means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and hands-on experience.

"TSCA" means the Toxic Substances Control Act.

"TSCA Accreditation" means successful completion of training as an inspector, management planner, project designer, contractor-supervisor, or worker, as specified in the TSCA Title II.

"TSCA Title II" means 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response.

"Unrestrained Access" means without fences, closed doors, personnel, or any other method intended to restrict public entry.

"Waste Generator" means any owner or operator of an asbestos abatement or renovation project covered by R307-801 whose act or process produces ACWM.

"Working Day" means weekdays, Monday through Friday, including holidays.

R307-801-4. Adoption and Incorporation of 40 CFR 763 Subpart E.

(1) The provisions of 40 CFR 763 Subpart E, including appendices, effective as of the date referenced in R307-101-3, are hereby adopted and incorporated by reference.

(2) Implementation of the provisions of 40 CFR Part 763, Subpart E, except for the Model Accreditation Plan, shall be limited to those provisions for which the EPA has waived its requirements in accordance with 40 CFR 763.98, Waiver; delegation to State, as published at 52 FR 41826, (October 30, 1987).

R307-801-5. Company Certification.

(1) All persons shall operate under:

(a) An asbestos company certification before contracting for hire, at a regulated facility, to conduct asbestos inspections, create management plans, create project designs, or conduct asbestos abatement projects, or

(b) Either an asbestos renovation company certification or asbestos company certification before contracting for hire to conduct asbestos abatement or renovation projects at a regulated facility.

(2) To obtain an asbestos company certification or an asbestos renovation company certification, all persons shall submit a properly completed application for certification on a form provided by the director and pay the appropriate fee [~~renovation company certification fee shall be \$200.00 per year~~].

(3) Unless revoked or suspended, an asbestos company certification or an asbestos renovation company certification shall remain in effect until the expiration date provided by the director.

R307-801-6. Individual Certification.

(1) All persons shall have an individual certification [~~before contracting for hire, at a regulated facility,~~] to conduct asbestos inspections, create management plans, create project designs, conduct asbestos renovation projects, or conduct asbestos abatement projects at a regulated facility.

(2) To obtain certification as an asbestos abatement worker, asbestos abatement supervisor, inspector, project designer, renovator, or management planner, each person shall:

(a) Provide personal identifying information;

(b) Pay the appropriate fee [~~renovator certification fee shall be \$100.00 per year~~];

(c) Complete the appropriate form or forms provided by the director;

(d) Provide certificates of initial and current refresher training, if applicable, that demonstrates accreditation in the appropriate discipline. Certificates from courses approved by the director, courses approved in a state that has an accreditation program that meets the TSCA Title II Appendix C Model Accreditation Plan (MAP), or courses that are approved by EPA under TSCA Title II are acceptable unless the director has determined that the course does not meet the requirements of TSCA accreditation training required by R307-801; and

(e) Complete a new initial training course as required by the AHERA MAP, or for the renovator certification, R307-801, if there is a period of more than one year from the previous initial or refresher training certificate expiration date.

(3) Duration and Renewal of Certification.

(a) Unless revoked or suspended, a certification shall remain in effect until the expiration date of the current certificate of TSCA accreditation for the specific discipline.

(b) To renew certification, the individual shall:

(i) Submit a properly completed application for renewal on a form provided by the director;

(ii) Submit a current certificate of TSCA accreditation, or for the renovator certification, a training certificate from a renovator course accredited by the director, for initial or refresher training in the appropriate discipline; and

(iii) Pay the appropriate fee [~~renovator recertification fee shall be \$100.00 per year~~].

R307-801-7. Denial and Cause for Suspension and Revocation of Company and Individual Certifications.

(1) An application for certification may be denied if the individual, applicant company, or any principal officer of the applicant company has a documented history of non-compliance with the requirements, procedures, or standards established by R307-801, R307-214-1, which incorporates the Asbestos NESHAP, AHERA, or with the requirements of any other entity regulating asbestos activities and training programs.

(2) The director may revoke or suspend any certification based upon documented violations of any requirement of R307-801, AHERA, or the Asbestos NESHAP, including but not limited to:

(a) Falsifying or knowingly omitting information in any written submittal required by those regulations;

(b) Permitting the duplication or use of a certificate of TSCA accreditation for the purpose of preparing a falsified written submittal; or

(c) Repeated work practice violations.

R307-801-8. Approval of Training Courses.

(1) To obtain approval of a training course, the course provider shall provide a written application to the director that includes:

(a) The name, address, telephone number, and institutional affiliation of the person sponsoring the course;

(b) The course curriculum;

(c) A letter that clearly indicates how the course meets the Model Accreditation Plan (MAP) and R307-801 requirements for length of training in hours, amount and type of hands-on training, examinations (including length, format, example of examination or questions, and passing scores), and topics covered in the course;

(d) A copy of all course materials, including student manuals, instructor notebooks, handouts, etc.;

(e) The names and qualifications of all course instructors, including all academic credentials and field experience in asbestos abatement projects, inspections, project designs, management planning, or renovation projects;

(f) An example of numbered certificates issued to students who attend the course and pass the examination. The certificate shall include a unique certificate number; the name of the student; the name of the course completed; the dates of the course and the examination; an expiration date one year from the date the student completed the course and examination, or for the purposes of the renovator course, a progressive lengthening of the refresher training schedule of one year after the initial training, three years after the first refresher training, and five years after the second refresher training and all subsequent refresher training courses; the name, address, and telephone number of the training provider that issued the certificate; and a statement that the person receiving the certificate has completed the requisite training for TSCA or director accreditation;

(g) A written commitment from the training provider to teach the submitted training course(s) in Utah on a regular basis; and

(h) Payment of the appropriate fee.

(2) To maintain approval of a training course, the course provider shall:

(a) Provide training that meets the requirements of R307-801 and the MAP;

(b) Provide the director with the names, government-issued picture identification card number, and certificate numbers of all persons successfully completing the course within 30 working days of successful completion;

(c) Keep the records specified for training providers in the MAP for three years;

(d) Permit the director or authorized representative to attend, evaluate, and monitor any training course without receiving advance notice from the director and without charge to the director; and

(e) Notify the director of any new course instructor ten working days prior to the day the new instructor presents or teaches any course for Renovator or TSCA Accreditation purposes. The training notification form shall include:

(i) The name and qualifications of each course instructor, including appropriate academic credentials and field experience in asbestos abatement projects, inspections, management plans, project designs, or renovations; and

(ii) A list of the course(s) or specific topics that will be taught by the instructor.

(f) Submit the initial or refresher course materials required by R307-801-8(1) to the director for course re-accreditation in a time period not to exceed four years.

(3) All course providers that provide an AHERA or Renovator training course or refresher course in the state of Utah shall:

(a) Notify the director of the location, date, and time of the course at least ten working days before the first day of the course;

(b) Update the training notification form as soon as possible before, but no later than one day before the original course date if the course is rescheduled or canceled before the course is held; and

(c) Allow the director or authorized representative to conduct an audit of any course provided to determine whether the course provider meets the requirements of the MAP and of R307-801.

(4) Renovator Certification Course. The renovator certification course shall be a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities, and shall include an examination of at least 25 questions that the student ~~must~~ shall pass with a 70% or greater proficiency rate. Instruction in the topics described in R307-801-8(4)(c), (d), and (e) shall be included in the hands-on portion of the course. The minimum curriculum requirements for the renovator certification course shall adequately address the following topics:

(a) The physical characteristics of asbestos and asbestos-containing materials, including identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, a review of hazard assessment considerations, and a summary of renovation project control options;

(b) Potential health effects related to asbestos exposure, including the nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for diseases;

(c) Personal protective equipment, including selection of respirator and personal protective clothing, and handling of non-disposable clothing;

(d) State-of-the-art work practices, including proper work practices for renovation projects, including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems, positioning of warning signs, lock-out of electrical and ventilation systems, proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure exhaust ventilation equipment, use of HEPA vacuums, and proper clean-up and disposal procedures and state-of-the-art work practices for removal, encapsulation, enclosure, and repair of ACM, emergency procedures for unplanned releases, potential exposure situations, transport and disposal procedures, and recommended and prohibited work practices. New renovation project techniques and methodologies may be discussed;

(e) Personal hygiene, including entry and exit procedures for the work area, methods of decontamination, avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area, and methods to limit exposures to family members;

(f) Medical monitoring, including OSHA requirements for physical examinations, including a pulmonary function test, chest x-rays, and a medical history for each employee;

(g) Relevant federal and state regulatory requirements, procedures, and standards, including:

(i) OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134);

(ii) OSHA Asbestos Construction Standard (29 CFR 1926.1101); and

(iii) UAC R307-801 Utah Asbestos Rule.

(h) Recordkeeping and notification requirements for renovation projects including records and project notification[s] forms required by state regulations and records recommended for legal and insurance purposes;

(i) Supervisory techniques for renovation projects, including supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices; and

(j) Course review, including a review of key aspects of the training course.

(5) Renovator Recertification Course. The renovator recertification course shall be a minimum of four hours, shall adequately address changes in the federal regulations, state administrative rules, state-of-the-art developments, appropriate work practices, employee personal protective equipment, recordkeeping, and notification requirements for renovation projects, and shall include a course review.

R307-801-9. Asbestos Abatement, Renovation, and Demolition Projects: Requirement to Inspect.

(1) Applicability. Contractors are required to have an asbestos inspection performed by a Utah certified asbestos inspector working for a Utah certified asbestos company. The asbestos inspection report shall be on-site and available when regulated work activities are being performed. Owners of residential structures including condominium owners of four units or less, not otherwise subject to the Asbestos NESHAP, are not required to perform asbestos inspections. Owners of a condominium complex of more than four units are subject to R307-801, may also be subject to the Asbestos NESHAP ~~[and R307-801 and may be]~~, but are required to perform asbestos inspections. ~~[Contractors for hire are subject to the inspection requirements of R307-801-9.]~~

(2) Except as described in R307-801-9(1) and 9(3), the owner and operator shall ensure that the regulated facility to be demolished, abated, or renovated is thoroughly inspected for asbestos-containing material by an inspector certified under the provisions of R307-801-6. An asbestos inspection report shall be generated according to the provisions of R307-801-10 and completed prior to the start of the asbestos abatement, renovation, or demolition project if materials required to be identified in R307-801-10(3) will be disturbed during that project. The operator shall make the asbestos inspection report available on-site to all persons who have access to the site for the duration of the renovation, abatement, or demolition project, and to the director or authorized representative upon request.

(3) If the regulated facility has been ordered to be demolished because it is found by a government official to be structurally unsound and in danger of imminent collapse or a public health hazard, the operator may demolish the regulated facility without having the regulated facility inspected for asbestos. If no asbestos inspection is conducted, the operator shall:

(a) Ensure that all resulting demolition project debris is disposed of as asbestos-containing waste material (ACWM)[s] according to R307-801-1[5]. ~~If the asbestos contaminated demolition project debris cannot be properly containerized, the operator shall:~~

~~(i) Obtain approval for an alternative work practice from the director prior to disposing of the ACWM[4]; or~~

~~(ii) b) reduce the amount of ACWM by [S]segregat[e]ing the ACWM from non-ACWM debris under the direction of an asbestos inspector certified according to R307-801-6 working for a company certified according to R307-801-5[-~~

~~(b)]and [C]clean and encapsulate non-porous debris as non-ACWM by asbestos abatement supervisors or asbestos abatement workers who are certified according to R307-801-6 and working for a company certified according to R307-801-5.~~

~~(4) If an [A]asbestos inspection[s] report older than three years will be used for a regulated asbestos renovation, abatement, or demolition activity, the asbestos inspection report shall be reviewed and updated, as necessary, by an inspector who is certified according to R307-801-6 and working for a company certified according to R307-801-5[- and if applicable, shall be reviewed and updated prior to an asbestos abatement, renovation, or demolition project]. The report does not need to be reviewed until a time that it will be used for regulatory purposes such as an abatement, renovation, or demolition activity. If the inspection report is still accurate, then the inspector shall provide [a letter of review, or some other form of documentation,]written documentation stating that the inspection report is still accurate. If the inspection report is not accurate, then the inspector shall provide written documentation, including new sample results, if necessary, such that the inspection report meets all requirements of R307-801.~~

R307-801-10. Asbestos Abatement, Renovation, and Demolition Projects: Asbestos Inspection Procedures.

Asbestos inspectors shall use the following procedures when conducting an asbestos inspection of facilities to be abated, demolished, or renovated:

(1) Determine the scope of the abatement, demolition, or renovation project by identifying which parts and how the facility will be abated, demolished, or renovated (e.g. conventional demolition methods, fire training, etc.).

(2) Inspect the affected facility or part of the facility where the abatement, demolition, or renovation project will occur.

(3) Identify all accessible suspect asbestos-containing material (ACM) in the affected facility or part of the facility where the abatement, demolition, or renovation project will occur.

Residential facilities built on or after January 1, 1981, are only required to identify all accessible sprayed-on ~~[acoustic]~~or painted-on ceiling ~~[material]~~treatment that contained or may contain asbestos fiber, asbestos cement siding or roofing materials, resilient flooring products including vinyl ~~[floor]~~asbestos tile, sheet vinyl products, resilient flooring backing material, whether attached or unattached, and mastic, thermal-system insulation or tape on a duct or furnace, or vermiculite type insulation materials in the affected facility or part of the facility where the abatement, demolition, or renovation project will occur.

(4) Follow the sampling protocol in 40 CFR 763.86 (Asbestos-Containing Materials in Schools) or a sampling method approved by the director to demonstrate that suspect ACM required to be identified by R307-801-10(3) does not contain asbestos.

(5) Asbestos samples are not required to be collected and analyzed if the certified inspector assumes that all unsampled suspect ACM required to be identified by R307-801-10(3) contains asbestos and is ACM; and

(6) Complete an asbestos inspection report containing all of the following information in a format approved by the director:

(a) A description of the affected area and a description of the scope of activities as described in R307-801-10(1);

(b) A list of all suspect ACM required to be identified by R307-801-10(3) in the affected area. Include a description of the suspect ACM sufficient to be able to identify the material. For each

suspect material required to be identified by R307-801-10(3), provide the following information:

(i) The amount of suspect ACM required to be identified by R307-801-10(3) in linear feet, square feet, or cubic feet;

(ii) A clear description of the distribution of the suspect ACM required to be identified by R307-801-10(3) in the affected area;

(iii) A statement of whether the material was assumed to contain asbestos, sampled and demonstrated to contain asbestos, or sampled and demonstrated to not contain asbestos; and

(iv) A written determination or table of whether the material is regulated asbestos-containing material (RACM), Category I non-friable ACM, ~~or~~ Category II non-friable ACM that may or will become friable when subjected to the proposed abatement, renovation, or demolition project activities, or other suspect ACM that has either not been tested and assumed to contain asbestos, or has been tested by an accredited asbestos laboratory and found not to contain asbestos greater than 1%.

(c) A list of all asbestos bulk samples required to be identified from suspect ACM by R307-801-10(3) in the affected area, including the following information for each sample:

(i) Which suspect ACM required to be identified by R307-801-10(3) the sample represents;

(ii) A clear description of each sample location;

(iii) The types of analyses performed on the sample;

(iv) The amounts of each type of asbestos in the sample as indicated by the analytical results.

(d) A list of potential locations of suspect ACM required to be identified by R307-801-10(3) that were not accessible to inspect and that may be part of the affected area; and

(e) A list of all the asbestos inspector names, company names, and certification numbers.

(7) Floor plans or architectural drawings and similar representations may be used to identify the location of suspect ACM or samples required to be identified by R307-801-10(3).

(8) Analysis of samples shall be performed by:

(a) Persons or laboratories accredited by a nationally recognized testing program such as the National Voluntary Laboratory Accreditation Program (NVLAP), or

(b) Persons or laboratories that have been rated overall proficient by demonstrating passing scores for at least two of the last three consecutive rounds out of the four annual rounds of the Bulk Asbestos Proficiency Analytical Testing program administered by the American Industrial Hygiene Association (AIHA) or an equivalent nationally-recognized interlaboratory comparison program.

~~[(9) Inspection reports of residential facilities shall be submitted to the director.]~~

R307-801-11. Asbestos Abatement, Renovation, and Demolition Projects: Notification and Asbestos Removal Requirements.

(1) Demolition Projects.

(a) ~~[If the amount of regulated asbestos-containing material (RACM) in the regulated facility is the small scale short duration (SSSD) amount, t]~~The operator shall submit a properly completed demolition[project] notification form at least ten working days before the start of a demolition project along with payment of the appropriate fee. The operator cannot start the demolition project until all regulated asbestos-containing material (RACM) has been properly removed.

~~[(b) If the amount of RACM in the regulated facility is greater than the SSSD amount but less than the NESHAP amount, the~~

~~operator shall submit a demolition project notification form at least ten working days before the start of the demolition project and a less than NESHAP asbestos notification form at least one working day before commencing removal, and shall remove the RACM according to the work practice provisions of R307-801-14 and according to the certification requirements of R307-801-5 and 6 before the demolition project proceeds.~~

~~[(c) If the amount of RACM in the regulated facility is greater than or equal to the NESHAP amount, the operator shall submit an asbestos abatement project notification form at least ten working days before the asbestos removal begins, and the demolition project shall not proceed until after all RACM has been removed from the regulated facility.]~~

~~[(d)b] If any regulated facility is to be demolished by intentional burning, the operator, in addition to the demolition notification form specified in R307-801-11(1)(a)[, (b), or (e)], shall ensure that all ACM, including Category I non-friable asbestos-containing material (ACM), Category II non-friable ACM, and RACM is removed from the regulated facility before burning.~~

~~[(e)c] If the regulated facility has been ordered to be demolished by a government official because it is found to be structurally unsound and in danger of imminent collapse or a public health hazard, the operator shall submit a demolition project notification form, with a copy of the order signed by the appropriate government official, as soon as possible before, but no later than, the next working day after the demolition project begins. [An extension of up to five working days may be requested by the sender for the government ordered demolition documentation upon written request.]~~

(2) Asbestos Abatement and Renovation Projects.

(a) If the amount of RACM that would be disturbed or rendered inaccessible by the asbestos abatement or renovation project is the SSSD amount, then no additional requirements are necessary prior to general building remodeling activities.

(b) If the amount of RACM that would be disturbed or rendered inaccessible by the asbestos abatement or renovation project is greater than the SSSD amount, but less than the NESHAP amount, then the operator shall:

(i) Submit an asbestos abatement project notification form at least one working day before asbestos removal begins as described in R307-801-12, unless the removal was properly included in an annual asbestos notification form submitted pursuant to R307-801-11(2)(e);

(ii) Remove RACM according to asbestos work practices of R307-801-1[4]3, the certification requirements of R307-801-5 and 6, and the disposal requirements of R307-801-1[5]4 before performing general building remodeling activities.

(c) If the amount of RACM that would be disturbed or rendered inaccessible by the asbestos abatement project is greater than or equal to the NESHAP amount, then the operator shall:

(i) Submit an asbestos abatement project notification form along with payment of the appropriate fee at least ten working days before asbestos removal begins as described in R307-801-12;

(ii) Remove RACM according to the asbestos work practices of R307-801-1[4]3, the certification requirements of R307-801-5 and 6, and the disposal requirements of R307-801-1[5]4 before performing general building remodeling activities.

(d) If the asbestos abatement or renovation project is an emergency asbestos abatement or renovation project, then the notification form shall be submitted as soon as possible before, but no

later than, the next working day after the emergency asbestos abatement or renovation project begins.

(e) The operator shall submit an annual asbestos notification form along with payment of the appropriate fee according to the requirements of 40 CFR 61.145(a)(4)(iii) no later than ten working days before the first day of January of the year during which the work is to be performed in the following circumstances:

(i) The asbestos abatement projects are unplanned operation and maintenance activities;

(ii) The asbestos abatement projects are less than NESHAP-sized; and

(iii) The total amount of asbestos to be disturbed in a single NESHAP facility during these asbestos abatement projects is expected to exceed the NESHAP amount in a calendar year.

(3) Owners and operators of general building remodeling activities are not required to submit an asbestos abatement project or renovation notification form to the director that do not disturb suspect asbestos containing materials, do not disturb building materials found to contain RACM by an inspector who is certified according to R307-801-6, or do not disturb materials that will become RACM as part of the general building remodeling activities.

(4) For notification purposes, asbestos abatement, renovation, or demolition projects shall be no longer than one year in duration.

(5) Revise the notification form, as necessary, when any information on the original notification or any subsequent notification forms changes.

R307-801-12. Asbestos Abatement, Renovation, and Demolition Projects: Notification Procedures and Contents.

(1) All notification forms required by R307-801-11 shall be submitted in writing on the appropriate form provided by the director and shall be postmarked or received by the director in accordance with R307-801-11, or shall be submitted using the Division of Air Quality electronic notification system and received by the director in accordance with R307-801-11. The type of notification and whether the notification is original or revised shall be indicated.

(2) If the notification is an original demolition project notification form, an original asbestos abatement project notification form for a NESHAP-sized asbestos abatement project, or an original asbestos annual notification form, the written notice shall be sent with an original signature by U.S. Postal Service, commercial delivery service, or hand delivery, or with an electronic signature if submitted using the Division of Air Quality electronic notification system. If the U.S. Postal Service is used, the submission date is the postmark date. If other service or hand delivery is used, the submission date is the date that the document is received ~~at~~ by the director. If the Division of Air Quality electronic notification system is used, the submission date is the date that the notification is received by the director.

(3) An original asbestos notification form for a less than NESHAP-sized asbestos abatement or renovation project or any revised notification may be submitted by any of the methods in R307-801-12(2), or by facsimile, by the date specified in R307-801-11. The sender shall ensure that the fax is legible.

(4) All original notification forms shall contain the following information:

(a) The name, address, and telephone number of the owner of the regulated facility ~~and of any contractor working on the project~~,

the general contractor, the demolition contractor, and the asbestos renovation or abatement contractor, if applicable;

(b) Whether the operation is an asbestos abatement, demolition, or a renovation project;

(c) A description of the regulated facility that includes the total size of the structure or structures in square feet, [the number of] including the square footage of all floors in a multilevel or multi-floor structure, the age, [and] the future, present, and prior uses of the [regulated] facility, including any additional regulated structures affected by the project;

(d) The names and certification numbers of the inspectors and companies;

(e) The procedures, including analytical methods, used to inspect for the presence of asbestos-containing material (ACM);

(f) The location and address, including building number or name and floor or room number, street address, city, county, state, and zip code of each regulated facility being demolished or renovated;

(g) A description of procedures for handling the discovery of unexpected ACM, Category I non-friable ACM, or Category II non-friable ACM that has or will become friable or regulated;

(h) A description of planned asbestos abatement, demolition, or renovation project work, including the asbestos abatement, demolition, and renovation project techniques to be used and a description of the affected regulated facility components or structural members; and

(i) If the project has phases, then provide the date and times of each phase and the location and address of all regulated facilities to be abated, demolished, or renovated.

(5) In addition to the information in R307-801-12(4), an original demolition project notification form shall contain the following information:

(a) An estimate of the amount of Category I non-friable ACM and non-regulated ACM that will remain in the building during the demolition project;

~~[(b) Disposal of Category I ACM that is left in place during demolition must comply with the waste shipment record and other requirements found in R307-801-15(4) and 29 CFR 1926.1101;]~~

~~[(e)]b~~ The start and stop dates of the demolition project; ~~[and]~~

~~(c)~~ The days that the demolition project will be conducted; ~~and~~

(d) If the regulated facility will be demolished under an order of a government official, the name, title, government agency, and authority of the government official ordering the demolition project, the date the order was issued, and the date the demolition project was ordered to commence. A copy of the order shall be attached to the demolition project notification form.

(6) In addition to the information required in R307-801-12(4) and (5), an original demolition project notification form for phased demolition projects shall include:

(a) The start and stop dates for the entire phased project; and

(b) The start and stop dates for each phase of the project ~~[-if applicable].~~

(7) In addition to the information required in R307-801-12(4), (5), and (6), an original asbestos abatement project notification form shall include:

(a) An estimate of the amount of ACM to be stripped, including which units of measure were used;

(b) The start and stop dates for asbestos abatement project preparation;

(c) The times of day for every day that asbestos abatement project will be conducted;

(d) A description of work practices and engineering controls to be used to prevent emissions of asbestos at the demolition or asbestos abatement project work site;

(e) The name and location of the waste disposal site where the ACWM will be disposed, including the name and telephone number of the waste disposal site contact;

(f) The name, address, contact person, and telephone number of the waste transporters; and

(g) The name, contact person, and telephone number of the waste generator.

(8) If an emergency asbestos abatement or renovation project will be performed, then the notification form shall include the date and hour the emergency occurred, a description of the event and an explanation of how the event has caused unsafe conditions or would cause equipment damage or unreasonable financial burden.

(9) In addition to the information in R307-801-12(4) and (5), an original asbestos abatement project annual notification form shall contain the following information:

(a) An estimate of the approximate amount of ACM to be stripped, including which units of measure were used, if known;

(b) The start and stop dates of asbestos abatement project work covered by the annual notification, if known;

(c) A description of work practices and engineering controls to be used to prevent emissions of asbestos at the asbestos abatement project work site;

(d) The name and location of the waste disposal site where the asbestos-containing waste material (ACWM) will be disposed, including the name and telephone number of the waste disposal site contact;

(e) The name, address, contact person, and telephone number of the waste transporters; and

(f) The name, contact person, and telephone number of the waste generator.

(10) A revised notification form shall contain the following information:

(a) The name, address, and telephone number of the owner of the regulated facility, and any demolition, renovation, or asbestos abatement project contractor or contractors working on the project;

(b) Whether the operation is an asbestos abatement, a demolition, or a renovation project;

(c) The date that the original notification form was submitted;

(d) The applicable original start and stop dates for the asbestos abatement, renovation, or demolition project;

(e) The revised start and stop dates and working hours, if applicable, for asbestos abatement, renovation, or demolition projects, for the entire project or for any phase of the project;

(f) The changes in the amount of asbestos to be removed during the project if the asbestos removal amount increases or decreases by more than 20%; ~~and~~

(g) If the previously reported area of the building or buildings to be demolished was inaccurate and needs to be changed, then the demolition notification form shall be revised to include the building area change and any additional fee shall be paid to the Utah Division of Air Quality; and

([g]h) Any[~~other~~] changes to the original or subsequently revised notification form or forms. Describe all changes made to the revised notification form in the comments section of that form.

(11) If the asbestos removal amount is increased in the revised notification form, then the appropriate fee shall be paid to the Utah Division of Air Quality.

(12) If any project phase or an entire NESHAP-sized asbestos abatement, renovation, or demolition project that requires a notification form under R307-801-12(4) will commence on a date or work times other than the date and work times submitted in the original or the most recently revised[~~written~~] notification form, the director shall be notified of the new start date and work times by the following deadlines:

(a) If the new start date and work times are later than the original start date and work times, then notice by telephone, fax, or electronic means shall be given as soon as possible before the start date and a revised ~~[notice]~~notification form shall be submitted in accordance with R307-801-12(~~9~~)10 as soon as possible before, but no later than, the original start date. If the written notification form is received by the director no later than the day before the original start date and work times, no notice by telephone is required.

(b) If the new start date is earlier than the original start date, submit a written notice in accordance with R307-801-12(~~9~~)10 at least ten working days before beginning the project.

(c) In no event shall an asbestos abatement, renovation, or demolition project covered by R307-801-12 begin on a date other than the new start date submitted in the revised written notice.

~~[R307-801-13. Asbestos Abatement Project: Requirements for Certified Asbestos Abatement Supervisors and Abatement Workers.~~

~~(1) An asbestos abatement supervisor who has been certified under R307-801-6 shall be on-site during asbestos abatement project setup, asbestos removal, stripping, cleaning and dismantling of the project, and other handling of uncontainerized regulated asbestos-containing material (RACM).~~

~~(2) All persons handling greater than the small scale short duration amount of uncontainerized RACM shall be asbestos abatement workers or asbestos abatement supervisors certified under R307-801-6.]~~

R307-801-1[4]3. Asbestos Abatement and Renovation Project: Work Practices.

(1) An asbestos abatement supervisor who has been certified under R307-801-6 shall be on-site during asbestos abatement project setup, asbestos removal, stripping, cleaning and dismantling of the project, and other handling of uncontainerized regulated asbestos-containing material (RACM).

(2) All persons handling any amount of uncontainerized RACM during a regulated project shall be certified as an asbestos abatement worker or an asbestos abatement supervisor certified under R307-801-6.

([+]~~3~~) Persons performing an asbestos abatement or renovation project at a regulated facility shall follow the work practices in R307-801-1[4]3. Where the work practices in R307-801-1[4]3([+]~~3~~) and (~~2~~)~~4~~ are required, wrap and cut, open top catch bags, glove bags, and mini-enclosures may be used in combination with those work practices.

(a) Adequately wet regulated asbestos-containing material (RACM) with amended water before exposing or disturbing it, except when temperatures are continuously below freezing (32 degrees F.), and when all requirements in 40 CFR 61.145(c)(7) are met.

(b) Install barriers and post warning signs to prevent access to the work area. Warning signs shall conform to the specifications of 29 CFR 1926.1101(k)(7).

(c) Keep RACM adequately wet until it is containerized and disposed of in accordance with R307-801-1[5]4.

(d) Ensure that RACM that is stripped or removed is promptly containerized.

(e) Prevent visible particulate matter and uncontainerized asbestos-containing debris and waste originating in the work area from being released outside of the negative pressure enclosure or designated work area.

(f) Filter all waste water to five microns before discharging it to a sanitary sewer.

(g) Decontaminate the outside of all persons, equipment, and waste bags so that no visible residue is observed before leaving the work area.

(h) Apply encapsulant to RACM that is exposed but not removed during stripping.

(i) Clean the work area, drop cloths, and other interior surfaces of the enclosure using a high-efficiency particulate air (HEPA) vacuum and wet cleaning techniques until there is no visible residue before dismantling barriers.

(j) After cleaning and before dismantling enclosure barriers, mist all surfaces inside of the enclosure with a penetrating encapsulant designed for that purpose.

(k) Handle and dispose of friable asbestos-containing material (ACM) and RACM according to the disposal provisions of R307-801-1[5]4.

([2]4) All operators of NESHAP-sized asbestos abatement projects shall install a negative pressure enclosure using the following work practices.

(a) All openings to the work area shall be covered with at least one layer of six mil or thicker polyethylene sheeting sealed with duct tape or an equivalent barrier to air flow.

(b) If RACM debris is present in the proposed work area prior to the start of a NESHAP-sized asbestos abatement project, the site shall be prepared by removing the debris using the work practice requirements of R307-801-1[4]3 and disposal requirements of R307-801-1[5]4. If the total amount of loose visible RACM debris throughout the entire work area is the SSSD amount, then site preparation may begin after the notification form has been submitted and before the end of the ten working day waiting period.

(c) A decontamination unit constructed to the specifications of R307-801-1[4]3([2]4)(h) shall be attached to the containment prior to disturbing RACM or commencing a NESHAP-sized asbestos abatement project, and all persons shall enter and leave the negative pressure enclosure or work area only through the decontamination unit except in a life threatening emergency situation.

(d) All persons subject to R307-801 shall shower before entering the clean-room of the decontamination unit when exiting the enclosure and shall follow all procedures required by 29 CFR 1926.1101(j)(1)(ii).

(e) No materials may be removed from the enclosure or brought into the enclosure through any opening other than a waste load-out or a decontamination unit.

(f) The negative pressure enclosure of the work area shall be constructed with the following specifications:

(i) Apply at least two layers of six mil or thicker polyethylene sheeting or its equivalent to the floor extending at least one foot up every wall and seal in place with duct tape or its equivalent;

(ii) Apply at least two layers of four mil or thicker polyethylene sheeting or its equivalent to the walls without locating seams in wall or floor corners;

(iii) Seal all seams with duct tape or its equivalent;

(iv) Maintain the integrity of all enclosure barriers; and

(v) Where a wall or floor will be removed as part of the NESHAP-sized asbestos abatement project, polyethylene sheeting need not be applied to that regulated facility component or structural member.

(g) View ports shall be installed in the enclosure or barriers where feasible, and view ports shall be:

(i) At least one foot square;

(ii) Made of clear material that is impermeable to the passage of air, such as an acrylic sheet;

(iii) Positioned so as to maximize the view of the inside of the enclosure from a position outside the enclosure; and

(iv) Accessible to a person outside of the enclosure.

(h) A decontamination unit shall be constructed according to the following specifications:

(i) The unit shall be attached to the enclosure or work area;

(ii) The decontamination unit shall consist of at least three chambers and meet all regulatory requirements of 29 CFR 1926.1101(j)(1)(i);

(iii) The clean room, which is the chamber that opens to the outside, shall be no less than three feet wide by three feet long by six feet high, when feasible;

(iv) The shower room, which is the chamber between the clean and dirty rooms, shall have hot and cold or warm running water and be no less than three feet wide by three feet long by six feet high, when feasible;

(v) The dirty room, which is the chamber that opens to the negative pressure enclosure or the designated work area, shall be no less than three feet wide by three feet long by six feet high, when feasible;

(vi) The dirty room shall be provided with an accessible waste bag at any time that asbestos abatement project is being performed.

(i) A separate waste load-out following the specifications below may be attached to the enclosure for removal of decontaminated waste containers and decontaminated or wrapped tools from the enclosure.

(i) The waste load-out shall consist of at least one chamber constructed of six mil or thicker polyethylene walls and six mil or thicker polyethylene flaps or the equivalent on the outside and inside entrances;

(ii) The waste load-out chamber shall be at least three feet long, three feet high, and three feet wide; and

(iii) The waste load-out supplies shall be sufficient to decontaminate bags, and shall include a water supply with a filtered drain, clean rags, disposable rags or wipes, and clean bags.

(j) Negative air pressure and flow shall be established and maintained within the enclosure by:

(i) Maintaining at least four air changes per hour in the enclosure;

(ii) Routing the exhaust from HEPA filtered ventilation units to the outside of the regulated facility whenever possible;

(iii) Maintaining a minimum of 0.02 column inches of water pressure differential relative to outside pressure; and

(iv) Maintaining a monitoring device to measure the negative pressure in the enclosure.

([3]5) In lieu of two layers of polyethylene on the walls and the floors as required by R307-801-1[4]3([2]4)(f)(i) and (ii), the following work practices and controls may be used only under the circumstances described below:

(a) When a pipe insulation removal asbestos abatement project is conducted the following may be used:

(i) Drop cloths extending a distance at least equivalent to the height of the RACM around all RACM to be removed, or extended to a wall and attached with duct tape or equivalent;

(ii) Either the glove bag or wrap and cut methods may be used; and

(iii) RACM shall be adequately wet before wrapping.

(b) When the RACM is scattered ACM and is found in small patches, such as isolated pipe fittings, the following procedures may be used:

(i) Glove bags, mini-enclosures as described in R307-801-1[4]3([5]Z)(c), or wrap and cut methods with drop cloths large enough to capture all RACM fragments that fall from the work area may be used.

(ii) If all asbestos disturbance is limited to the inside of negative pressure glove bags or a mini-enclosure, then non-glove bag or non-mini-enclosure building openings need not be sealed and negative pressure need not be maintained in the space outside of the glove bags or mini-enclosure during the asbestos removal operation.

(iii) A remote decontamination unit may be used as described in R307-801-1[4]3([5]Z)(d) only if an attached decontamination unit is not feasible.

(c) When a preformed RACM pipe insulation asbestos abatement project in a crawl space or pipe chase less than six feet high or less than three feet wide is conducted, the following may be used:

(i) Drop cloths extending a distance at least six feet around all preformed RACM pipe insulation to be removed or extended to a wall and attached with duct tape or equivalent; or

(ii) The open top catch bag method.

([4]6) During outdoor asbestos abatement projects, the work practices of R307-801-1[4]3 shall be followed with the following modifications:

(a) Negative pressure need not be maintained if there is not an enclosure;

(b) Six mil polyethylene drop cloth, or equivalent, large enough to capture all RACM fragments that fall from the work area shall be used; and

(c) A remote decontamination unit as described in R307-801-1[4]3([5]Z)(d) may be used.

([5]Z) Special work practices.

(a) If the wrap and cut method is used:

(i) The regulated facility component shall be cut at least six inches from any RACM on that component;

(ii) If asbestos will be removed from the regulated facility component to accommodate cutting, the asbestos removal shall be

performed using a single glove bag for each cut, and no RACM shall be disturbed outside of a glove bag;

(iii) The wrapping shall be leak-tight and shall consist of two layers of six mil polyethylene sheeting, each individually sealed with duct tape, and all RACM between the cuts shall be sealed inside wrap; and

(iv) The wrapping shall remain intact and leak-tight throughout the removal and disposal process.

(b) If the open top catch bag method is used:

(i) The material to be removed can only be preformed RACM pipe insulation, and it shall be located in a crawl space or a pipe chase less than six feet high or less than three feet wide;

(ii) Asbestos waste bags that are leak-tight and strong enough to hold contents securely shall be used;

(iii) The bag shall be placed underneath the stripping operation to minimize ACM falling onto the drop cloth;

(iv) All material stripped from the regulated facility component shall be placed in the bag;

(v) One asbestos abatement worker shall hold the bag and another asbestos abatement worker shall strip the ACM into the bag; and

(vi) A drop cloth extending a distance at least six feet around all preformed RACM pipe insulation to be removed, or extended to a wall and attached with duct tape or equivalent shall be used.

(c) If glove bags are used, they shall be under negative pressure, and the procedures required by 29 CFR 1926.1101(g)(5)(iii) shall be followed.

(d) A remote decontamination unit may be used under the conditions set forth in R307-801-1[4]3([3]5)(b), [6]([4]6), when there is an area insufficient to construct a connected decontamination unit, or when approved by the director. The remote decontamination unit shall meet all construction standards in R307-801-1[4]3([2]4)(h) and shall include:

(i) Outerwear shall be HEPA vacuumed or removed, and additional clean protective outerwear shall be put on;

(ii) Either polyethylene sheeting shall be placed on the path to the decontamination unit and the path shall be blocked or taped off to prevent public access, or asbestos abatement workers shall be conveyed to the remote decontamination unit in a vehicle that has been lined with two layers of six mil or thicker polyethylene sheeting or its equivalent; and

(iii) The polyethylene path or vehicle liner shall be removed at the end of the project, and disposed of as ACWM.

(e) Mini-enclosures, when used under approved conditions, shall conform to the requirements of 29 CFR 1926.1101(g)(5)(vi).

([6]8) For asbestos-containing mastic removal projects using mechanical means, such as a power buffer, to loosen or remove mastic from the floor, in lieu of two layers of polyethylene sheeting on the walls, splash guards of six mil or thicker polyethylene sheeting shall be placed from the floor level a minimum of three feet up the walls.

([7]9) Persons who improperly disturb more than the SSSD amount of asbestos-containing material and contaminate an area with friable asbestos shall:

(a) Have the emergency clean-up portion of the project, including any portions not contained within a regulated facility or in common use areas that cannot be isolated, performed as soon as

possible by a company or companies certified according to R307-801-5, and, asbestos abatement supervisor(s), and asbestos abatement worker(s) certified according to R307-801-6.

(b) Have an asbestos clean-up plan designed by a Utah certified asbestos project designer for the non-emergency portion of the project and have the asbestos clean-up plan submitted to the director for approval. An asbestos clean-up plan is not required when the disturbance results from a natural disaster, fire, or flooding.

(c) Submit the project notification form required by R307-801-11 and 12 to the director for acceptance no later than the next working day after the disturbance occurs or is discovered. For fee calculation purposes, the size of the emergency clean-up project is the area that has been contaminated or potentially contaminated by the disturbance and not the amount of asbestos-containing material disturbed.

(d) Notify the director of project completion by telephone, fax, or electronic means by the day of completion and before leaving the site.

(10) For asbestos abatement, renovation, or demolition projects that remove or otherwise disturb loose-fill vermiculite type insulation materials assumed to be regulated asbestos-containing material or found to contain greater than 1% regulated asbestiform fibers, then the material being removed is considered regulated asbestos-containing material and shall meet all the appropriate regulatory requirements of R307-801. Regulated vermiculite shall be removed to the maximum extent possible and the area where the regulated vermiculite was found shall be sprayed with a bridging or penetrating encapsulant to help minimize the amount of asbestiform fibers becoming airborne.

R307-801-1[5]4. Disposal and Handling of Asbestos Waste.

(1) Owners and operators of regulated facilities shall containerize asbestos-containing waste material (ACWM) while adequately wet.

(2) ACWM containers shall be leak-tight and strong enough to hold contents securely and be labeled with an OSHA warning label found in 29 CFR 1926.1101(k)(8).

(3) Containers shall be labeled with the waste generator's and contractor's names, addresses, and telephone numbers ~~[-and the contractor's name and address;]~~ before they are removed from the asbestos renovation or abatement work area.

(4) Containerized regulated asbestos-containing material (RACM) shall be disposed of at a landfill which complies with 40 CFR 61.150.

(5) The waste shipment record shall include a list of items and the amount of ACWM being shipped. The waste generator originates and signs this document.

(6) Owners and operators of regulated facilities where an asbestos abatement or renovation project has been performed shall report in writing to the director if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 working days from the date the waste was accepted by the initial transporter. Include in the report the following information:

(a) A copy of the waste shipment record for which a confirmation of delivery was not received; and

(b) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

R307-801-1[6]5. Records.

(1) Certified asbestos abatement or renovation companies shall maintain records of all asbestos abatement or renovation projects that they perform at regulated facilities and shall make these records available to the director or authorized representative upon request. The records shall be retained for at least five years. Maintained records shall include the following:

(a) Names and certification numbers of the asbestos abatement workers, asbestos abatement supervisors, or renovators who performed the asbestos abatement or renovation project;

(b) Location and description of the asbestos abatement or renovation project and amount of friable asbestos-containing material (ACM) removed;

(c) Start and stop dates of the asbestos abatement or renovation project;

(d) Summary of the procedures used to comply with applicable requirements including copies of all notification forms;

(e) Waste shipment records maintained in accordance with 40 CFR Part 61, Subpart M; and

(f) Asbestos inspection reports associated with the asbestos abatement or renovation project.

(2) All persons subject to the inspection requirements of R307-801-9 shall maintain copies of asbestos inspection reports for at least one year after asbestos abatement, renovation, or demolition projects have ceased, and shall make these reports available to the director or authorized representative upon request.

R307-801-1[7]6. Certified Renovator Work Practices.

(1) Certified renovators are responsible for ensuring compliance with R307-801 at all renovation projects at regulated facilities to which they are assigned.

(2) Certified renovators working at regulated facilities shall:

(a) Perform all of the tasks described in R307-801-1[4]3([+])3 and shall either perform or direct workers who perform all tasks described in R307-801-1[4]3([+])3;

(b) Provide training to workers on the work practices required by R307-801-1[4]3([+])3 that will be used when performing renovation projects;

(c) Be physically present at the work site when all work activities required by R307-801-1[4]3([+])3(b) are posted, while the work area containment required by R307-8[4]01-1[4]3([+])3(b) is being established, and while the work area cleaning required by R307-801-1[4]3([+])3(i) is performed;

(d) Be on-site and direct work being performed by other individuals to ensure that the work practices required by R307-801-1[4]3([+])3 are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area;

(e) Have with them at the work site their current Utah Renovator certification card; and

(f) Prepare the records required by R307-801-1[6]5.

R307-801-1[8]7. Asbestos Information Distribution Requirements.

(1) Utah Abatement/Renovation pamphlet. Utah asbestos abatement and renovation companies shall provide owners and occupants of ~~[regulated facilities]~~ single and multi-family residential structures with the Utah Abatement/Renovation Pamphlet "Asbestos Hazards During Abatement and Renovation Activities[-]" when those

structures will be re-occupied after the regulated activities are completed.

(2) No more than 60 days before beginning an abatement or renovation project in a regulated facility, the company performing the abatement or renovation project shall:

(a) Provide the owner of the regulated facility with the pamphlet, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or

(ii) Obtain a certificate of mailing at least seven working days prior to the abatement or renovation project; and

(b) If the owner does not occupy the regulated facility, provide an adult occupant of the regulated facility with the pamphlet, and comply with one of the following:

(i) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet, or certify in writing that a pamphlet has been delivered to the regulated facility and that the company performing the abatement or renovation project has been unsuccessful in obtaining a written acknowledgment from an adult occupant. Such certification shall include the address of the unit undergoing abatement or renovation [project]activities, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature of a representative of the company performing the abatement or renovation project, and the date of signature; or

(ii) Obtain a certificate of mailing at least seven working days prior to the abatement or renovation project.

(3) Abatement or renovation projects in common areas. No more than 60 working days before beginning abatement or renovation projects in common areas of a regulated facility, the company performing the abatement or renovation project shall:

(a) Provide the owner with the pamphlet and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or

(ii) Obtain a certificate of mailing at least seven working days prior to the abatement or renovation project;

(b) Comply with one of the following:

(i) Notify in writing, or ensure written notification of, each regulated facility and make the pamphlet available upon request prior to the start of abatement or renovation project. Such notification shall be accomplished by distributing written notice to each affected unit in the regulated facility. The notice shall describe the general nature and locations of the planned abatement or renovation project, the expected starting and ending dates, how the occupant can obtain the pamphlet and a copy of the required records at no cost to the occupants; or

(ii) Post informational signs describing the general nature and locations of the abatement or renovation project and the anticipated completion date while the abatement or renovation project is ongoing. These signs shall be posted in areas where they are likely to be seen by the occupants of all of the affected units in the regulated facility. The signs shall be accompanied by a posted copy of the pamphlet or information about how interested occupants can review a copy of the pamphlet or obtain a copy from the abatement or renovation company at no cost to occupants. The signs shall also include information about how interested occupants can review a copy of the required records from the abatement or renovation company at no cost to the occupants;

(c) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the regulated facility of the intended abatement or renovation project and to provide the pamphlet; and

(d) If the scope, locations, or expected starting and ending dates of the planned abatement or renovation project change after the initial notification, and the company provided written initial notification to each affected unit, the company performing the abatement or renovation project shall provide further written notification to the owners and occupants of the regulated facility of the revised information for the ongoing or planned activities. This subsequent notification shall be provided before the company performing the abatement or renovation project initiates work beyond that which was described in the original notice.

(4) Written acknowledgment. The written acknowledgments required by paragraphs R307-801-1[8]2(a)(i), (2)(b)(i), and (3)(a)(i) shall:

(a) Include a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of abatement or renovation project, or no later than the day after the start of an emergency abatement or renovation project, the address of the regulated facility undergoing an abatement or renovation project, the signature of the owner or occupant as applicable, and the date of signature;

(b) Be either a separate sheet or part of any written contract or service agreement for the abatement or renovation project; and

(c) Be written in the same language as the text of the contract or agreement for the abatement or renovation project or, in the case of a non-owner occupied regulated facility, in the same language as the lease or rental agreement or the pamphlet.

KEY: air pollution, asbestos, asbestos hazard emergency response, schools

Date of Enactment or Last Substantive Amendment: [~~October 1, 2012~~2015]

Notice of Continuation: February 6, 2013

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(d); 19-2-104(3)(r) through (t); 40 CFR Part 61, Subpart M; 40 CFR Part 763, Subpart E

Environmental Quality, Water Quality R317-4 Onsite Wastewater Systems

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39821

FILED: 10/13/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this amendment is an updating or fine-tuning of the rule after a major revision enacted in September 2013.

SUMMARY OF THE RULE OR CHANGE: The changes include formatting clarifications, some minor onsite system design changes, and some minor changes to the percolation test procedures.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These changes will not result in any change in work load for state staff working in this area.
- ◆ **LOCAL GOVERNMENTS:** There should be no anticipated cost to local government. These changes may result in a very slight savings to local government by slightly reducing the burden of percolation test requirements in certain situations, where local government performs those tests.
- ◆ **SMALL BUSINESSES:** Like with local government above, no measurable costs or savings should be realized as a result of these changes, but they may result in a very slight savings to small businesses by slightly reducing the burden of percolation test requirements in certain situations, where small businesses perform those tests.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These changes may result in a very slight savings to other persons by slightly reducing the burden of percolation test requirements in certain situations, where other persons may perform those tests. There is no measurable amount that can be specified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These changes may result in other cost savings to the regulated community by enacting slight relaxations in the requirements for designing septic systems, but there are no changes in compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I see no fiscal impact on businesses due to these changes since they are mostly minor adjustments to the soil testing procedures. This may allow septic systems to be installed on properties that did not previously allow development, but the change is very small and the impact will probably be imperceptible.

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

ENVIRONMENTAL QUALITY
 WATER QUALITY
 THIRD FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.

R317-4. Onsite Wastewater Systems.

R317-4-1. Authority, Purpose, Scope, and Administrative Requirements.

1.1 Authorization.

These rules are administered by the division authorized by Title 19 Chapter 5.

1.2. Purpose.

The purpose of this rule is to protect the public health and environment from potential adverse effects from onsite wastewater disposal within the boundaries of Utah.

1.3. Scope.

This rule shall apply to onsite wastewater systems.

1.4. Jurisdiction.

Local health departments have jurisdiction to administer this rule. Nothing contained in this rule shall be construed to prevent local health departments from:

- A. adopting stricter requirements than those contained herein;
- B. issuing an operating permit, ~~with~~ ~~at~~ a ~~term~~ ~~frequency~~ not exceeding ~~one every~~ five years, with an inspection showing a satisfactory performance of the permitted system by the department's staff before renewal;
- C. taking necessary steps for ground water quality protection:
 - 1. through adoption of a ground water quality protection management policy based on a ground water management study; or
 - 2. by an onsite wastewater systems management planning policy and land use planning through the county's agency;
 - D. prohibiting any alternative system within its jurisdiction;
 - E. assessing fees for administration of this rule;
 - F. requiring the onsite systems within its jurisdiction be placed under an umbrella of a:
 - 1. responsible management entity overseen by the local health department;
 - 2. contract service provider overseen by the local health department; or
 - 3. management district body politic created by the county for the purpose of operation, maintenance, repairs and monitoring of alternative or all onsite wastewater systems;
 - G. requiring conventional and alternative systems to be serviced; and
 - H. receiving a request for a variance, conducting a review, and granting either an approval or denial.
- 1.5. Alternative System Administration.

Local health departments shall administer an alternative systems program.

A. The local board of health may restrict its administration of these systems by notifying the division that it is exempt from this requirement by:

1. adopting a resolution or regulation; or
 2. presenting an ordinance.
- B. An alternative systems program shall:
1. advise the owner of the:
 - a. type of alternative system;
 - b. information concerning risk of failure;
 - c. level of maintenance required;
 - d. financial liability for repair, modification or replacement of a failed system; and
 - e. periodic monitoring requirements;
 2. ensure that a Notice of the existence of the alternative system is recorded in the chain of title for that property;
 3. provide oversight of installed alternative systems;
 4. inspect all installed alternative systems at frequency specified in this rule, through:
 - a. the department's staff;
 - b. contracted service providers;
 - c. responsible management entities;
 - d. a management district body politic created by the county for the purpose of managing onsite wastewater systems; or
 - e. any combination of the above options;
 5. maintain records of all installed alternative systems, failures, modifications, repairs and all inspections, recording the condition of the system at the time of inspection, such as overflow, surfacing, ponding, and nuisance;
 6. submit an annual report to the division on or before September 1 for the previous state of Utah fiscal year's activities showing:
 - a. the type and number of alternative systems approved, installed, modified, repaired, failed, and inspected;
 - b. a summary of enforcement actions taken, pending and resolved; and
 - c. a summary of performance of water quality data collected;
 7. require all alternative systems to be inspected and serviced as detailed in Section R317-4-13 Table 7 and Section R317-4-11.

1.6. Variance Administration Authority.

The Water Quality Board delegates the authority to grant or deny variances to the design requirements provided for in this rule to the local health departments. The board may amend, suspend, or rescind this delegation of authority to a local health department if it is determined that the local health department is not accepting or conducting reviews as described in Section R317-4-12.

A. The local health department having jurisdiction shall accept applications for variance requests on lots that are deemed not feasible for permitting an onsite wastewater system. Upon completion of a review, the local health department will grant or deny a variance to this rule as outlined in Section R317-4-12. The local health department also will submit an annual report of completed variance determinations to the division.

B. If a local health department fails to evaluate variance requests according to Section R317-4-12, the director shall notify the local health department. The director on behalf of the board may thereafter amend, suspend, or rescind the delegation of variance authority to the local health department. The variance authority would then revert to the division, and requests will be reviewed as follows.

1. The director may appoint a variance advisory committee to consider variance requests and make recommendations to the

director. Any such advisory committee shall include at least one representative from a local health department. The director may refer any variance request to the variance advisory committee.

2. Upon review of the recommendation submitted by the variance advisory committee, the director shall render a written determination of the requested variance. If no committee was appointed by the director, the director shall render a written determination. Written determinations must be given within 180 days of the receipt of a complete and technically adequate variance request.

3. The director's final written determination will be forwarded to the local health department that has jurisdiction. The local health department is not required to approve or deny an operating or construction permit based on the director's determination of a variance request.

R317-4-2. Definitions.

"Absorption area" means the entire area used for the subsurface treatment and dispersion of effluent by an absorption system.

"Absorption bed" means an absorption system consisting of large excavated areas utilizing drain media or chambers.

"Absorption system" means a covered system constructed to receive and to disperse effluent, from gravity or a pump, in such a manner that the effluent is effectively filtered and retained below the ground surface.

"Absorption trench" means an absorption system consisting of a series of narrow excavated trenches utilizing drain media, chambers, or bundled synthetic aggregate units.

"Alternative onsite wastewater system" means an onsite wastewater system that is not a conventional onsite wastewater system.

"At-grade system" means an alternative onsite wastewater system where the bottom of the absorption system is placed at or below the elevation of the existing site grade, and the top of the distribution pipe is above the elevation of existing site grade, and the absorption system is contained within fill that extends above that grade.

"Barrier material" means an effective, pervious material such as an acceptable synthetic filter fabric, or a two-inch layer of compacted straw.

"Bedrock" means the rock, usually solid, that underlies soil or other unconsolidated, superficial material.

"Bedroom" means any portion of a dwelling that is so designed as to furnish the minimum isolation necessary for use as a sleeping area. It may include a den, study, sewing room, or sleeping loft. Unfinished basements shall be counted as a minimum of one additional bedroom.

"Board" means the Utah Water Quality Board.

"Body politic" means the state or its agencies or any political subdivision of the state to include a county, city, town, improvement district, taxing district or other governmental subdivision or public corporation of the state.

"Building sewer" means the pipe that carries wastewater from the building to a public sewer, an onsite wastewater system or other point of dispersal. It is synonymous with "house sewer".

"Bundled synthetic aggregate trench" means an absorption trench utilizing bundled synthetic aggregate units.

"Bundled synthetic aggregate unit" means a cylindrically shaped manufactured unit of synthetic aggregate enclosed in polyolefin netting, which may contain a perforated pipe.

"Chamber" means an open bottom, chambered structure of an approved material and design.

"Chambered trench" means an absorption trench utilizing chambers.

"Cleanout" means a device designed to provide access for removal of deposited or accumulated materials, generally from a pipe.

"Closed loop distribution" means a distribution method where the absorption system layout has the inlet and outlet ends of each lateral connected creating a complete and continuous pathway for effluent flow.

"Coarse drain media" means drain media ranging from 3/4 to 12 inches in diameter.

"Condominium" means the ownership of a single unit in a multi-unit project together with an undivided interest in common, in the common areas and facilities of the property.

"Connecting trench" means an absorption trench that is used to connect other absorption trenches, is less than 20 feet in length, and may be used to calculate total required absorption area.

"Construction permit" means the permit that authorizes an onsite wastewater system to be installed according to an approved design. An additional construction permit may also authorize activities associated with the repair or alteration of a malfunctioning or failing system.

"Conventional onsite wastewater system" means an onsite wastewater system typically consisting of a building sewer, a septic tank, and an absorption system utilizing absorption trenches, absorption beds, deep wall trenches, or seepage pits.

"Cover" means soils used to overlay the absorption area that is free of large stones 10 inches diameter or larger, frozen clumps of earth, masonry, stumps, or waste construction material, or other materials that could damage the system.

"Curtain drain" means any ground water interceptor or drainage system that is backfilled with gravel or other suitable material and is intended to interrupt or divert the course of shallow ground water or surface water away from the onsite wastewater system.

"Designer" means a person who fulfills the requirements of Rule R317-11.

"Deep wall trench" means an absorption system consisting of deep excavated trenches utilizing coarse drain media, with a minimum sidewall absorption depth of 24 inches of suitable soil formation below the distribution pipe.

"Director" means the director of the Division of Water Quality or, for purposes of groundwater quality at a facility licensed by and under the Division of Radiation Control, the director of the Division of Radiation Control.

"Distribution box" means a watertight structure that receives effluent and distributes it concurrently, in essentially equal portions, into two or more pipes leading to an absorption system.

"Distribution pipe" means an approved pipe, solid or perforated, used in the dispersion of effluent in an absorption system.

"Diversion valve" means a watertight structure that receives effluent through one inlet and distributes it to two or more outlets, only one of which is used at a time.

"Division" means the Utah Division of Water Quality.

"Domestic wastewater" means a combination of the liquid or water-carried wastes from residences, business buildings, institutions, and other establishments with installed plumbing facilities, excluding non-domestic wastewater. It is synonymous with the term "sewage".

"Drain media" means media used in an absorption system. It shall consist of stone, crushed stone, or gravel, ranging from 3/4 to 2-1/2 inches in diameter. It shall be free from fines, dust, sand or organic material and shall be durable and inert so that it will maintain its integrity, will not collapse or disintegrate with time. The maximum fines in the media shall be 2% by weight passing through a US Standard #10 mesh or 2 millimeter sieve. It shall be protected by a barrier material.

"Drainage system" means all the piping within public or private premises that conveys sewage or other liquid wastes to a legal point of treatment and dispersal, but does not include the mains of a public sewer system or a public sewage treatment or disposal plant.

"Drop box" means a watertight structure that receives septic tank effluent and distributes it into one or more distribution pipes, and into an overflow leading to another drop box and absorption system located at a lower elevation.

"Dry wash" means the dry bed of an ephemeral stream that flows only after heavy rains and is often found at the bottom of a canyon.

"Dwelling" means any structure, building, or any portion thereof that is used, intended, or designed to be occupied for human living purposes including houses, mobile homes, hotels, motels, and apartments.

"Effluent" means the liquid discharge from any treatment unit including a septic tank.

"Effluent pump" means a pump used to lift effluent.

"Effluent sewer" means solid pipe that carries effluent to the absorption system.

"Ejector pump" means a device to elevate or pump sewage to a septic tank, public sewer, or other means of disposal.

"Ephemeral stream" means a stream that flows for a small period of time, a week or less, after a precipitation event.

"Excessively permeable soil" means soils having an excessively high permeability, such as cobbles or gravels with little fines and large voids, and having a percolation rate faster than 1 minute per inch.

"Experimental onsite wastewater system" means an onsite wastewater treatment and absorption system that is still in experimental use and requires further testing in order to provide sufficient information to determine its acceptance.

"Filter fabric" means a synthetic, non-degradable woven or spun-bonded sheet material that has adequate tensile strength to prevent ripping during installation and backfilling, adequate permeability to allow free passage of water and gases; and adequate particle retention to prevent downward migration of soil particles into the absorption system. The minimum physical properties for the fabric shall be 4.0 ounces per square yard or equivalent.

"Ground water" means that portion of subsurface water that is in the zone of soil saturation.

"Ground water table" means the surface of a body of unconfined ground water in which the pressure is equal to that of the atmosphere.

"Ground water table, perched" means unconfined ground water separated from an underlying body of ground water by an unsaturated zone. ~~[Its water table is a perched water table.]~~ It is underlain by a restrictive strata or impervious layer. Perched ground water may be either permanent, where recharge is frequent enough to maintain a saturated zone above the perching bed, or temporary, where

intermittent recharge is not great or frequent enough to prevent the perched water from disappearing from time to time as a result of drainage over the edge of or through the perching bed.

"Gulch" means a small rocky ravine or a narrow gorge, especially one with an ephemeral stream running through it.

"Gully" means a channel or small valley, especially one carved out by persistent heavy rainfall or an ephemeral stream.

"Impervious strata" means a layer that prevents water or root penetration. In addition, it shall be defined as unsuitable soils or soils having a percolation rate slower than 60 minutes per inch for conventional systems.

"Installer" means a qualified person with an appropriate contractor's license and knowledgeable in the installation or repair of an onsite wastewater system or its components.

"Intermittent stream" means a stream that flows for a period longer than an ephemeral stream on a seasonal basis or after a precipitation event.

"Invert" means the lowest portion of the internal cross section of a pipe or fitting.

"Lateral" means a length of distribution pipe or chambered trenches in the absorption system.

"Local health department" means a county or multi-county local health department established under Title 26A.

"Lot" means a portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both and may not include any part of the right-of-way of a street or road.

"Malfunctioning or failing system" means an onsite wastewater system that is not functioning in compliance with the requirements of this regulation and may include:

- A. absorption systems that seep or flow to the surface of the ground or into waters of the state;
- B. systems that overflow from any of their components;
- C. systems that, due to failure to operate in accordance with their designed operation, cause backflow into any portion of a building drainage system;
- D. systems discharging effluent that does not comply with applicable effluent discharge standards;
- E. leaking septic tanks; or
- F. noncompliance with standards stipulated on or by the construction permit, operating permit, or both.

"Maximum ground water table" means the highest elevation that the top of the "ground water table" or "ground water table, perched" is expected to reach for any reason over the full operating life of the onsite wastewater system at that site.

"May" means discretionary, permissive, or allowed.

"Mound system" means an alternative onsite wastewater system where the bottom of the absorption system is placed above the elevation of the original site, and the absorption system is contained in a mounded fill body above that grade.

"Non-closed loop distribution" means a distribution method where the absorption system layout has lateral ends that are not connected.

"Non-domestic effluent" means the liquid discharge from any treatment unit including a septic tank that has a BOD₅ equal or greater than 250 mg/L; or TSS equal to or greater than 145 mg/L; or fats, oils, and grease equal to or greater than 25 mg/L.

"Non-domestic wastewater" means process wastewater originating from the manufacture of specific products. Such

wastewater is usually more concentrated, more variable in content and rate, and requires more extensive or different treatment than domestic wastewater.

"Non-public water source" means a culinary water source that is not defined as a public water source.

"Non-residential" means a building that produces domestic wastewater, and is not a single family dwelling.

"Onsite wastewater system" means an underground wastewater dispersal system that is designed for a capacity of 5,000 gallons per day or less, and is not designed to serve multiple dwelling units that are owned by separate owners except condominiums. It usually consists of a building sewer, a septic tank and an absorption system.

"Operating permit" means the permit that authorizes the operation and maintenance of an onsite wastewater system or wastewater holding tank. It may have a fee component that requires periodic renewal.

"Packed bed media system" means an alternative onsite wastewater system that uses natural or synthetic media to treat wastewater. Biological treatment is facilitated via microbial growth on the surface of the media. The system may include a pump tank, a recirculation tank, or both.

"Percolation rate" means the time expressed in minutes per inch required for water to seep into saturated soil at a constant rate during a percolation test.

"Percolation test" means the method used to measure the permeability of the soil by measuring the percolation rate as described in these rules. This is sometimes referred to as a "perc test".

"Permeability" means the rate at which a soil transmits water when saturated.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state as defined in Section 19-1-103.

"Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for public health and safety as defined in Section 19-5-102.

"Pressure distribution" means a method designed to uniformly distribute effluent under pressure within an absorption system.

"Public health hazard" means, for the purpose of this rule, a condition whereby there are sufficient types and amounts of biological, chemical, or physical agents relating to water or sewage that are likely to cause human illness, disorders or disability. These may include pathogenic viruses and bacteria, parasites, toxic chemicals and radioactive isotopes. A malfunctioning onsite wastewater system constitutes a public health hazard.

"Public water source" means a culinary water source, either publicly or privately owned, providing water for human consumption and other domestic uses, as defined in Title R309.

"Pump tank" means a watertight receptacle equipped with a pump and placed after a septic tank or other treatment component.

"Pump vault" means a device installed in a septic or pump tank that houses a pump and screens effluent with 1/8 inch openings or smaller before it enters the pump.

"Recirculation tank" means the tank that receives, stores, and recycles partially treated effluent and recycles that effluent back through the treatment process or to the absorption area.

"Regulatory authority" means either the Utah Division of Water Quality or the local health department having jurisdiction.

"Replacement area" means sufficient land with suitable soil, excluding streets, roads, easements and permanent structures that complies with the setback requirements of these rules, and is intended for the 100% replacement of absorption systems.

"Rotary tilling" means a tillage operation. Working land by plowing and harrowing in order to make land ready for cultivation, or employing power driven rotary motion of the tillage tool to loosen, shatter and mix soil.

"Sand lined trench system" means an alternative onsite wastewater system consisting of a series of narrow excavated trenches utilizing sand media and pressure distribution.

"Sand media" means sand fill meeting the ASTM C33/C33M - 11A Standard Specification for Concrete Aggregates.

"Saprolite" means weathered material underlying the soil that grades from soft thoroughly decomposed rock to rock that has been weathered sufficiently so that it can be broken in the hands, cut with a knife or easily dug with a backhoe and is devoid of expansive clay. It has rock structure instead of soil structure and does not include hard bedrock or hard fractured bedrock.

"Scarification" means loosening and breaking up of soil compaction in a manner that prevents smearing and maintains soil structure.

"Scum" means a mass of sewage solids, which is buoyed up by entrained gas, grease, or other substances, floating on the surface of wastes in a septic tank.

"Seepage pit" means an absorption system consisting of one or more deep excavated pits, either hollow-lined or filled, utilizing coarse drain media, with a minimum sidewall absorption depth of 48 inches of suitable soil formation below the distribution pipe.

"Septage" means the semi-liquid material that is pumped out of a septic or pump tank, generally consisting of the sludge, liquid, and scum layer.

"Septic tank" means a watertight receptacle that receives the discharge of a drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through an absorption system.

"Sequential distribution" means a distribution method in which effluent does not pass through an absorption area before it enters the succeeding areas through a distribution box or relief line allowing for portions of the absorption area to be isolated.

"Serial distribution" means a distribution method in which effluent passes through an absorption area before entering the succeeding areas through a distribution box or relief line creating a single uninterrupted flow path.

"Shall" means a mandatory requirement.

"Should" means recommended or preferred and is intended to mean a desirable standard.

"Single-family dwelling" means a building designed to be used as a home by the owner or lessee of such building.

"Sludge" means the accumulation of solids that have settled in a septic tank or a wastewater holding tank.

"Slope" means the ratio of the rise divided by the run between two points, typically described as a percentage (rise divided by run multiplied by 100).

"Soil exploration pit" means an open pit dug to permit examination of the soil to evaluate its suitability for absorption systems. This is also referred to as a "test pit".

"Soil log" means a detailed description of soil characteristics and properties.

"Soil structure" means the way in which the individual particles, sand, silt, and clay, are arranged into larger distinct aggregates called peds. The main types of soil structure are granular, platy, blocky, prismatic, and columnar. Soil may not have a visible structure because it is either single grain or massive.

"Soil texture" means the percent of sand, silt, and clay in a soil mixture. Field methods for judging the texture of a soil are found in Section R317-4-14 Appendix C.

"Standard trench" means an absorption trench utilizing drain media into which effluent is discharged through specially designed distribution pipes.

"Suitable soil" means undisturbed soil that through textural and structural analysis or percolation rate meets the requirements for placement of an absorption system.

"Test pit" see "soil exploration pit".

"Unapproved system" means any onsite wastewater system that is deemed by the regulatory authority to be any:

A. installation without the required regulatory oversight, permits, or inspections;

B. repairs to an existing system without the required regulatory oversight, permits, or inspections; or

C. alteration to an existing system without the required regulatory oversight, permits, or inspections.

"USDA system of classification" means the system of classifying soil texture used by the United States Department of Agriculture.

"Waste" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water as defined in Section 19-5-102.

"Wastewater" means sewage, industrial waste or other liquid substances that might cause pollution of waters of the state. Intercepted ground water that is uncontaminated by wastes is not included.

"Wastewater holding tank" means a watertight receptacle designed to receive and store wastewater to facilitate treatment at another location.

"Waters of the state":

A. means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state; and

B. does not include bodies of water confined to and retained within the limits of private property, and that do not develop into or constitute a nuisance, or public health hazard, or a menace to fish or wildlife.

"Wind-blown sand" means sand that is formed by the weathering and erosion of sandstone typically found in sand-dune or sand-sheet deposits and is capable of producing sand and dust storms when disturbed.

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R317-4-6. Design Requirements.

6.1. System Location.

A. Onsite wastewater systems are not suitable in some areas and situations. Location and installation of each system shall be such that with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, public health hazard, or endanger the quality of any waters of the state.

B. In determining a suitable location for the system, due consideration shall be given to such factors as:

1. the minimum setbacks in Section R317-4-13 Table 2;
2. size and shape of the lot;
3. slope of natural and final grade;
4. location of existing and future water supplies;
5. depth of ground water and bedrock;
6. soil characteristics and depth;
7. potential flooding or storm catchment;
8. possible expansion of the system; and
9. future connection to a public sewer system.

6.2. Minimum Setback Distances.

All systems, including the replacement area, shall conform to the minimum setback distances in Section R317-4-13 Table 2.

6.3. Maximum Ground Slope.

All absorption systems, including the replacement area, shall conform to the ground slope requirements in Section R317-4-4.

6.4. Estimates of Wastewater Quantity.

A. Single Family Dwellings.

A minimum of 300 gallons per day, 1 or 2 bedroom, and 150 gallons per day for each additional bedroom shall be used.

B. Non-Residential Facilities.

The quantity of wastewater shall be determined accurately, preferably by actual measurement. Metered water supply figures for similar installations can usually be relied upon, providing the non-disposable consumption, if any, is subtracted. Where this data is not available, the minimum design flow figures in Section R317-4-13 Table 3 shall be used to make estimates of flow.

C. Design Capacity.

In no event shall the anticipated maximum daily wastewater flow exceed the capacity for which a system is designed.

6.5. Non-Domestic Effluent.

Effluent shall be treated to levels at or below the defined parameters of non-domestic effluent before being discharged into an absorption system.

6.6. Building Sewer.

A. The building sewer shall have a minimum inside diameter of 4 inches and shall comply with the minimum standards in Section R317-4-13 Table 4.

1. If the sewer leaving the house is three inches, the building sewer may be three inches.

B. Building sewers shall be laid on a uniform minimum slope of not less than 1/4 inch per foot or 2.08% slope.

C. The building sewer shall have a minimum of one cleanout and cleanouts every 100 feet.

1. A cleanout is also required for each aggregate horizontal change in direction exceeding 135 degrees.

2. Ninety degree ells are not recommended.

D. Building sewers shall be separated from water service pipes in separate trenches, and by at least 10 feet horizontally, except

that they may be placed in the same trench when all of the following conditions are met.

1. The bottom of the water service pipe, at all points, shall be at least 18 inches above the top of the building sewer.

2. The water service pipe shall be placed on a solid shelf excavated at one side of the common trench with a minimum clear horizontal distance of at least 18 inches from the sewer or drain line.

3. The number of joints in the water service pipe should be kept to a minimum, and the materials and joints of both the sewer and water service pipes shall be of strength and durability to prevent leakage under adverse conditions.

4. If the water service pipe crosses the building sewer, it shall be at least 18 inches above the latter within 10 feet of the crossing. Joints in water service pipes should be located at least 10 feet from such crossings.

E. Building sewer placed under driveways or other areas subjected to heavy loads shall receive special design considerations to ensure against crushing or disruption of alignment.

6.7. Septic Tank.

All septic tanks shall meet the requirements of Section R317-4-14 Appendix A and be approved by the division. Septic tanks shall be constructed of sound, durable, watertight materials that are not subject to excessive corrosion, frost damage, or decay. They shall be designed to be watertight, and to withstand all expected physical forces.

A. Liquid capacity.

1. A septic tank that serves a non-residential facility shall have a liquid capacity of at least 1-1/2 times the designed daily wastewater flow. In all cases the capacity shall be at least 1,000 gallons.

2. The capacity of a septic tank that serves a single family dwelling shall be based on the number of bedrooms that can be anticipated in the dwelling served, including the unfinished space available for conversion as additional bedrooms. Unfinished basements shall be counted as a minimum of one additional bedroom.

a. The minimum liquid capacity of the tank shall be 1,000 gallons for up to three bedroom homes.

b. The minimum liquid capacity of the tank shall be 1,250 gallons for four bedroom homes.

c. Two hundred fifty gallons per bedroom shall be added to the liquid capacity of the tank for each additional bedroom over four bedrooms.

3. The regulatory authority may require a larger capacity than specified in this subsection as needed for unique or unusual circumstances.

B. Tanks in Series.

1. No tank in the series shall be smaller than 1,000 gallons.

2. The capacity of the first tank shall be at least two-thirds of the required total septic tank volume. If compartmented tanks are used, the compartment of the first tank shall have this two-thirds capacity.

3. The connecting pipes between each successive tank shall meet the slope requirements of the building sewer and shall be unrestricted except for the inlet to the first tank and the outlet for the last tank.

C. Maximum Number of Tanks or Compartments.

The maximum number of tanks and compartments in series may not exceed three.

D. Inlets and Outlets.

Inlet or outlet devices shall conform to the following:

1. Approved tanks with offset inlets may be used where they are warranted by constraints on septic tank location.

2. Multiple outlets from septic tanks shall be prohibited unless preauthorized by the regulatory authority.

3. A gas deflector may be added at the outlet of the tank to prevent solids from entering the outlet pipe of the tank.

E. Effluent Screens.

All septic tanks may have an effluent screen installed at the outlet of the terminal tank. The screen shall prevent the passage of solid particles larger than a nominal 1/8 inch diameter sphere. The screen shall be easily removable for routine servicing by installing a riser to the ground surface, with an approved cover. Effluent screens are required for non-domestic wastewater systems, unless screening is achieved by some other means acceptable to the regulatory authority.

F. Access to Tank Interior.

Adequate access to the tank shall be provided to facilitate inspection, pumping, servicing, and maintenance, and shall have no structure or other obstruction placed over it and shall conform to all of the following requirements.

1. Riser Heights.

Watertight risers are required, extending to within 6 inches of the surface of the ground when soil covering the septic tank is greater than 6 inches. Preferably, the riser should be brought up to the final grade to encourage periodic servicing and maintenance.

a. If a septic tank is located under paving or concrete, risers shall be extended up through the paving or concrete.

b. If non-domestic wastewater is generated, risers shall be extended to the final grade.

2. Riser Diameter.

The inside diameter of the riser shall be a minimum of 20 inches.

3. Riser Covers.

Riser covers shall be designed and constructed in such a manner that:

a. they cannot pass through the access openings;

b. when closed will be child-proof;

c. will prevent entrance of surface water, dirt, or other foreign materials; and

d. seal odorous gases in the tank.

4. Riser Construction.

The risers shall be constructed of durable, structurally sound materials that are approved by the regulatory authority and designed to withstand expected physical loads and corrosive forces.

5. Multiple Risers Required.

When the tank capacity exceeds 3,000 gallons, a minimum of two access risers shall be installed.

G. Other Requirements.

Tank installation shall conform to all of the following requirements.

1. Ground Water.

a. Septic tanks located in high groundwater areas shall be designed with the appropriate weighted or anti-buoyancy device to prevent flotation in accordance with the manufacturer's recommendations.

b. The building sewer inlet of the tank may not be installed at an elevation lower than the highest anticipated groundwater elevation.

i. If the tank serves a mound or packed bed alternative system and has an electronic control panel capable of detecting water intrusion, the building sewer inlet of the tank may be installed below the maximum anticipated groundwater elevation.

(1) Any component below the anticipated maximum ground water elevation shall be water tightness tested.

2. Depth of Septic Tank.

The minimum depth of cover over the septic tank shall be at least 6 inches and a maximum of 48 inches at final grading. For unusual situations, the regulatory authority may allow deeper burial provided the following conditions are met.

a. The tank shall be approved by the division for the proposed depth and burial cover load.

b. Risers shall:

i. be installed over the access openings of the inlet and outlet baffles or sanitary tees; and

ii. conform to Subsection R317-4-6.7.F, except risers shall be at least 24 inches in diameter.

6.8. Grease Interceptor Tanks.

A grease interceptor tank or automatic grease removal device may be required by the regulatory authority to receive the drainage from fixtures and equipment with grease-laden waste. It shall be sized according to the current Plumbing Code.

A. Accessibility and Installation.

Tanks installed in the ground shall conform to Subsection R317-4-6.7.F for accessibility and installation, except risers are required and shall be brought to the surface of the ground. All interior compartments shall be accessible for inspecting, servicing, and pumping.

6.9. Pump and Recirculation Tanks.

A. Tanks shall be constructed of sound, durable, watertight materials that are not subject to excessive corrosion, frost damage, or decay. They shall be designed to be watertight, and to withstand all expected physical forces.

B. Pump tank volume shall have a liquid capacity adequate for the minimum operating volume that includes the dead space, dosing volume, and surge capacity, and shall have the emergency operation capacity of:

1. storage capacity for the system design daily wastewater flow;

2. at least two independent power sources with appropriate wiring installed; or

3. other design considerations approved by the regulatory authority that do not increase public health risks in the event of pump failure.

C. Accessibility and Installation.

Tanks shall conform to Subsection R317-4-6.7.F for accessibility and installation, except risers are required and shall be brought to the surface of the ground. All interior compartments shall be accessible for inspecting, servicing, and pumping.

D. Outlets of septic tanks upstream of pump tanks shall be fitted with an effluent screen, unless a pump vault is used in a pump tank.

6.10. Pump Vaults.

Pump vaults may be used when approved by the regulatory authority.

A. The vault shall be constructed of durable material and resistant to corrosion.

B. The vault shall have an easily accessible screen with 1/8 inch openings or smaller.

C. All components of the vault shall be accessible from the surface.

D. When a pump vault is used in a septic tank:

1. The tank size shall be increased by the larger of the following:

- a. two hundred fifty gallons; or
- b. ten percent of the required capacity of the tank.

2. At least two independent power sources with appropriate wiring, or other design considerations approved by the regulatory authority that do not increase public health risks, shall be installed.

3. The maximum drawdown within the tank shall be no more than 3 inches per dose.

6.11. Pumps.

See Section R317-4-14 Appendix B for details.

6.12. Sampling Ports.

When a system is required to have effluent sampling or receives non-domestic wastewater, the system shall include a sampling port at an area approved by the regulatory authority capable of sampling effluent prior to the absorption system.

6.13. Effluent Sewer.

A. The effluent sewer shall have a minimum inside diameter of 4 inches and shall comply with the minimum standards in Section R317-4-13 Table 4.

B. The effluent sewer shall extend at least 5 feet beyond the septic tank before entering the absorption system.

C. Effluent sewers shall be laid on a uniform minimum slope of not less than 1/4 inch per foot or 2.08% slope. When it is impractical, due to structural features or the arrangement of any building, to obtain a slope of 1/4 inch per foot, a sewer pipe of 4 inches in diameter or larger may have a slope of not less than 1/8 inch per foot or 1.04% slope when approved by the regulatory authority.

D. The effluent sewer lines shall have cleanouts at least every 100 feet.

E. Effluent sewer placed under driveways or other areas subjected to heavy loads shall receive special design considerations to ensure against crushing or disruption of alignment.

6.14. Absorption Systems.

A. System Types.

1. Absorption Trenches.

- a. Standard Trenches.
- b. Chambered Trenches.
- c. Bundled Synthetic Aggregate Trenches.
2. Absorption Beds.
3. Deep Wall Trenches.
4. Seepage Pits.

B. General Requirements.

1. Replacement Area for Absorption Systems.

Adequate and suitable land shall be reserved and kept free of permanent structures, traffic, or adverse soil modification for 100% replacement of each absorption system. If approved by the regulatory authority, the area between standard trenches or deep wall trenches may be regarded as replacement area.

a. In lieu of a replacement area, two complete absorption systems shall be installed with a diversion valve. The valve shall be accessible from the final grade. The valve should be switched at least annually.

2. Protection of Absorption Systems.

The site of the initial and replacement absorption system may not be covered by asphalt, concrete, or structures, or be subject to vehicular traffic, or other activity that would adversely affect the soil, such as construction material storage, soils storage, etc. This protection applies before and after construction of the onsite wastewater system.

3. Sizing Criteria for Absorption Systems.

Absorption systems shall be sized based on Section R317-4-13 Table 5 or 6.

4. Design Criteria for Absorption Systems.

Many different designs may be used in laying out absorption systems, the choice depending on the size and shape of the available areas, the capacity required, and the topography of the dispersal area.

a. Horizontal Setbacks.

Absorption systems shall comply with the setbacks in Section R317-4-13 Table 2.

b. Sloping Ground.

Absorption systems placed in 10% or greater sloping ground shall be designed so that there is a minimum of 10 feet of undisturbed earth measured horizontally from the bottom of the distribution line to the ground surface. This requirement does not apply to drip irrigation.

c. Undisturbed Natural Earth.

That portion of absorption systems below the top of distribution pipes shall be in undisturbed natural earth.

d. Tolerance.

All piping, chambers, and the bottoms of absorption system excavations shall be designed level.

e. Distribution Pipe.

Distribution pipe for gravity-flow absorption systems shall be 4 inches in diameter and shall comply with the minimum standards in Section R317-4-13 Table 4.

i. The pipe shall be penetrated by at least two rows of round holes, each 1/2 inch in diameter, and located at approximately 6 inch intervals. The perforations should be located at about the five o'clock and seven o'clock positions on the pipe.

ii. The open ends of the pipes shall be capped.

f. Absorption System Laterals.

Absorption system laterals should be designed to receive proportional flows of wastewater.

g. Drain Media Protection.

Drain media shall be covered with a barrier material before being covered with earth backfill.

h. Prohibitions.

i. In gravity-flow absorption systems with multiple distribution lines, the effluent sewer may not be in direct line with any one of the distribution pipes, except where drop boxes or distribution boxes are used.

ii. Any section of distribution pipe laid with non-perforated pipe may not be considered in determining the required absorption area.

iii. Perforated distribution pipe may not be placed under driveways or other areas subjected to heavy loads.

i. Exceptions.

Deep wall trenches and filled seepage pits may be allowed beneath unpaved driveways on a case-by-case basis by the regulatory authority, if the top of the distribution pipe is at least 3 feet below the final ground surface.

C. Effluent Distribution Devices.

1. Distribution Boxes.

Distribution boxes may be used on level or nearly level ground. They shall be watertight and constructed of durable, corrosion resistant material. They shall be designed to accommodate the inlet pipe and the necessary distribution lines.

a. The outlet inverts of the distribution box shall be not less than 1 inch below the inlet invert.

b. Distribution boxes shall have risers brought to final grade.

2. Drop Boxes.

Drop boxes shall be watertight and constructed of durable, corrosion resistant material and may be used to distribute effluent within the absorption system and shall meet the following requirements:

a. Drop boxes shall be designed to accommodate the inlet pipe, an outlet pipe leading to the next drop box, except for the last drop box, and one or two distribution pipes leading to the absorption system.

b. The inlet pipe to the drop box shall be at least 1 inch higher than the outlet pipe leading to the next drop box.

c. The invert of the distribution pipes shall be 1 through 6 inches below the outlet invert. If there is more than one distribution pipe, their inverts shall be at exactly the same elevation.

d. Drop boxes shall have risers brought to final grade.

3. Effluent Pump to Absorption System.

a. If a pump is used to lift effluent to an absorption system, the pump tank or pump vault shall meet the requirements of Subsection R317-4-6.9 or R317-4-6.10 and the pump and controls shall meet the requirements of Section R317-4-14 Appendix B.

b. Pumping to an absorption system may not warrant any reductions to the absorption area.

4. Other Devices.

Tees, wyes, ells, or other distributing devices may be used as needed to permit proportional flow to the branches of the absorption system. A clean out or other means of access from the surface shall be provided for these devices.

D. Effluent Distribution Methods.

1. Closed Loop.

In locations where the slope of the ground over the absorption system area is relatively flat, the trenches should be interconnected to produce a closed loop system and the trenches shall be installed at the same elevations.

2. Non-Closed Loop.

If a non-closed loop design is used, effluent shall be proportionally distributed to each lateral.

3. Serial or Sequential.

Serial or sequential distribution may be used in absorption systems designed for sloping areas, or where absorption system elevations are not equal.

a. Serial trenches shall be connected with a drop box or watertight overflow line in such a manner that a trench will be filled before the effluent flows to the next lower trench.

b. The overflow line shall be a 4-inch solid pipe with direct connections to the distribution pipes. It should be laid in a trench excavated to the exact depth required. Care must be exercised to ensure a block of undisturbed earth remains between trenches. Backfill should be carefully tamped.

4. Pressure Distribution.

a. General Requirements.

i. Conformance to Applicable Requirements.

All requirements stated elsewhere in this rule for design, setbacks, construction and installation details, performance, repairs, and abandonment shall apply.

ii. Design Criteria.

All systems that use this method shall be designed by a person certified at Level 3 in accordance with Rule R317-11.

(1) The designer shall submit details of all system components with the necessary calculations.

(2) The designer shall provide to the local health department and to the owner operation and maintenance instructions that include the minimum inspection levels in Section R317-4-13 Table 7 for the system.

iii. Record in the Chain of Title.

When a system utilizing pressure distribution exists on a property, notice of the existence of that system shall be recorded in the chain of title for that property.

b. Design.

i. Pressure distribution may be permitted on any site meeting the requirements for an onsite wastewater system if conditions in this rule can be met.

ii. Pressure distribution should be considered when:

(1) effluent pumps are used;

(2) the flow from the dwelling or structure exceeds 3,000 gallons per day;

(3) soils are a Type 1 or have a percolation rate faster than five minutes per inch; or

(4) soils are a Type 5 or have a percolation rate slower than 60 minutes per inch.

iii. The Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document shall be used for design requirements, along with the following:

(1) Dosing pumps, controls and alarms shall comply with Section R317-4-14 Appendix B.

(2) Pressure distribution piping.

(a) All pressure transport, manifold, lateral piping, and fittings shall meet PVC Schedule 40 standards or equivalent.

(b) The ends of lateral piping shall be constructed with sweep elbows or an equivalent method to bring the end of the pipe to final grade. The ends of the pipe shall be provided with threaded plugs, caps, or other devices acceptable to the regulatory authority to allow for access and flushing of the lateral.

E. Design of Absorption Systems.

i. An absorption system shall be designed to approximately follow the ground surface contours so that variation in excavation depth will be minimized. The excavations could be installed at different elevations, but the bottom of each individual excavation shall be level throughout its length.

ii. Absorption systems should be constructed as shallow as is possible to promote treatment and evapotranspiration.

iii. Observation ports may be placed to observe the infiltrative surfaces of the trenches or beds.

1. Absorption Trenches.

a. Absorption trenches shall conform to the following:

i. The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or 6.

ii. The effective absorption area of absorption trenches shall be calculated as the total bottom area of the excavated trench system in square feet.

iii. Minimum number of absorption trenches: 2.

iv. Maximum length of absorption trenches, not including connecting trenches: 150 feet.

v. Minimum spacing of absorption trenches from wall to wall: 7 feet.

vi. Minimum width of absorption trench excavations: 24 inches.

vii. Maximum width of absorption trench excavations: 36 inches.

viii. Minimum depth of absorption trench excavations below original, natural grade: 10 inches.

ix. Minimum depth of soil cover over the absorption trenches: 6 inches.

x. Minimum separation from the bottom of the absorption trenches to:

(1) the anticipated maximum ground water table: 24 inches; and

(2) unsuitable soil or bedrock formations: 48 inches.

b. Standard Trenches.

Standard trenches shall conform to the following:

i. Top of distribution pipe may not be installed above original, natural grade.

ii. The distribution pipe shall be centered in the absorption trench and placed the entire length of the trench.

iii. Drain media shall extend the full width and length of the trenches to a depth of at least: 12 inches.

iv. Minimum depth of drain media under the distribution pipe: 6 inches.

v. Minimum depth of drain media over the distribution pipe: 2 inches.

vi. Minimum depth of cover over the barrier material: 6 inches.

c. Chambered Trenches.

Chambered trenches shall conform to the following:

i. All chambers shall meet International Association of Plumbing and Mechanical Officials (IAPMO) Standard PS 63-2005, which is hereby incorporated into this rule by reference.

ii. The minimum required effective absorption area of chambered trenches shall be calculated:

(1) for Type A Chambers as: 36 inches; and

(2) for Type B Chambers as: 24 inches;

(3) using Section R317-4-13 Table 5 or 6 and may be reduced by: 30%.

iii. The chambered trenches shall be designed and installed in conformance with manufacturer recommendations, as modified by these rules.

iv. Type A Chambers.

(1) Minimum width of chambers: 30 inches.

(2) Maximum width of trench excavations: 36 inches.

v. Type B Chambers.

(1) Minimum width of chambers: 22 inches.

(2) Maximum width of trench excavations: 24 inches.

vi. Minimum elevation of the inlet pipe invert from the bottom of the chamber: 6 inches.

vii. All chambers shall have a splash plate under the inlet pipe or another design feature to avoid unnecessary channeling into the trench bottom.

viii. Inlet and outlet effluent sewer pipes shall enter and exit the chamber endplates.

ix. Minimum depth of cover over the chambers: 12 inches.

The depth of cover may be reduced to no less than 6 inches, if approved by the regulatory authority, considering the protection of absorption systems as required in Subsection R317-4-6.14.B.2, and other activities, as determined by the authority.

d. Bundled Synthetic Aggregate Trenches.

Bundled synthetic aggregate trenches shall conform to the following.

i. All synthetic aggregate bundles shall meet IAPMO Standards for the General, Testing and Marking and Identification of the guide criteria for Bundled Expanded Polystyrene Synthetic Aggregate Units.

ii. The effective absorption area of bundled synthetic aggregate trenches shall be calculated as the total bundle length times the total bundle width in square feet.

iii. The bundled synthetic aggregate trenches shall be designed and installed in conformance with manufacturer recommendations, as modified by these rules.

iv. Only 12-inch diameter bundles are approved in this rule.

(1) For bundles with perforated pipe the minimum depth of synthetic aggregate under pipe: 6 inches.

v. Width of trenches.

(1) When designed for a 3 foot wide trench, three bundles are laid parallel to each other with the middle bundle containing perforated pipe.

(2) When designed for a 2 foot wide trench, two bundles are placed on the bottom, with one bundle containing perforated pipe.

vi. Minimum depth of cover over the bundles: 12 inches.

The depth of cover may be reduced to no less than 6 inches, if approved by the regulatory authority, considering the protection of absorption systems as required in Subsection R317-4-6.14.B.2, and other activities, as determined by the authority.

2. Absorption Beds.

Absorption beds shall conform to the requirements applicable to absorption trenches, except for the following.

a. The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or 6.

b. The effective absorption area of absorption beds shall be considered as the total bottom area of the excavated bed system in square feet.

c. Absorption beds may be built over naturally existing soil types per Section R317-4-13 Table 5 or 6.

d. The bottom of the entire absorption bed shall be level.

e. The distribution pipes or chambers shall be interconnected to produce a closed loop distribution system.

f. Minimum number of laterals in an absorption bed: 2.

g. Maximum length of laterals in an absorption bed: 150 feet.

h. Maximum distance between laterals: 6 feet.

i. Minimum distance between laterals and sidewalls: 1 foot.

j. Maximum distance between laterals and sidewalls: 3 feet.

k. Minimum distance between absorption beds: 7 feet.

l. Minimum depth of an absorption bed excavation from original, natural grade: 10 inches.

m. Absorption beds with drain media:

i. Minimum depth of drain media under distribution pipe: 6 inches.

ii. Minimum depth of drain media over distribution pipe: 2 inches.

- iii. Minimum depth of cover over the barrier material: 6 inches.
- n. Absorption beds with chambers:
 - i. Chambers shall be installed with sides touching, no separation allowed.
 - ii. All chambers shall be connected in a closed loop distribution system.
 - iii. The outlet side of the chamber runs shall be connected through the bottom port of the end plates.
 - iv. No absorption area reduction factor shall be given for using chambers in absorption beds.

v. Minimum depth of cover over the chambers: 12 inches.

3. Deep Wall Trenches.

Deep wall trenches shall conform to the following:

a. The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or 6.

b. The effective absorption area of deep wall trenches shall be calculated using the total trench vertical sidewall area below the distribution pipe. The bottom area and any highly restrictive or impervious strata or bedrock formations may not be considered in determining the effective sidewall absorption area.

c. If percolation tests are used, they shall be conducted in accordance with Section R317-4-14 Appendix D and in the most restrictive soil horizon.

d. Maximum length of trenches: 150 feet.

i. Does not include connecting trenches.

e. Minimum spacing of trenches from wall to wall: 12 feet, or three times the depth of the media under the distribution pipe, whichever is the larger distance.

f. Vertical depth of trenches.

i. Minimum effective sidewalls: 2 feet.

ii. Maximum effective sidewalls: 10 feet.

iii. Calculate using only suitable soil formation.

g. Minimum width of trench excavations: 24 inches.

h. Minimum separation from the bottom of deep wall trench

to:

i. the anticipated maximum ground water table: 48 inches;

ii. unsuitable soil or bedrock formations: 48 inches.

i. Drain media shall cover the coarse drain media to permit leveling of the distribution pipe and shall extend the full width and length of the trenches.

i. Minimum depth of drain media: 12 inches.

ii. Minimum depth of drain media under the distribution pipe: 6 inches.

iii. Minimum depth of drain media over the distribution pipe: 2 inches.

j. Minimum depth of cover over the barrier material: 6 inches.

k. The distribution pipe shall be centered in the trench and placed the entire length of the trench.

1. Setback to property lines: 10 feet.

4. Seepage Pits.

Seepage pits shall be considered as modified deep wall trenches and shall conform to the requirements applicable to deep wall trenches, except for the following:

a. The effective absorption area of seepage pits shall be calculated using the total pit vertical sidewall area below the distribution pipe. The bottom area and any highly restrictive or

impervious strata or bedrock formations may not be considered in determining the effective sidewall absorption area.

b. Minimum diameter of pits: 3 feet.

c. Vertical depth of pits.

i. Minimum effective sidewalls: 4 feet.

ii. Maximum effective sidewalls: 10 feet.

iii. Calculate using only suitable soil formation.

d. Filled Seepage Pits.

i. In pits filled with coarse drain media, the perforated distribution pipe shall run across each pit. A layer of drain media shall be used for leveling the distribution pipe.

ii. The entire pit shall be completely filled with coarse drain media to at least the top of any permeable soil formation to be calculated as effective sidewall absorption area.

e. Hollow-Lined Seepage Pits.

i. For hollow-lined pits, the inlet pipe shall extend horizontally at least 1 foot into the pit.

ii. The annular space between the lining and excavation wall shall be filled with crushed rock or gravel ranging from 3/4 through 6 inches in diameter and free of fines, sand, clay or organic material. The maximum fines in the gravel shall be 2% by weight passing through a US Standard #10 mesh or 2.0 millimeter sieve.

iii. Minimum width of annular space between lining and sidewall: 12 inches.

iv. Minimum thickness of reinforced perforated concrete liner: 2-1/2 inches.

v. Minimum thickness of reinforced concrete top: 6 inches.

vi. Minimum depth of drain media in pit bottom: 6 inches.

vii. Minimum depth of cover over seepage pit top: 6 inches.

viii. A reinforced concrete top shall be provided.

(1) When the cover over the seepage pit top exceeds 6 inches, risers shall conform to Subsection R317-4-6.7.F for accessibility.

6.15. Alternative Systems.

A. System Types.

1. At-Grade.

2. Mounds.

3. Packed Bed Media.

a. Intermittent Sand Filters.

b. Recirculating Sand Filters.

c. Recirculating Gravel Filters.

d. Textile Filters.

e. Peat Filters.

4. Sand Lined Trenches.

B. General Requirements.

1. Conformance to Applicable Requirements.

All requirements stated elsewhere in this rule for design, setbacks, construction and installation details, performance, repairs and abandonment shall apply unless stated differently for a given alternative system.

2. Sizing Criteria for Alternative Systems.

Absorption area shall be sized based on Section R317-4-13 Table 5 or 6 except as specified in this section.

3. Design Criteria for Alternative Systems.

All alternative systems shall be designed by a person certified at Level 3 in accordance with Rule R317-11.

a. The designer shall submit details of all system components with the necessary calculations.

b. The designer shall provide to the local health department and to the owner operation and maintenance instructions that include the minimum inspection levels in Section R317-4-13 Table 7 for the system.

4. Record in the Chain of Title.

When an alternative system exists on a property, notice of the existence of that system shall be recorded in the chain of title for that property.

C. Design of Alternative Systems.

1. At-Grade Systems.

Absorption trenches and absorption beds may be used in at-grade systems. At-grade systems shall conform to the requirements applicable to absorption trenches and absorption beds, except for the following:

a. Horizontal setbacks in Section R317-4-13 Table 2 are measured from edge of ~~trench~~ sidewall [~~trench~~], [~~with the exception of~~ ~~except~~ at property lines, where the toe of the final cover shall be 5 feet or greater in separation distance to a property line.

b. Minimum number of observations ports provided within absorption area: 2.

i. The ports shall be installed to the depth of the trench or bed.

c. Depth of absorption excavations below natural grade: 0-10 inches.

d. Minimum cover over the absorption area: 6 inches.

e. Maximum slope of natural ground surface: 4%.

f. The maximum side slope for above ground fill shall be four horizontal to one vertical: 25% slope.

g. Where final contours are above the natural ground surface, the cover shall extend from the center of the wastewater system at the same general top elevation for a minimum of 10 feet in all directions beyond the limits of the absorption area perimeter, before beginning the side slope.

2. Mound Systems.

Mound systems shall conform to the following:

a. The design shall generally be based on the Wisconsin Mound Soil Absorption System: Siting, Design and Construction Manual, January 2000 published by the University of Wisconsin-Madison Small-Scale Waste Management Project, with the following exceptions.

i. The minimum separation distance between the natural ground surface and the anticipated maximum ground water table: 12 inches.

ii. Mound systems may be built over naturally existing soil types per Section R317-4-13 Table 5 or 6 provided the minimum depth of suitable soil is:

(1) between the natural ground surface and bedrock formations or unsuitable soils: 36 inches; or

(2) above soils that have a percolation rate faster than one minute per inch: 24 inches.

iii. The minimum depth of sand media over natural soil: 12 inches.

iv. The maximum slope of natural ground surface: 25 %.

v. The separation distances in Section R317-4-13 Table 2 are measured from the toe of the final cover.

vi. The effluent loading rate at the sand media to natural soil interface shall be calculated using Section R317-4-13 Table 5 or 6.

vii. The effluent entering a mound system shall be at levels at or below the defined parameters of non-domestic effluent.

viii. The minimum thickness of aggregate media around the distribution pipes of the absorption system shall be the sum of 6 inches below the distribution pipe, the diameter of the distribution pipe and 2 inches above the distribution pipe or 10 inches, whichever is larger.

ix. The cover may not be less than 6 inches in thickness, and shall provide protection against erosion, frost, storm water infiltration and support vegetative growth and aeration of distribution cell.

x. A minimum of three observation ports shall be located within the mound at each end and the center of the distribution cell.

(1) At least one port shall be installed at the gravel-sand interface, and one port at the sand-soil interface.

b. Mounds shall use pressure distribution.

i. The Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document and Subsection R317-4-6.14.D.4 shall be used for design requirements.

(1) See Section R317-4-14 Appendix B for pump and control requirements.

3. Packed Bed Media Systems.

Packed bed media systems shall conform to the following:

a. System Design Criteria.

i. Wastewater Design Flows.

(1) For single-family dwellings the design shall be based on a minimum of 300 gallons per day for two bedrooms and 100 gallons per day for each additional bedroom.

(2) All other flow estimates shall be based on Subsection R317-4-6.4.

(3) Special design considerations shall be given for non-domestic effluent.

ii. Effluent Distribution.

Effluent shall be uniformly distributed over the filter media using pressure distribution.

b. Absorption System Requirements.

Absorption systems shall conform to the following:

i. Siting Conditions.

Packed bed media absorption systems may be sited under the following conditions:

(1) The minimum separation distance between the natural ground surface and the anticipated maximum ground water table: 12 inches.

(2) Packed bed media absorption systems may be built over naturally existing soil types per Section R317-4-13 Table 5 or 6 provided the minimum depth of suitable soils:

(a) above soils that have a percolation rate faster than one minute per inch: 24 inches; and

(b) between the natural ground surface and bedrock formations or unsuitable soils: 36 inches; or

(c) between the natural ground surface and bedrock formations or unsuitable soils: 18 inches based on an evaluation of infiltration rate and hydrogeology from a professional geologist or engineer that is certified at the appropriate level to perform onsite wastewater system design and having sufficient experience in geotechnical engineering based on:

(i) type, extent of fractures, presence of bedding planes, angle of dip;

(ii) hydrogeology of surrounding area; and

(iii) cumulative effect of all existing and future systems within the area for any localized mounding or surfacing that may create a public health hazard or nuisance, description of methods used

to determine infiltration rate and evaluations of surfacing or mounding conditions.

(3) A non-chemical disinfection unit, capable of meeting laboratory testing parameters in Table 7.3, and a maintenance schedule consistent to Section R317-4-13 Tables 7.1 and 7.3, shall be used in excessively permeable soils.

(4) Conformance with the minimum setback distances in Section R317-4-13 Table 2, except for the following that require a minimum of 50 feet of separation:

- (a) watercourses, lakes, ponds, reservoirs;
- (b) non-culinary springs or wells;
- (c) foundation drains, curtain drains; or
- (d) non-public culinary grouted wells, constructed as required by Title R309.

ii. Sizing Criteria.

The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or 6 and may be reduced by: 30%.

(1) The use of chambered trenches with a packed bed media system may not receive additional reductions as allowed in Subsection R317-4-6.14.E.1.c.

iii. Separation from Ground Water Table.

The bottom of the absorption system shall have a vertical separation distance of at least 12 inches from the anticipated maximum ground water table.

iv. Observation Ports.

A minimum of two observation ports shall be provided within the absorption area.

v. Drip Irrigation.

Drip irrigation absorption may be used for packed bed media absorption system effluent dispersal based on type of soil and drip irrigation manufacturer's recommendations.

(1) Materials shall be specifically designed and manufactured for onsite wastewater applications.

(2) Non-absorption components shall be installed per Section R317-4-6 and Section R317-4-13 Table 2.

c. Intermittent Sand Filter Systems.

i. Media.

Either sand media or sand fill as described below may be used.

- (1) Minimum depth of sand media: 24 inches.
- (2) Minimum depth of sand fill: 24 inches.
- (a) Effective size: 0.35-0.5 millimeter.
- (b) Uniformity coefficient: less than 4.0.
- (c) Maximum fines passing through #200 sieve: 1%.

ii. Maximum application rate per day per square foot of media surface area:

- (1) Sand media: 1.0 gallons.
- (2) Sand fill: 1.2 gallons.

iii. Maximum dose volume through any given orifice for each dosing: 2 gallons.

iv. Effluent entering an intermittent sand filter shall be at levels at or below the defined parameters of non-domestic effluent.

c. Recirculating Sand Filter (RSF) Systems.

i. Media.

- (1) Minimum depth of washed sand: 24 inches.
- (2) Effective size: 1.5-2.5 millimeter.
- (3) Uniformity coefficient: less than 3.0.
- (4) Maximum fines passing through #50 sieve: 1%.

ii. Maximum application rate per day per square foot of media surface area: 5 gallons.

d. Recirculating Gravel Filter (RGF) Systems.

i. Media.

- (1) Minimum depth of washed gravel: 36 inches.
- (2) Effective size: 2.5-5.0 millimeter.
- (3) Uniformity Coefficient: less than 2.0.
- (4) Maximum fines passing through #16 sieve: 1%.

ii. Maximum application rate per day per square foot of media surface area: 15 gallons.

e. Textile Filter Systems.

i. Media shall be geotextile, AdvanTex, or an approved equal.

ii. Maximum application rate per day per square foot of media surface area: 30 gallons.

f. Peat Filter Systems.

i. Minimum depth of peat media: 24 inches.

ii. Maximum application rate per day per square foot of media surface area: 5 gallons.

4. Sand Lined Trench Systems.

Sand lined trench systems shall conform to the following:

a. Siting Conditions.

i. The minimum depth of suitable soil or saporlite between the sand media in trenches and the anticipated maximum ground water table: 12 inches.

ii. Sand lined trench systems may be built over naturally existing:

- (1) soil types 1 through 4; or
- (2) soils or saporlite with a percolation rate between 1 and 60 minutes per inch.

iii. The minimum depth of suitable soil or saporlite is:

- (1) between the sand media in trenches and bedrock formations or unsuitable soils: 36 inches; or
- (2) above soils or saporlite that have a percolation rate faster than one minute per inch: 24 inches.

c. Trench Requirements.

Sand lined trenches shall conform to the requirements applicable to absorption trenches except for the following:

i. Trenches in Suitable Soil.

The minimum required effective absorption area shall be calculated using Section R317-4-13 Table 5 or 6.

ii. Trenches in Saporlite.

The minimum required effective absorption area shall be based on percolation rate using Section R317-4-13 Table 5.

(1) This rate shall be determined by conducting percolation tests. The soil shall be allowed to swell not less than 24 hours or more than 30 hours.

iii. The use of chambered trenches with a sand media system may not receive additional reductions as allowed in Subsection R317-4-6.14.E.1.c.

iv. Width of absorption trench excavations: 36 inches.

v. The entire trench sidewall shall be installed in natural ground. At-Grade system designs are not allowed.

vi. Minimum depth of sand media: 24 inches.

vii. Sand lined trenches with drain media.

(1) Minimum depth of drain media under the pressure lateral distribution pipe: 6 inches.

(2) Minimum depth of drain media over pressure lateral distribution pipe: 2 inches.

- (3) Minimum depth of soil cover or sapolite over drain media: 6 inches.
- viii. Sand lined trenches with Type A chambers.
- (1) Minimum depth of soil cover or sapolite over chambers: 12 inches.
- ix. Minimum number of observation ports per trench: 1.
- c. Effluent Distribution.
Effluent shall be uniformly distributed over the sand media using pressure distribution.
- i. Design shall generally be based on the Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document.

Dry wells, catch basins	5	25
Down slopes that exceed 35%. This includes all natural slopes or escarpments and any manmade cuts, retaining walls, or embankments.	10	50 (j)
Property line	5	5

- NOTES
- (a) All distances are from edge to edge. Where surface waters are involved, the distance shall be measured from the high water line.
 - (b) See Subsection R317-4-6.14 for setback requirements.
 - (c) All distances shall be consistent with Rules R309-600 and R309-605.
 - (d) Compliance with separation requirements does not guarantee acceptable water quality in every instance. Where geological or other conditions warrant, greater distances may be required by the regulatory authority.
 - (e) For ungrouted wells and springs the distance shall be 200 feet. A private or individual well is considered to be grouted if it meets the construction standards required in Section R655-4-11, which requires a minimum 30-foot deep grout surface seal. Private or individual wells not constructed to this minimum standard are considered to be ungrouted. Although this distance shall be generally[
 -] adhered to as the minimum required separation distance,[
 -] exceptions maybe approved by the regulatory authority,[
 -] taking into account geology, hydrology, topography,[
 -] existing land use agreements, consideration of the[
 -] drinking water source protection requirements,[
 -] protection of public health and potential for[
 -] pollution of water source. Any person proposing to[
 -] locate an absorption system closer than 200 feet to[
 -] an individual or nonpublic ungrouted well or spring[
 -] must submit a report to the regulatory authority that considers the above items. In no case shall the regulatory authority grant approval for an onsite wastewater system to be closer than 100 feet from an ungrouted well or a spring.
 - (f) If the water supply line is for a public water supply, the separation distance shall comply with the requirements of Rule R309-550. No culinary water service line shall pass through any portion of an absorption area.
 - (g) Lining or enclosing watercourses with an acceptable impervious material may permit a reduction in the separation requirement. In situations where the bottom of a canal or watercourse is at a higher elevation than the ground in which the absorption system is to be installed, a reduction in the distance requirement may be justified, but each case shall be decided on its own merits by the regulatory authority.
 - (h) Horizontal setback between a deep wall trench or seepage pit and a foundation of any building is at least 20 feet.
 - (i) The regulatory authority may reduce the separation distance, if it can be shown that the effluent will not enter the drain, but each case must be decided on its own merits by the regulatory authority. In no case shall the

R317-4-13. Tables.

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TABLE 2

Minimum Separation Distances in Feet (a)

Item Requiring Setback	From Building Sewers and Effluent Sewers	From Septic, Pump, and Other Tanks	From Absorption Area and Replacement Area
Absorption and Replacement Areas		5	(b)
Public Culinary Water Sources	(c)	100 (c)	100 (c)
Individual or Non-public Culinary Water Sources (d)	25	50	100 (e)
Culinary Water Supply Line	(f)	10 (f)	10 (f)
Non-culinary Well or Spring	10	25	100
Lake, Pond, Reservoir (a)	10	25	100
Watercourse (live or ephemeral stream, river, subsurface drain, canal, storm water drainage systems, etc.)		25	100 (g)
Building Foundation Without foundation drain		5	5 (h)
With foundation drain		10	100 (i)
Curtain drains	10	10	100 (i)
Dry washes, gulches, and gullies		25	50
Swimming pool, below ground	3	10	25

regulatory authority grant approval for an absorption area to be closer than 20 feet.

(j) This setback may be reduced if a 53 foot reference line originating at the bottom of the distribution pipe, sloped at 35% below horizontal, will not daylight or intersect the ground surface.

TABLE 4

Minimum Standards for Building Sewer, Effluent Sewer, and Distribution Pipe Materials (a)

Acceptable Building Sewer and Effluent Sewer Materials

Type of Pipe	Minimum Standard
Acrylonitrile-Butadiene Styrene (ABS) [Schedule 40]	ASTM (b) D-2680 (c), D-2751, F-628
Polyvinyl Chloride (PVC) [Schedule 40]	ASTM D-2665, D-3033, D-3034

Acceptable Distribution Pipe Materials

Type of Pipe	Minimum Standard
ABS [Schedule 40]	ASTM D-2661, D-2751
Polyethylene (PE), Smooth Wall	ASTM D-3350
PVC [Schedule 40]	ASTM D-2665, D-3033, D-3034
[PVC]	[ASTM] D-2729 (d)

NOTES

- (a) Each length of building sewer, effluent sewer, and distribution pipe shall be stamped or marked.
- (b) American Society for Testing and Materials.
- (c) For domestic wastewater only, free from industrial wastes.
- (d) Although perforated PVC, ASTM D-2729 is approved for absorption system application, the solid-wall version of this pipe is not approved for any application.

TABLE 5

Maximum Hydraulic Loading Rates for Percolation Testing

Percolation Rate (Minutes per Inch)	Absorption Systems and Mound Systems	
	Absorption Systems Hydraulic Loading Rates (a)	Absorption Beds and Mound Systems Hydraulic Loading Rates (b)
	(gal/[day] ft ² /day) (c) (d) (e)	(gal/[day] ft ² /day) (c) (d) (f)
0-10 (g)	0.90	0.45
11-20	0.70	0.35
21-30	0.60	0.3
31-40	0.55	0.27
41-50	0.50	0.25 (h)
51-60	0.45	0.22 (h)
61-90 (i)	0.40	(j)
91-120 (i)	0.35	(j)

NOTES

(a) The following formula may be used in place of the values in this table: $q = 2.35$ divided by the square root of the percolation rate and then add 0.15 where q is the hydraulic loading rate. In no case shall the loading rate be greater than 1.0 [~~For percolation rates faster than 1 minute per inch, 1 minute per inch shall be used in the formula.~~].

- (b) The following formula may be used in place of the values in this table: $q = 1.2$ divided by the square root of the percolation rate and then add 0.08 where q is the hydraulic loading rate. In no case shall the loading rate be greater than 0.5 [~~For percolation rates faster than 1 minute per inch, 1 minute per inch shall be used in the formula.~~].
- (c) Minimum absorption area is equal to the actual or estimated wastewater flow in gallons per day shown in Section R317-4-13 Table 3, divided by the hydraulic loading rate within the applicable percolation rate category.
- (d) For non-residential facilities, if a garbage grinder is not used, the absorption area may be reduced by 10% (0.9 multiplier). If any automatic sequence washer is not used, the absorption area may be reduced by 30% (0.7 multiplier). If both of these appliances are not used, the absorption area may be reduced by 40% (0.6 multiplier).
- (e) For non-residential facilities, a minimum of 150 square feet of trench bottom or sidewall absorption area shall be provided.
- (f) For non-residential facilities, a minimum of 300 square feet of absorption area shall be provided.
- (g) Soils with a percolation rate faster than 1 minute per inch are only acceptable with the use of an alternative packed bed media system with a disinfection unit.
- (h) Not suitable for absorption beds.
- (i) Acceptable for alternative packed bed media systems only.
- (j) Not suitable for absorption beds or mounds.

TABLE 6

Maximum Hydraulic Loading Rates for Soil Classification

Texture	Structure	Absorption Systems Hydraulic Loading Rate (gal/ft ² /day)	Absorption Beds and Mound Systems Hydraulic Loading Rate (gal/ft ² /day)
		(a) (b) (c)	(a) (b) (d)
Coarse sand, sand, loamy coarse sand, loamy sand	Single grain	0.9 (e)	0.45 (e)
Fine sand, very fine sand, loamy fine sand, loamy very fine sand	Single grain	0.7	0.35
Coarse sandy loam, sandy loam	Massive Platy	0.45 0.5	0.22 (f) 0.25 (f)
	Prismatic, blocky, granular	0.65	0.32
Fine sandy loam, very fine sandy loam	Massive Platy	0.4 0.35	(g) (g)
	Prismatic, blocky, granular	0.5	0.25 (f)
Loam	Massive Platy	0.4 (e)	(g) (g)
	Prismatic, blocky, granular	0.5	0.25 (f)

Silt loam	Massive	(e)	(g)
	Platy	(e)	(g)
	Prismatic, blocky, granular	0.45	0.22 (f)
Sandy clay loam, clay loam, silty clay loam	Massive	(e)(h)	(g)
	Platy	(i)	(i)
	Prismatic, blocky, granular	0.4 (e)(h)	(g)
Silt, silty clay, sandy clay, clay	Massive	(i)	(i)
	Platy	(i)	(i)
	Prismatic, blocky, granular	0.35 (e)(h)	(g)

NOTES

- (a) Minimum absorption area is equal to the actual or estimated wastewater flow in gallons per day, using Section R317-4-13 Table 3, divided by the hydraulic loading rate within the applicable soil texture and structure category.
- (b) For non-residential facilities, if a garbage grinder is not used, the absorption area may be reduced by 10% (0.9 multiplier). If any automatic sequence washer is not used, the absorption area may be reduced by 30% (0.7 multiplier). If both of these appliances are not used, the absorption area may be reduced by 40% (0.6 multiplier).
- (c) For non-residential facilities, a minimum of 150 square feet of trench bottom or sidewall absorption area shall be provided.
- (d) For non-residential facilities, a minimum of 300 square feet of absorption area shall be provided.(e) These soils are usually considered unsuitable for absorption systems, but may be suitable, depending upon the percentage and type of fines in coarse grained porous soils, and the percentage of sand and structure in fine grained soils. Percolation testing shall be used for further evaluation.
- (f) Not suitable for absorption beds.
- (g) Not suitable for absorption beds or mounds.
- (h) These soils may be permissible for packed bed media absorption systems only.
- (i) These soils are unsuitable for any absorption system.

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R317-4-14. Appendices.

Appendix A. Septic Tank Construction.

1.1. Plans for Tanks Required.

Plans for all septic tanks and underground holding tanks shall be submitted to the division for approval. Such plans shall show all dimensions, capacities, reinforcing, maximum depth of soil cover, and such other pertinent data as may be required. All tanks shall conform to the design drawing and shall be constructed under strict, controlled supervision by the manufacturer.

A. Precast Reinforced Concrete Tanks.

- 1. The walls and base of precast tanks shall be securely bonded together and the walls shall be of monolithic or keyed construction.
- 2. The sidewalls and bottom of such tanks shall be at least 3 inches in thickness.
- 3. The top shall have a minimum thickness of 4 inches.
- 4. Such tanks shall have reinforcing of at least 6 inch x 6 inch No. 6, welded wire fabric, or equivalent. Exceptions to this reinforcing requirement may be considered by the division based on an

evaluation of acceptable structural engineering data submitted by the manufacturer.

5. All concrete used in precast tanks shall be Class A, at least 4,000 pounds per square inch, and shall be vibrated or well-rodged to minimize honeycombing and to assure water tightness.

6. Precast sections shall be set evenly in a full bed of sealant. If grout is used it shall consist of two parts plaster sand to one part cement with sufficient water added to make the grout flow under its own weight.

7. Excessively mortared joints should be trimmed flush.

8. The inside and outside of each mortar joint shall be sealed with a waterproof bituminous sealing compound.

9. For the purpose of early reuse of forms, the concrete may be steam cured. Other curing by means of water spraying or a membrane curing compound may be used and shall comply to best acceptable methods as outlined in Guide to Curing Concrete, ACI308R-01, by American Concrete Institute, Farmington Hills, Michigan.

B. Poured-In-Place Concrete Septic Tanks.

1. The top of poured-in-place septic tanks with a liquid capacity of 1,000 to 1,250 gallons shall be a minimum of 4 inches thick, and reinforced with 3/8 inch reinforcing rods 12 inches on center both ways, or equivalent.

2. The top of tanks with a liquid capacity of greater than 1,250 gallons shall be a minimum of 6 inches thick, and reinforced with 3/8 inch reinforcing rods 8 inches on center both ways, or equivalent.

3. The walls and floor shall be a minimum of 6 inches thick. The walls shall be reinforced with 3/8 inch reinforcing rods 8 inches on center both ways, or equivalent. Inspections by the regulatory authority may be required of the tank reinforcing steel before any concrete is poured.

4. A 6 inch water stop shall be used at the wall-floor juncture to ensure water tightness.

5. All concrete used in poured-in-place tanks shall be Class A, at least 4,000 pounds per square inch, and shall be vibrated or well-rodged to minimize honeycombing and to ensure water tightness.

6. Curing of concrete shall comply with the requirements in Subsection R317-4-14 Appendix A.1.2.

C. Fiberglass Tanks.

1. Fiberglass tanks shall comply with one of the following criteria for acceptance.

a. The Interim Guide Criteria for Glass-Fiber-Reinforced Polyester Septic Tanks, International Association of Plumbing and Mechanical Officials Z1000-2007. The identifying seal of the International Association of Plumbing and Mechanical Officials shall be permanently embossed in the fiberglass as evidence of compliance.

b. Manufactured to meet the structural requirements of Underwriters Laboratories (UL) Standard 1316.

c. Professionally engineered plans demonstrating compliance to tank configuration requirements of this rule including acceptable structural calculations or other pertinent data as may be required.

2. Inlet and outlet tees shall be attached to the tank by a rubber or synthetic rubber ring seal and compression plate, or in some other manner approved by the division.

3. The tank shall be installed in accordance with the manufacturer's recommendations.

D. Polyethylene Tanks.

1. Polyethylene tanks shall comply with the criteria for acceptance established in Prefabricated Septic Tanks and Wastewater Holding Tanks, Can3-B66-10 by the Canadian Standards Association, Ontario, Canada.

2. Inlet and outlet tees shall be attached to the tank by a rubber or synthetic rubber ring seal and compression plate, or in some other manner approved by the division.

3. The tank shall be installed in accordance with the manufacturer's recommendations.

1.2. Identifying Marks.

A. All prefabricated or precast tanks that are commercially manufactured shall be plainly, legibly, and permanently marked or stamped with:

1. the manufacturer's name and address, or nationally registered trademark;

2. the liquid capacity of the tank in gallons on the exterior at the outlet end within 6 inches of the top of the wall; and

3. the inlet and outlet of all such tanks shall be plainly marked as "IN" or "OUT" respectively.

1.3. Inlets and Outlets.

Inlets and outlets of tanks or compartments thereof shall meet the minimum diameter requirements for building sewers.

A. Only one inlet or outlet is allowed, unless preauthorized by the regulatory authority.

B. Inlets and outlets shall be located on opposite ends of the tank.

1. The invert of flow line of the inlet shall be located at least 2 inches, above the invert of the outlet to allow for momentary rise in liquid level during discharge to the tank.

2. Approved tanks with offset inlets may be used when approved by the regulatory authority.

C. All inlets and outlets shall have a baffle or sanitary tee.

1. An inlet baffle or sanitary tee of wide sweep design shall be provided to divert the incoming wastewater downward. This baffle or tee is to penetrate at least 6 inches below the liquid level, but the penetration is not to be greater than that allowed for the outlet device.

2. For tanks with vertical sides, outlet baffles or sanitary tees shall extend below the liquid surface a distance equal to approximately 40% of the liquid depth. For horizontal cylindrical tanks and tanks of other shapes, that distance shall be reduced to approximately 35% of the liquid depth.

3. All baffles shall be constructed from sidewall to sidewall or shall be designed as a conduit.

4. All sanitary tees shall be permanently fastened in a vertical, rigid position.

D. Inlet and outlet pipe connections to the septic tank shall be sealed and adhere to the tank and pipes to form watertight connections with a bonding compound or sealing rings.

E. Inlet and outlet devices may not include any design features preventing free venting of gases generated in the tank or absorption system back through the roof vent in the building plumbing system. The top of the baffles or sanitary tees shall extend at least 6 inches above the liquid level in order to provide scum storage, but no closer than 1 inch to the inside top of the tank.

1.4. Liquid Depth of Tanks.

Liquid depth of tanks shall be at least 30 inches. Depth in excess of 72 inches may only be considered in calculating liquid

volume required in Subsection R317-4-6.6 if the tank length is at least two times the liquid depth.

1.5. Burial Depth.

The maximum burial depth shall be stated on the plans submitted.

1.6. Tank Compartments.

Septic tanks may be divided into compartments provided they meet the following:

A. The volume of the first compartment shall equal or exceed two-thirds of the total required septic tank volume;

B. No compartment shall have an inside horizontal dimension less than 24 inches;

C. Inlets and outlets shall be designed as specified for tanks, except that when a partition wall is used to form a multi-compartment tank, an opening in the partition may serve for flow between compartments provided the minimum dimension of the opening is 4 inches, the cross-sectional area is not less than that of a 6 inch diameter pipe (28.3 square inches), and the mid-point is below the liquid surface a distance approximately equal to 40% of the liquid depth of the tank.

1.7. Scum Storage.

Scum storage volume shall consist of 15% or more of the required liquid capacity of the tank and shall be provided in the space between the liquid surface and the top of inlet and outlet devices.

1.8. Access to Tank Interior.

Adequate access to the tank shall be provided to facilitate inspection, servicing and maintenance, and shall have no structure or other obstruction placed over it and shall conform to the following requirements:

A. Access to each compartment of the tank shall be provided through properly placed manhole openings not less than 18 inches in diameter, in minimum horizontal dimension or by means of an easily removable lid section.

B. All access covers shall be designed and constructed in such a manner that they cannot pass through the access openings, and when closed will be child-proof and prevent entrance of surface water, dirt, or other foreign material, and seal the odorous gases in the tank. Concrete access covers for manhole openings shall have adequate handles.

C. Access to inlet and outlet devices shall be provided through properly spaced openings not less than 12 inches in minimum horizontal dimension or by means of an easily removable lid section.

Appendix B. Pressure Distribution, Pumps, Controls, and Alarms.

1.1. Design.

The design shall generally be based on the Utah Guidance for Performance, Application, Design, Operation and Maintenance: Pressure Distribution Systems document with the following exceptions:

A. Design and equipment shall emphasize ease of maintenance, longevity, and reliability of components and shall be proven suitable by operational experience, test, or analysis, acceptable to the regulatory authority.

B. Electrical disconnects shall be provided that are appropriate for the installation and shall have gas-tight junction boxes or splices. Electrical components used in onsite wastewater systems shall comply with applicable requirements of the State of Utah Electrical Code.

C. All components shall be constructed and installed to facilitate ease of service without having to alter any other part.

1.2. Pumps, Controls, and Alarms.

Prior to final approval for operation, all pumps, controls and related apparatus shall be field tested and found to operate as designed.

A. When duplex pump system is designed, controls shall be provided that an alarm will signal when one of the pumps malfunctions.

B. Where multiple pumps are operated in series, controls shall be installed to prevent the operation of a pump or pumps preceding a station that experiences a high level alarm event.

C. Controls shall be capable of controlling all functions incorporated or required in the design of the system.

1. The control panel for all pressure distribution systems shall include a pump run-time hour meter and a pump event counter or other acceptable flow measurement method.

2. The control panel shall be installed within sight of the access risers.

a. Other locations may be approved by the regulatory authority.

3. Supporting hydraulic calculations and pump curve analysis shall be submitted to the regulatory authority with the design.

Appendix C. Soil Exploration Pits, Soil Logs, Soil Evaluations.

1.1. Soil Exploration Pit Construction.

Soil conditions shall be obtained from soil exploration pit(s) dug to a depth of 10 feet in the absorption area, or to the ground water table if it is shallower than 10 feet below ground surface. In the event that absorption system excavations will be deeper than 6 feet, soil exploration pits shall extend to a depth of at least 4 feet below the bottom of the proposed absorption system excavation.

A. Soil exploration pits shall be constructed in a manner to reduce potential for physical injury. One end of each pit should be sloped gently or "stair-stepped" to permit easy entry if necessary.

1.2. Soil Logs.

A. The soil log shall contain the following information.

1. A signed statement certifying that the logs were evaluated and recorded in accordance with this rule.

2. The names of all qualified individuals per Rule R317-11 conducting the tests.

3. The location of the property.

4. The location of the soil exploration pit on the property.

5. The date of the log.

6. A description and depths of the soil horizons throughout the soil exploration pit to include:

a. soil texture and structure using the USDA system of classification;

b. estimated volume percentage of coarse fragments defined as:

i. "Gravel" means a rock fragment from 0.1 inches to 3 inches in diameter;

ii. "Cobble" means rock fragment from 3 inches to 10 inches in diameter;

iii. "Stone" means a rock fragment greater than 10 inches in diameter;

c. the presence and abundance of mottling defined as:

i. "Few" when less than 2% of the exposed surface is occupied by mottles;

ii. "Common" when from 2% to 20% of the exposed surface is occupied by mottles; and

iii. "Many" when more than 20% of the exposed surface is occupied by mottles;

d. depth to groundwater or bedrock, if encountered, and maximum anticipated groundwater table; and

e. other pertinent information.

1.3. Soil Evaluation.

Soils shall be evaluated using the USDA Soil Texture Classification method.

A. The soil horizon with the lowest loading rate shall be used in calculating the required absorption area.

Appendix D. Percolation Method.

1.1. Percolation Test Requirements.

Percolation tests shall be completed by an individual certified per Rule R317-11 and shall be conducted in accordance with the instructions in this appendix.

A. Typical Areas.

When percolation tests are conducted, such tests shall be conducted at points and elevations selected as typical of the area in which the absorption system will be located.

B. Percolation Test Certificate.

Percolation test results shall be submitted on a signed "Percolation Test Certificate". The test certificate shall contain the following:

1. A signed statement certifying that the tests were conducted in accordance with this rule.

2. The names of all individuals per Rule R317-11 conducting the tests.

3. The location of the property.

4. The location of the percolation tests on the property.

5. The depth to the bottom of the percolation test hole from the existing grade.

6. The final stabilized percolation rate of each test in minutes per inch.

7. The date of the tests.

8. Other pertinent information.

C. Specific Requirements.

Percolation tests shall be conducted at the owner's expense and in accordance with the following:

1. Conditions Prohibited for Test Holes.

Percolation tests may not be conducted in test holes that extend into ground water, bedrock, or frozen ground. Where shrink-swell clays, fissured soil formations, or saprolite is encountered, tests shall be made under the direction of the regulatory authority.

2. Soil Exploration Pit Prerequisite to Percolation Tests.

Since the appropriate percolation test depth depends on the soil conditions at a specific site, the percolation test shall be conducted only after the soil exploration pit has been dug and examined for suitable and porous strata and ground water table information. Percolation test results should be related to the soil conditions found.

3. Test Holes to Commence in Specially Prepared Excavations.

All percolation test holes should commence in specially prepared larger excavations, preferably made with a backhoe, of sufficient size that extend to a depth approximately 6 inches above the strata to be tested.

4. Type, Depth, and Dimensions of Test Holes.

Test holes shall be dug or bored, preferably with hand tools such as shovels or augers, etc., and shall have horizontal dimensions ranging from 4 to 18 inches, preferably 8 to 12 inches. The vertical

sides shall be at least 12 inches deep, terminating in the soil at an elevation 6 inches below the bottom of the proposed onsite wastewater system. In testing individual soil strata for deep wall trenches and seepage pits, the percolation test hole shall be located entirely within the strata to be tested, if possible.

5. Preparation of Percolation Test Hole.

Carefully remove any smeared soil surfaces to provide an open, natural soil interface into that water may percolate. Remove all loose soil from the bottom of the hole. Add 2 to 3 inches of clean pea gravel to protect the bottom from scouring or sealing with sediment when water is added. Caving or sloughing in some test holes can be prevented by placing in the test hole a wire cylinder or perforated pipe surrounded by clean pea gravel.

6. Saturation and Swelling of the Soil.

It is important to distinguish between saturation and swelling. Saturation means that the void spaces between soil particles are full of water. This can be accomplished in a relatively short period of time. Swelling is a soil volume increase caused by intrusion of water into the individual soil particles. This is a slow process, especially in clay-type soil, and is the reason for requiring a prolonged swelling period.

7. Placing Water in Test Holes.

Water should be placed carefully into the test holes by means of a small diameter siphon hose or other suitable method to prevent washing down the side of the hole.

8. Percolation Rate Measurement, General.

Necessary equipment should consist of a tape measure with at least 1/16 inch calibration or float gauge, and a time piece or other suitable equipment. All measurements shall be made from a fixed reference point near the top of the test hole to the surface of the water.

9. Percolation Test Procedure.

The hole shall be carefully filled with clear water and a minimum depth of 12 inches shall be maintained above the gravel for at least a four hour period by refilling whenever necessary. Water remaining in the hole after four hours may not be removed. Immediately following the saturation period, the soil shall be allowed to swell not less than 16 hours or more than 30 hours. Immediately following the soil swelling period, the percolation rate measurements shall be made as follows:

a. Any soil that has sloughed into the hole shall be removed and water shall be adjusted to 6 inches over the gravel.

b. Thereupon, from the fixed reference point, the water level shall be measured and recorded at approximately 30 minute intervals for a period of four hours~~], unless two successive water level drops do not vary more than 1/16 of an inch and indicate that an approximate stabilized rate has been obtained].~~

i. If 6 inches of water seeps away in less than ~~[45]~~30 minutes, a shorter time interval of 15 minutes between measurements may be used.

ii. If 6 inches of water seeps away in less than ~~[30]~~15 minutes, a shorter time interval of ~~[+]~~5 minutes between measurements may be used.

iii. Eight consecutive time intervals shall be recorded unless two successive water level drops do not vary more than 1/16 of an inch and indicate that an approximate stabilized rate has been obtained.

c. The hole shall be filled with 6 inches of clear water above the gravel after each time interval.

d. In no case shall the water depth exceed 6 inches above the gravel.

e. The final water level drop shall be used to calculate the percolation rate.

i. If no stabilized rate is achieved, the smallest drop shall be used to make this calculation.

f. Precautions shall be taken to prohibit water or soil from freezing during the test procedure.

10. Test Procedure for Type 1 and Type 2 Soils.

The hole shall be carefully filled with clear water to a minimum depth of 12 inches over the gravel and the time for this amount of water to seep away shall be determined. The procedure shall be repeated and if the water from the second filling of the hole at least 12 inches above the gravel seeps away in 10 minutes or less, the test may proceed immediately as follows:

a. Water shall be added to a point not more than 6 inches above the gravel.

b. Thereupon, from the fixed reference point, water levels shall be measured at 10 minute intervals for a period of one hour.

i. If 6 inches of water seeps away in less than 10 minutes, a shorter time interval of 5 minutes between measurements may be used.

ii. Six consecutive time intervals shall be recorded unless two successive water level drops do not vary more than 1/16 of an inch and indicate that an approximate stabilized rate has been obtained.

c. The hole shall be filled with 6 inches of clear water above the gravel after each time interval.

d. In no case shall the water depth exceed 6 inches above the gravel.

e. The final water level drop shall be used to calculate the percolation rate.

i. If no stabilized rate is achieved, the smallest drop shall be used to make this calculation.

11. Calculation of Percolation Rate.

The percolation rate is equal to the time elapsed in minutes for the water column to drop, divided by the distance the water dropped in inches and fractions thereof.

12. Using Percolation Rate to Determine Absorption Area.

The minimum or slowest percolation rate shall be used in calculating the required absorption area.

Appendix E. Tank Operation and Maintenance.

1.1. Maintenance of Septic Tanks.

A. Septic tanks shall be emptied before too much sludge or scum is allowed to accumulate and seriously reduce the tank volume settling depth. If either the settled solids or floating scum layer accumulate too close to the bottom of the outlet baffle or bottom of the sanitary tee pipe in the tank, solid particles will overflow into the absorption system and eventually clog the soil and ruin its absorption capacity.

B. A septic tank that receives normal loading should be inspected as indicated in Section R317-4-11 to determine if it needs emptying. Although there are wide differences in the rate that sludge and scum accumulate in tanks, a septic tank for a private residence will generally require emptying every three to five years. Actual measurement of scum and sludge accumulation is the only sure way to determine when a tank needs to be emptied. Experience for a particular system may indicate the desirability of longer or shorter intervals between inspections.

C. The tank should be completely emptied if either the bottom of the floating scum mat is within 3 inches of the bottom of the outlet baffle or tee or the sludge level has built up to approximately 12 inches from the bottom of the outlet baffle or tee, or the scum and

sludge layers together equal 40% or more of the tank volume. All scum and solids should be washed out and removed from the tank.

D. If multiple tanks or tanks with multiple compartments are provided, care should be taken to ensure that each tank or compartment is inspected and emptied.

E. Septic tank wastes contain disease causing organisms and shall be disposed of only in areas and in a manner that is acceptable to local health authorities and consistent with state rules.

F. Immediate replacement of damaged inlet or outlet fittings in the septic tank is essential for effective operation of the system.

G. Effluent screens or filters.

Remove the filter in a manner that prevents solids from passing to the absorption system. Wash the filter over the inlet side of septic tank. Replace the cleaned filter back into the outlet tee.

H. When the tank is empty, the interior surfaces of the tank should be inspected for leaks or cracks using a strong light.

I. A written record of all maintenance of the septic tank and absorption system should be kept by the owner of that system.

J. The functional operation of septic tanks is not improved by the addition of yeasts, disinfectants, additives or other chemicals; therefore, use of these materials is not recommended.

K. The advice of your regulatory authority should be sought before chemicals arising from a hobby or home industry or other unusual activities are discharged into a septic tank system.

L. Economy in the use of water helps prevent overloading of a septic tank system that could shorten its life and necessitate expensive repairs. The plumbing fixtures in the building should be checked regularly to repair any leaks that can add substantial amounts of water to the system. Industrial wastes and other liquids that may adversely affect the operation of the onsite wastewater system should not be discharged into such a system. Paper towels, facial tissue, disinfectant wipes, newspaper, wrapping paper, disposable diapers, sanitary napkins, coffee grounds, rags, sticks, and similar materials should also be excluded from the septic tank since they do not readily decompose and can lead to clogging of both the plumbing and the absorption system.

1.2. Maintenance of Other Tanks.

A. Other Tanks.

Any measurable amount of sludge or scum present in other tanks should be removed.

B. If a screen is present, it should be rinsed and cleaned over the opening of the septic tank.

KEY: waste water, onsite wastewater systems, alternative onsite wastewater systems, septic tanks

Date of Enactment or Last Substantive Amendment: [September 1, 2013] 2015

Notice of Continuation: February 3, 2015

Authorizing, and Implemented or Interpreted Law: 19-5-104

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-1-7
Aliens**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39827

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to remove provisions from the rule text that no longer apply to the Medicaid Member Card.

SUMMARY OF THE RULE OR CHANGE: This amendment removes provisions from the rule text that no longer apply to the Medicaid Member Card.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because this amendment only updates the rule text to be consistent with Medicaid policy.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because this amendment only updates the rule text to be consistent with Medicaid policy.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment only updates the rule text to be consistent with Medicaid policy.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this amendment only updates the rule text to be consistent with Medicaid policy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because this amendment only updates the rule text to be consistent with Medicaid policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on business because this amendment updates the rule to be consistent with existing Medicaid policy.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-1. Utah Medicaid Program.

R414-1-7. Aliens.

~~[(1)]~~ Certain qualified aliens described in Title IV of Pub. L. No. 104 193, 110 Stat. 2105, may be eligible for the Medicaid program. All other aliens are prohibited from receiving non-emergency services as described in Section 1903(v) of the Social Security Act.

~~[(2)] An alien who is prohibited from receiving non-emergency services will have "Emergency Services Only Program" printed on his Medical Identification Card, as noted in Rule R414-3A.~~

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[September 22,]~~2015

Notice of Continuation: March 2, 2012

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-3A-6
Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39828

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to remove provisions from the rule text that no longer apply to the Medicaid Member Card.

SUMMARY OF THE RULE OR CHANGE: This amendment removes provisions from the rule text that no longer apply to the Medicaid Member Card.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-2.3 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because this amendment only updates the rule text to be consistent with Medicaid policy.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because this amendment only updates the rule text to be consistent with Medicaid policy.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment only updates the rule text to be consistent with Medicaid policy.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this amendment only updates the rule text to be consistent with Medicaid policy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because this amendment only updates the rule text to be consistent with Medicaid policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on business because this amendment updates the rule to be consistent with existing Medicaid policy.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-3A. Outpatient Hospital Services.

R414-3A-6. Services.

(1) Services appropriate in the outpatient hospital setting for adequate diagnosis and treatment of a client's illness are limited to less

than 24 hours and encompass medically necessary diagnostic, therapeutic, rehabilitative, or palliative medical services and supplies ordered by a physician or other practitioner of the healing arts.

(2) Outpatient hospital services include:

(a) the service of nurses or other personnel necessary to complete the service and provide patient care during the provision of service;

(b) the use of hospital facilities, equipment, and supplies; and

(c) the technical portion of clinical laboratory and radiology services.

(3) Laboratory services are limited to tests identified by the Centers for Medicare and Medicaid Services (CMS) where the individual laboratory is CLIA certified to provide, bill and receive Medicaid payment.

(4) Cosmetic, reconstructive, or plastic surgery is limited to:

(a) correction of a congenital anomaly;

(b) restoration of body form following an injury; or

(c) revision of severe disfiguring and extensive scars resulting from neoplastic surgery.

(5) Abortion procedures are limited to procedures certified as medically necessary, cleared by review of the medical record, approved by division consultants, and determined to meet the requirements of Section 26-18-4 and 42 CFR 441.203.

(6) Sterilization procedures are limited to those that meet the requirements of 42 CFR 441, Subpart F.

(7) Nonphysician psychosocial counseling services are limited to evaluations and may be provided only through a prepaid mental health plan by a licensed clinical psychologist for:

(a) mentally retarded persons;

(b) cases identified through a CHEC/EPSDT screening; or

(c) victims of sexual abuse.

(8) Outpatient individualized observation of a mental health patient to prevent the patient from harming himself or others is not covered.

(9) Sleep studies are available only in a sleep disorder center accredited by the American Academy of Sleep Medicine.

(10) Hyperbaric Oxygen Therapy is limited to service in a facility in which the hyperbaric unit is accredited by the Undersea and Hyperbaric Medical Society.

(11) Take home supplies and durable medical equipment are not reimbursable.

(12) Prescriptions are not a covered Medicaid service for a client ~~[with the designation "Emergency Services Only Program" printed on the Medicaid Identification Card]~~ who is eligible to receive emergency services only.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[November 15, 2011]~~ 2015

Notice of Continuation: October 10, 2012

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-2.3; 26-18-3(2); 26-18-4

Health, Center for Health Data, Vital Records and Statistics **R436-13** Disclosure of Records

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39817

FILED: 10/09/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The legislature passed H.B. 25 during the 2012 General Session. H.B. 25 amended Subsection 26-1-30(30) to authorize the Utah Department of Health to establish methods for disclosure of vital records data for purposes specified in Subsection 26-1-30(30). This rule filing establishes these methods and removes an unnecessary subsection.

SUMMARY OF THE RULE OR CHANGE: A subsection is removed because it is unnecessary and it creates confusion. Subsection 26-2-22(3)(b) adequately defines what is meant by a designated legal representative. Section R436-13-2 is added to establish methods for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of individuals they serve.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 1

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** UDOH does not currently disclose vital records data under circumstances specified in H.B. 25 (2012) because there are not established methods for such disclosure specified in rule. After establishing these methods in this rule filing, UDOH will likely experience an increase in workload. The increased workload will come as it begins to respond to requests from health care providers, public health entities, and health care insurers to use UDOH death data to verify the identity of individuals that these entities serve. UDOH will charge a \$500 death notification subscription fee for organizations with lists including less than or equal to 100,000 records and a \$1,000 fee for lists including over 100,000 records. Entities using this service will be charged \$1 per matched death record. UDOH is unable to estimate the number of new data requests prompted by this rule amendment; however, the revenue generated for this service is anticipated to cover the cost of the increased workload.

♦ **LOCAL GOVERNMENTS:** The proposed amendments only apply to health care providers, public health entities, and health care insurers. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed rule amendment may have cost saving impact on health care providers and insurers that are small businesses that choose to request data from UDOH. Cost savings may be experienced when these small businesses use UDOH data to help verify the identity of individuals they serve. UDOH is unable to estimate the extent of cost savings to these small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments may have cost saving impact on health care providers, public health entities, and health care insurers that are not small businesses. Cost savings may be experienced when these entities use UDOH data to help verify the identity of individuals they serve. UDOH is unable to estimate the extent of cost savings to these entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments may have cost saving impact on individual health care providers, public health entities, and health care insurers. Cost savings may be experienced when these entities use UDOH data to help verify the identity of individuals they serve. UDOH is unable to estimate the extent of cost savings to these entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule amendment may have cost saving impact on health care providers and insurers that are small businesses that choose to request data from UDOH but UDOH is unable to estimate the extent of cost savings to these small businesses.

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

HEALTH
 CENTER FOR HEALTH DATA,
 VITAL RECORDS AND STATISTICS
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R436. Health, Center for Health Data, Vital Records and Statistics.

R436-13. Disclosure of Records.

R436-13-1. Integrity of Vital Records.

To protect the integrity of vital records:

(1) The State Registrar and other custodians of vital records shall not permit inspection of, or disclose information contained in vital statistics records, or copy or issue a copy of all or part of any such record, unless the applicant has a direct and tangible interest in such record. In addition to the definition of direct, tangible, and legitimate interest as defined in Section 26-2-22, those who may or may not have a direct and tangible interest are as follows:

(a) The registrant, a member of the immediate family, the guardian, or a designated legal representative shall be considered to have a direct and tangible interest. Others may demonstrate a direct and tangible interest when information is needed for determination or protection of a personal or property right.

~~[(b) The term "legal representative" shall include an attorney, physician, funeral director, or other authorized agent acting in behalf of the registrant or family.]~~

(e)b The natural parents of adopted children, when neither has custody, shall not be considered to have a direct and tangible interest.

(d)c Commercial firms or agencies requesting listings of names and addresses shall not be considered to have a direct and tangible interest.

(2) The State Registrar or the local custodian may provide copies of certificates or disclose data from vital statistics records to federal, state, county, or municipal agencies of government requesting such data in the conduct of their official duties. Certificate copies or individual identifiable information may not be given by the receiving government agency to other agencies or individuals, or used for purposes not authorized at the time of the request.

(3) The State Registrar or local custodian shall not issue a certified copy of a record until a signed application has been received from the applicant. In emergencies, telephone requests may be accepted with documentation as to the identity of the person making the telephone request. Whenever it is determined necessary to establish an applicant's right to information from a vital record, the State Registrar or local custodian may also require identification of the applicant or a sworn statement.

(4) Nothing in this rule shall be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth and fetal death certificates or the "Information for Statistical Purposes Only" section of the Certificate of Marriage or Certificate of Divorce, Dissolution of Marriage, or Annulment unless specifically authorized by the State Registrar for statistical or research purposes or if authorized by a court of competent jurisdiction.

R436-13-2. Identity Verification of Individuals Receiving Health Care Services.

In accordance with Subsection 26-1-30 (30), the State Registrar may disclose information contained in vital records to health care providers, public health authorities, and health care

insurers, including a qualified network as defined in Section 26-1-37(1), for the purpose of coordinating among themselves to verify the identity of the individuals they serve. This authority includes the provision of computerized matching methods to:

- (1) distinguish living from deceased individuals who have received health care services; and
- (2) disambiguate individual identities.

KEY: vital statistics, copying processes, standards
Date of Enactment or Last Substantive Amendment: [1993]2015
Notice of Continuation: March 21, 2013
Authorizing, and Implemented or Interpreted Law: 26-2-22

Insurance, Administration **R590-268** Small Employer Stop-Loss Insurance

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 39805
 FILED: 10/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is required by a statutory change included in H.B. 24 from the 2015 General Session.

SUMMARY OF THE RULE OR CHANGE: The change eliminates the requirement that stop-loss insurers use a standard application when marketing to small employers.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-43-304

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget because the rule change deals solely with a single application used during a transaction.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government because the rule change deals solely with a single application used during a transaction.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses because the rule change deals solely with a single application used during a transaction.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons because the rule change deals solely with a single application used during a transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The change eliminates an application form that was previously required by this rule, but was removed by legislation in H.B. 24 (2015).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on any businesses. The rule change only deals with a single form used during a transaction between stop-loss insurers and their small employer clients. The change brings the rule into compliance with legislation.

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

INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Steve Gooch, Information Specialist

R590. Insurance Administration.

R590-268. Small Employer Stop-Loss Insurance.

R590-268-1. Authority.

This rule is promulgated pursuant to Section 31A-43-304 wherein the commissioner may make rules to implement Title 31A, Chapter 43.

R590-268-2. Scope.

This rule applies to all small employer stop-loss contracts issued or renewed on or after July 1, 2013.

R590-268-3. Purpose.

The purpose of this rule is to provide [a universal application form, provide] the content of the stop-loss insurance disclosure, prohibit lasing, and establish the form and manner of form and rate filings and of the annual actuarial certification and report on stop-loss experience.

R590-268-4. Definitions.

For the purposes of this rule, the commissioner adopts the definitions of Sections 31A-1-301 and 31A-43-102.

R590-268-5. [Standard Application.

~~(1) Stop-loss insurers marketing to small employers shall use the Utah Small Employer Stop-loss Universal Application.~~

~~(2) The Small Employer Stop-loss Universal Application shall not display the insurer's name, identifying logo or address.~~

~~(3) The Utah Small Employer Stop-loss Universal Application, published January 15, 2014, is hereby incorporated by reference and is available on the Department's website at <https://insurance.utah.gov/legal-resources/rules/current-rules.php>.~~

~~(4) The Utah Small Employer Stop-loss Universal Application may be altered for:~~

- ~~(a) purposes of electronic application and submission, including electronic signature disclaimers;~~
- ~~(b) languages other than English; and~~
- ~~(c) reasons specifically approved by the commissioner.~~

R590-268-6. Stop-Loss Insurance Disclosure.

(1) Stop-loss insurers marketing to small employers shall use the Utah Small Employer Stop-loss Disclosure.

(2) The stop-loss insurer may display the insurer's name, identifying logo, and address on the disclosure.

(3) The Utah Small Employer Stop-loss Disclosure, published January 15, 2014, is hereby incorporated by reference and is available on the Department's website at <https://insurance.utah.gov/legal-resources/rules/current-rules.php>.

(4) The disclosure may be altered for reasons specifically approved by the commissioner.

R590-268-7.6. Laserling.

(1) Subsection 31A-43-301(2)(a) prohibits laserling. For the purpose of this rule laserling includes:

- (a) assigning a different attachment point for an individuals based on their expected claims or a given diagnosis;
- (b) assigning a deductible to an individual that must be met before stop loss coverage applies;
- (c) denying stop loss coverage to an individual who is otherwise covered by the small employer's medical plan; and
- (d) applying an actively at work exclusion to stop loss coverage.

R590-268-8.7. Form and Rate Filings.

(1) A contract filing consists of one contract form, the application, any related documents, disclosure, rate manual, and actuarial memorandum.

(2) A new or revised rate manual shall:

- (a) include a summary of how the rate is calculated;
- (b) contain specific area factors applicable in Utah;
- (c) be filed 30 days prior to use;
- (d) be applied in the same manner for all small employer stop-loss contracts;
- (e) describe how the overall rate is reviewed for compliance; and
- (f) include an actuarial certification signed by a qualified actuary.

(3) All filings shall be submitted using SERFF.

R590-268-9.8. Annual Actuarial Memorandum and Certification.

(1) The insurer shall submit annually on or before April 1 using SERFF:

- (a) stop-loss experience for the previous year for Utah;
- (b) certification of compliance with requirements of section 31A-43-301; and

(c) an actuarial memorandum describing the review done in preparation of the certification.

(2) The insurer's stop-loss experience shall be presented by small employer and shall include:

- (a) employer size including both covered lives count and employee count as of the beginning of the contract;
- (b) covered lives exposure years and employee exposure years for the experience time period;
- (c) specific attachment point;
- (d) expected claims in the absence of stop loss insurance;
- (e) expected claims under the specific attachment point;
- (f) aggregate attachment point;
- (g) earned premium; and
- (h) claims paid by the stop loss insurance broken out by specific losses and aggregate losses.

R590-268-10.9. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.[]

R590-268-11. Enforcement Date.

~~The commissioner shall begin enforcing the provisions of this rule 30 days from the effective date.]~~

R590-268-12.10. Severability.

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: small employer stop-loss

Date of Enactment or Last Substantive Amendment: [March 13, 2014]2015

Authorizing, and Implemented or Interpreted Law: 31A-43-304; Title 31A, Chapter 43

Labor Commission, Industrial Accidents
R612-100-4
Designation as Informal Proceedings

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 39829

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to designate certain proceedings as informal adjudicatory proceedings.

SUMMARY OF THE RULE OR CHANGE: The proposed rule provides that any penalties issued against insurance carriers for either policy reporting or claims reporting will be designated as informal adjudicatory proceedings.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 et seq. and Section 34A-2-101 et seq. and Section 34A-3-101 et seq. and Section 63G-4-102 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Designating adjudicatory proceedings as informal imposes no cost upon the state.
- ◆ LOCAL GOVERNMENTS: Designating adjudicatory proceedings as informal imposes no cost upon local governments.
- ◆ SMALL BUSINESSES: Designating adjudicatory proceedings as informal imposes no cost upon small business.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Designating adjudicatory proceedings as informal imposes no cost upon any other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no compliance costs for affected persons, as this change only designates proceedings as informal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact of businesses as this change only designates proceedings as informal proceedings.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R612. Labor Commission, Industrial Accidents.
R612-100. Workers' Compensation Rules - General Provisions.
R612-100-4. Designation as Informal Proceedings.**

A. Pursuant to Section 63G-4-202, the following are designated as informal adjudicatory proceedings:

1. Assessment of penalty under Section 34A-2-211 against an employer conducting business without obtaining workers' compensation coverage;

2. Assessment of penalty under Section 34A-2-201.3 against an insured employer for direct payment of workers' compensation benefits; and

3. Assessment of penalty under Section 34A-2-407 against an employer or insurance carrier who does not timely report an industrial accident.

4. Assessment of penalty under Section 34A-2-205 against an insurance carrier for improperly notifying the division of coverage written in this state or for this state.

B. All subsequent adjudicative proceedings in the above-identified matters are designated as formal proceedings.

KEY: workers' compensation, administrative procedures

Date of Enactment or Last Substantive Amendment: [October 22, 2014]2015

Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104 et seq.; 63G-4-102 et seq.

Labor Commission, Industrial Accidents **R612-200-1** Reporting and Investigating Injuries

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39830

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to provide for the method of issuing penalties against insurance carriers for claim reporting infractions and to codify their appeal rights. The rule also extends the reporting time frame for insurance carriers.

SUMMARY OF THE RULE OR CHANGE: The proposed rule provides for the governance of the division's policies and procedures regarding how penalties will be issued, and the right of aggrieved parties to appeal. It also extends the reporting time frame for insurance carriers from 7 to 14 days.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-2-101 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Extending the time frame to report injuries and codifying appeal rights to penalties imposes no costs on the state budget.
- ◆ LOCAL GOVERNMENTS: Extending the time frame to report injuries and codifying appeal rights to penalties imposes no costs on local government.
- ◆ SMALL BUSINESSES: Extending the time frame to report injuries and codifying appeal rights to penalties imposes no costs on small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Extending the time frame to report injuries and codifying appeal rights to penalties imposes no costs on persons other than small businesses, businesses or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Extending the time frame to report injuries and codifying appeal rights to penalties imposes no costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Extending the time frame to report injuries and codifying appeal rights to penalties should have no fiscal impact on businesses.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.

R612-200. Workers' Compensation Rules - Filing and Paying Claims.

R612-200-1. Reporting and Investigating Injuries.

A. Employers' Duty to Report Work Injuries.

1. An employer is not required to report an injury that requires only first aid treatment, as defined by Subsection R612-100-3.A.

2. Except for injuries treated only by first aid, an employer shall report each employee work injury within 7 days after receiving initial notice of the injury, as follows:

a. An employer that has obtained workers' compensation insurance shall report the injury to its insurance carrier.

b. An employer that has received Division authorization to self-insure shall report the injury to its claims administrator.

c. An employer that has failed to obtain worker's compensation coverage shall report the injury by contacting the Division directly.

3. An employer has notice of a work injury upon the earliest of:

a. Observation of the injury;

b. Verbal or written notice of the injury from any source; or

c. Receipt of any other information sufficient to warrant further inquiry by the employer.

B. Submitting Reports of Injury to the Division.

1. Except for injuries treated only by first aid as defined by Subsection R612-100-3.A, an insurance carrier, self-insured claim administrator, or uninsured employer shall submit a First Report of Injury to the Division within ~~seven~~fourteen days after receiving initial notice of the injury.

a. An insurance carrier or self-insured claim administrator has notice of a work injury upon receipt of verbal or written information that includes the name of the employer, the name of the employee and the date of injury.

b. The insurance carrier or self-insured claim administrator shall submit the First Report of Injury to the Division electronically in compliance with the content and formatting requirements of the Industrial Accidents Division Claims EDI Implementation Guide ("EDI Guide" V2.2, 04-19-13) and the Utah Claims R3 EDI Tables ("EDI Tables"; 04-19-13) adopted and incorporated by this reference as part of these rules.

c. An uninsured employer shall report the information required by this subsection as part of the employer's initial contact with the Division required by subsection A.2.c of this rule.

C. Investigation of Claims; Notice to Division and Claimants; Commencement of Benefits.

1. An insurance carrier, self-insured employer, or uninsured employer shall promptly investigate a reported work injury and either accept or deny workers' compensation liability for the claim within 21 days after receiving initial notice of the injury.

a. If, with reasonable diligence, an insurance carrier, self-insured employer, or uninsured employer cannot complete its investigation within 21 days after initial notice, it may complete and submit Division Form 441, "Notice of Further Investigation of a Workers' Compensation Claim" notify the Division and claimant that the matter remains under investigation. The insurance carrier, self-insured employer, or uninsured employer is then allowed 24 days in addition to the initial 21-day period to complete its investigation and accept or deny liability of the claim.

b. An insurance carrier or self-insured employer denying a claim for workers' compensation benefits shall report such denial through current EDI processes. An uninsured employer denying a claim for workers' compensation benefits shall complete and mail to the Division Form 089, "Employee Notification of Denial of Claim" and to the claimant.

c. If the insurance carrier, self-insured employer, or uninsured employer accepts liability for the claim, payment of benefits shall commence within 7 days from the date of acceptance. The insurance carrier, self-insured employer, or uninsured employer shall use Division Form 141, "Statement of Insurance Carrier or Uninsured Employer with Respect to Payment of Benefits" to report the initial benefits paid to a claimant. Form 141 must accompany the first payment to the claimant and must be filed with or mailed to the Division on that same date.

d. An insurance carrier, self-insured employer, or uninsured employer's payment of benefits during investigation of a claim does not prevent subsequent denial of the claim after the investigation is

completed.

D. Consequences of Failure to Comply.

1. Pursuant to Subsection 34A-2-407(8) of the Utah Workers' Compensation Act, the Division may impose a civil assessment of up to \$500 for an insurance carrier, insured employer, self-insured employer, or uninsured employer's failure, without good cause, to comply with the requirements of this rule.

a. "Good cause" includes a claimant's unreasonable failure to sign requested medical releases or otherwise cooperate in the investigation of a claim.

b. For improperly filed reports, the civil assessment shall be imposed for the report as a whole and not for each data element within a report.

2. In addition to the civil assessment authorized by Subsection 34A-2-407(8), an insurance company or self-insured employer's failure, without good cause, to comply with the requirements of this rule may result in:

a. referral of the insurance company to the Insurance Department for appropriate disciplinary action; or

b. revocation of a self-insured employer's authorization to remain self-insured.

3. The method of issuing the assessments shall be set by the division's policies and procedures.

4. Assessments shall be issued in the form of an order signed by the division's presiding officer and pursuant to the requirements contained in Section 63G-4-203.

5. An aggrieved party may seek agency review of any order pursuant to Section 63G-4-301.

KEY: workers' compensation, filing deadlines, time, administrative proceedings

Date of Enactment or Last Substantive Amendment: [~~October 22, 2014~~2015]

Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104

Labor Commission, Industrial Accidents
R612-300-4
 General Method For Computing
 Medical Fees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39832

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt, with modifications, the Optum 2015 Essential Resource-Based Relative Value Schedule (RBRVS), 2015 1st Quarter Emergency Update and to specify the effective date of the rule as being 12/01/2015.

SUMMARY OF THE RULE OR CHANGE: The proposed rule simply updates the incorporated material to the most current edition.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 et seq. and Section 34A-2-201

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates The Essential RBRVS, published by Optum, 2015
- ◆ Updates Current Procedural Coding Expert, published by Optum, 2015

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Updating the referenced source material provides no impact to the state budget.
- ◆ LOCAL GOVERNMENTS: Updating the referenced source material provides no impact to the local government.
- ◆ SMALL BUSINESSES: Updating the referenced source material provides no impact to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Updating the referenced source material provides no impact to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Updating the referenced source material provides no impact to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Updating the referenced source material provides no fiscal impact.

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

LABOR COMMISSION
 INDUSTRIAL ACCIDENTS
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R612. Labor Commission, Industrial Accidents.
R612-300. Workers' Compensation Rules - Medical Care.
R612-300-4. General Method For Computing Medical Fees.**

A. Adoption of "CPT" and "RBRVS." The Labor Commission hereby adopts and by this reference incorporates:

"Optum 201[4]5 The Essential RBRVS, 201[4]5 1st Quarter Emergency Update," designated as 1761/RBRCU/U177[+]2R--RBRC1[3]5/RBRC/U177[+]2R, ("RBRVS" hereafter).

B. Medical fees calculated according to the RBRVS relative value unit assigned to each CPT code. Unless some other provision of these rules specifies a different method, the RBRVS is to be used in conjunction with the "conversion factors" established in subsection C. of this rule to calculate payments for medical care provided to injured workers.

C. Conversion Factors. Fees for medical care of injured workers shall be computed by determining the relative value unit ("RVU") assigned by the RBRVS to a CPT code and then multiplying that RVU by the following conversion factors for specific medical specialties:

1. Anesthesiology (1 unit per 15 minutes of anesthesia): \$53.00;
2. Medicine (Evaluation and Medicine Codes 99201 - 99204 and 99211-99214): \$50.00;
3. Pathology and Laboratory: \$56.00;
4. Radiology: \$58.00;
5. Restorative Services: \$50.00;
6. Surgery (all 20000 codes, codes 49505 thru 49525, and all 60000 codes): \$62.00;
7. Other Surgery: \$40.00.

D. Fees for Medical care not addressed by CPT/RBRVS, or requiring unusual treatment.

1. The payor and medical provider may establish and agree to a reasonable fee for medical care of an injured worker if:

- a. neither the CPT/RBRVS or any other provision of these rules address the medical care in question; or
- b. application of CPT/RBRVS or other provisions of these rules would result in an inadequate fee due to extraordinary difficulty of treatment.

2. If the medical provider and payor cannot agree to a reasonable fee in such cases, the provider can request a hearing before the Commission's Adjudication Division to establish a reasonable fee.

KEY: workers' compensation, fees, medical practitioners
Date of Enactment or Last Substantive Amendment: [November 24, 2014]2015
Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

**Labor Commission, Industrial Accidents
R612-300-5
Fees for Specific Procedures**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 39833
 FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update certain CPT codes used to bill for various medical procedures.

SUMMARY OF THE RULE OR CHANGE: The proposed rule updates the spinal manipulation ending codes from 97703 to 97610 and the drug testing code from 80100 to 80300.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 and Section 34A-2-201

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Updating CPT codes provides no impact to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Updating CPT codes provides no impact to local government.
- ◆ **SMALL BUSINESSES:** Updating CPT codes provides no impact to small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Updating CPT codes provides no impact to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Updating CPT codes provides no impact to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Updating CPT codes provides no fiscal impact to businesses.

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

LABOR COMMISSION
 INDUSTRIAL ACCIDENTS
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.**R612-300. Workers' Compensation Rules - Medical Care.****R612-300-5. Fees for Specific Procedures.**

A. Needle procedures: Trigger point injections are reported per muscle. Payment under CPT code 20553 for injections of up to three muscles is the maximum allowed for any one treatment session, regardless of the number of muscles treated.

B. Radiology.

1. The cost of radioisotopes, gadolinium and comparable materials may be charged at the provider's cost plus 15%.

2. When x-rays are reviewed as part of an independent evaluation of the patient, a consultation, or other office visit, the review is included as a part of the basic service to the patient and may not be billed separately.

C. Restorative Services.

1. The following criteria must be met before payment is allowed for restorative services:

- a. The patient's condition must have the potential for restoration of function;
- b. The treatment must be prescribed by the treating physician;
- c. The treatment must be specifically targeted to the patient's condition; and
- d. The provider must be in constant attendance during the providing of treatment.

2. No payment is allowed for CPT codes 97024, diathermy; 97026, infrared therapy; 97028, ultraviolet therapy/cold laser therapy; 97005, athletic training evaluations; 97006, athletic training reevaluation.

3. All restorative services provided must be itemized even if not billed.

4. Medical providers billing under CPT codes 97001 through 97[703]610 are limited to payment for a maximum of three procedures/units per visit, or six procedures if different sites are treated. Services billed under CPT codes 97545, 97546 and 97150 require preauthorization and are limited to 4 units per injury. The payor shall pay the three highest valued procedures for each treatment site for the visit.

5. Patient education is to be billed using CPT code 97535 rather than codes 98960 through 98962, and is limited to 4 units per injury claim.

6. The entire spine is considered to be a single body part or unit. For that reason, CPT codes 98941 through 98943 and 98926 through 98929 may not be used for billing purposes.

7. When a change in treatment or a new RSA is required, physicians and physical therapists may bill for one evaluation and up to 2 modalities/procedures. Without an evaluation, they may bill for up to 3 modalities/procedures. With prior authorization from the payor, physicians and physical therapists may make additional billing when justified by special circumstances.

8. Any medical provider billing for restorative services shall file the appropriate version of Form 221, "Restorative Services Authorization (RSA) form" with the payor and the Division within ten days of the initial evaluation. Subjective/objective/ assessment/plan ("SOAP") notes are to be sent to the payor in addition to the RSA form. SOAP notes are not to be sent to the Division unless requested.

a. Upon receipt of the provider's RSA form and SOAP notes, the payor shall respond within ten days by authorizing a specified number of treatments or denying the request. No more than

eight treatments may be provided during this ten-day authorization period.

b. A payor may deny the requested treatments for the following reasons:

- i. The injury or disease being treated is not work related; or
- ii. The payor has received written medical opinion or other medical information indicating the treatment is not necessary. A copy of such written opinion or information must be provided to the injured worker, the medical provider, and the Division.

c. In cases where approval is received for initial treatment, the provider shall submit updated RSA forms and SOAP notes to the payor for approval or denial at least every six treatments.

d. An injured worker or provider may request a hearing before the Division of Adjudication to resolve issues of compensability, necessity of treatment, and compliance with this subsection's time limits.

D. Functional Capacity Evaluations. The following functional capacity evaluations require payor preauthorization and are billed in 15 minute increments under CPT code 97750:

1. A limited functional capacity evaluation to determine an injured worker's dynamic maximal repetitive lifting, walking, standing and sitting tolerance. Billing for this type of evaluation is limited to a maximum of 45 minutes.

2. A full functional capacity evaluation to determine an injured worker's maximum and repetitive lifting, walking, standing, sitting, range of motion, predicted maximal oxygen uptake, as well as ability to stoop, bend, crawl or perform work in an overhead or bent position. In addition, this evaluation includes reliability and validity measures concerning the individual's performance. Billing for this type of evaluation is limited to a maximum of 2.5 hours.

3. A work capacity evaluation to determine an injured worker's capabilities based on the physical aspects of a specific job description. Billing for this type of evaluation is limited to a maximum of 2 hours.

4. A job analysis to determine the physical aspects of a particular job. Billing is not subject to a maximum time limit due to the variability of factors involved in the analysis.

E. Impairment Ratings and Insurance Medical Examinations.

1. Impairment Rating by Treating Physician. Treating physicians shall bill for preparation of impairment ratings under CPT code 99455, with 2.0 RVU assigned/30 minutes.

2. Impairment Rating by Non-Treating Physician. Non-treating physicians may bill for preparation of impairment ratings under CPT code 99456, with 2.65 RVU assigned/30 minutes.

3. Medical Evaluations Commissioned by Payors. The Labor Commission does not regulate fees for medical evaluations requested by payors.

F. Transcutaneous Electrical Nerve Stimulators (TENS). No fee is allowed for TENS unless it is prescribed by a physician and supported by prior diagnostic testing showing the efficacy of TENS in control of the patient's chronic pain. TENS testing and training is limited to four (4) sessions and a 30-day trial period but may be extended with written documentation of medical necessity.

G. Electrophysiologic Testing. A physician who is legally authorized by his or her medical practice act to diagnose injury or disease is entitled to the full fee for electrophysiologic testing. Physical therapists and physicians who are qualified to perform such

testing but who are not legally authorized to diagnose injury or disease are entitled to payment of 75% of the full fee.

H. Dental Injuries.

1. Initial Treatment.

a. If an employer maintains a medical staff or designates a company doctor, an employee requiring treatment for a workplace dental injury shall report to such medical staff or doctor and follow their directions for obtaining the necessary dental treatment.

b. If an employer does not maintain a medical staff or designate a company doctor, or if such medical staff or doctor is unavailable, the injured worker may obtain the necessary dental care from a dentist of his or her choice. The payor shall pay the dentist at 70% of UCR for services rendered.

2. Subsequent treatment.

a. If additional dental care is necessary, the dentist who provided initial treatment may submit to the payor a request for authorization to continue treatment. The transmission date of the request must be verifiable. The request itself must include a description of the injury, the additional treatment required, and the fee to be charged for the additional treatment.

i. The payor shall respond to the request for authorization within 10 working days of the request's transmission. This 10-day period can be extended with written approval of the Director of the Industrial Accidents Division.

ii. If the payor does not respond to the dentist's request for authorization within 10 working days, the dentist may proceed with treatment and the payor shall pay the cost of treatment as contained in the request for authorization.

iii. If the payor approves the proposed treatment, the payor shall send written authorization to the dentist and injured worker. This authorization shall include the amount the payor agrees to pay for the treatment. If the dentist accepts the payor's payment offer, the dentist may proceed to provide the approved services and shall be paid the agreed upon amount.

iv. If the dentist proceeds with treatment without authorization, the dentist's fee is limited to 70% of UCR.

b. If the dentist who provided initial treatment is unwilling to provide subsequent treatment under the terms outlined in subsection 2.a., above, the payor shall within 20 calendar days direct the injured worker to a dentist located within a reasonable travel distance who will accept the payor's payment offer.

i. If, after receiving notice that the payor has arranged for the services of a dentist, the injured worker chooses to obtain treatment from a different dentist, the payor shall only be liable for payment at 70% of UCR. The treating dentist may bill the injured worker for the difference between the dentist's charges and the amount paid by the insurer.

c. If the payor is unable to locate another dentist to provide the necessary services, the payor shall attempt to negotiate a satisfactory reimbursement with the dentist who provided initial treatment.

I. Drug testing. Drug screenings for addictive classes of pain medications shall be performed as recommended in the Utah clinical Guidelines on Prescribing Opiates for Treatment of Pain, Utah Department of Health 2009. The collection and billing shall be limited to one 80[+]300 code per date of service, except for unusual circumstances.

J. Procedures for which no fee is allowed. Due to a lack of evidence of medical efficacy, no payment is authorized for the following:

1. Muscle Testing, CPT codes 95832 through 95857;
2. Computer based Motion Analysis, CPT codes 96000 through 96004;
3. Athletic Training Evaluation, CPT codes 97005 and 97006;
4. Acupuncture, CPT codes 97810 through 97814;
5. Analysis of Data, now BR, CPT code 99090;
6. Patient Education, CPT codes 98960 through 98962;
7. Educational supplies, CPT code 99071; or
8. Thermograms, artificial discs, percutaneous diskectomies, endoscopic diskectomies, IDEPT, platelet rich plasma injections, thermo-rhizotomies and other heat or chemical treatments for discs.

KEY: workers' compensation, fees, medical practitioners

Date of Enactment or Last Substantive Amendment: [November 24, 2014] 2015

Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

Labor Commission, Industrial Accidents R612-400-1 Policy Reporting by Workers' Compensation Insurance Carriers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39835

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to provide for the method of issuing penalties against insurance carriers for policy reporting infractions and to codify their appeal rights. The rule also extends the reporting time frame for insurance carriers.

SUMMARY OF THE RULE OR CHANGE: The proposed rule restates the provisions of the statute detailing penalty amounts, provides for the governance of the division's policies and procedures regarding how penalties will be issued, and the right of aggrieved parties to appeal.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 59-9-101(2)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Designating the process to issue penalties to insurance carriers and codifying their appeal rights imposes no costs on the state budget.

- ◆ LOCAL GOVERNMENTS: Designating the process to issue penalties to insurance carriers and codifying their appeal rights imposes no costs on local government.
- ◆ SMALL BUSINESSES: Designating the process to issue penalties to insurance carriers and codifying their appeal rights imposes no costs on small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Designating the process to issue penalties to insurance carriers and codifying their appeal rights imposes no costs on persons other than small businesses, businesses or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Designating the process to issue penalties to insurance carriers and codifying their appeal rights imposes no costs on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Designating the process to issue penalties to insurance carriers and codifying their appeal rights imposes no fiscal impact on businesses.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.
R612-400-1. Policy Reporting by Workers' Compensation Insurance Carriers.

An insurance carrier writing workers' compensation insurance in Utah shall report to the Division the information required by Section 34A-2-205 of the Utah Workers' Compensation Act as follows:

[4]A. The report shall be filed on behalf of the insurance carrier by an agent that has been approved by the Division as meeting the Division's filing standards.

[2]B. The insurance carrier's agent shall submit the information electronically in accordance with the standards and format established by the International Association of Industrial Accidents Boards and Commissions (IAIABC).

C. Consequences of Failure to Comply.

1. Pursuant to Subsection 34A-2-205(1) of the Utah Workers' Compensation Act, the division may impose civil assessments up to \$150 for failure to properly report insurance policy information per the requirements of this rule.

D. Assessments will be issued on a per file or reported policy basis rather than on each individual error within a file or reported policy.

E. The opportunity to correct the filing errors, the amount of the assessments, and the method of issuing shall be set by the division's policies and procedures.

F. Assessments shall be issued in the form of an order signed by the division's presiding officer and pursuant to the requirements contained in Section 63G-4-203.

G. An aggrieved party may seek agency review of any order pursuant to Section 63G-4-301.

KEY: workers' compensation, insurance, rates, waivers
Date of Enactment or Last Substantive Amendment: [December 22, 2014]2015
Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

Labor Commission, Industrial Accidents
R612-400-5
Premium Rates for the Uninsured
Employers' Fund and the Employers'
Reinsurance Fund

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39822
FILED: 10/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Workers' Compensation insurance premiums in Utah include an assessment to fund the Employers' Reinsurance Fund (ERF) and the Uninsured Employers' Fund (UEF). Employers that self-insure their worker's compensation liabilities are required to pay an equivalent assessment. These assessment rates are reviewed annually and amended as appropriate in order to ensure the funds remain viable and are fully funded. The proposed change establishes these assessment rates for the 2016 calendar year.

SUMMARY OF THE RULE OR CHANGE: For 2016, the proposed amendment leaves the rates at the previous level: ERF at 3.0% and the UEF at 0.35%.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 59-9-101(2)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There will be no cost or savings to the state budget since the rates will remain the same as 2015.
- ◆ LOCAL GOVERNMENTS: There will be no cost or savings to local government since the rates will remain the same as 2015.
- ◆ SMALL BUSINESSES: There will be no cost or savings to small businesses since the rates will remain the same as 2015.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no cost or savings to persons other than small businesses, businesses, or local government entities since the rates will remain the same as 2015.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons since the rates will remain the same as 2015.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses, since the rates will remain the same as 2015.

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

LABOR COMMISSION
 INDUSTRIAL ACCIDENTS
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.
R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

A. Pursuant to Section 59-9-101(2), Section 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 2015, as established by the Labor Commission, shall be:

- 1. 0.35% for the Uninsured Employers' Fund;

- 2. 3.0% for the Employers' Reinsurance Fund;
- B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

KEY: workers' compensation, insurance, rates, waivers
Date of Enactment or Last Substantive Amendment: [December 22, 2014]2015
Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

Lieutenant Governor, Elections
R623-4
Processing Partisan Candidate
Nomination Petitions

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39824

FILED: 10/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Legislation passed (see S.B. 207, 2015 General Session) to require the Lieutenant Governor to create rules for the transparent orderly, and timely submission, verification, and certification of nomination petition signatures.

SUMMARY OF THE RULE OR CHANGE: Pursuant to Subsection 20A-9-403(3)(f), this rule provides for the transparent orderly, and timely submission, verification, and certification of nomination petition signatures.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. VII, Sec. 1 and 14 and Title 20A, Chapter 9

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: All costs are addressed by a fiscal note associated with the bill requiring the rule.
- ◆ LOCAL GOVERNMENTS: All costs are addressed by a fiscal note associated with the bill requiring the rule.
- ◆ SMALL BUSINESSES: Not affected. The rule governs the processing of signature packets by counties and the Lieutenant Governor's Office. No other entities will be processing signature packets.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Not affected. The rule governs the processing of signature packets by counties and the Lieutenant Governor's Office. No other entities will be processing signature packets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Not affected. The rule governs the processing of signature packets by counties and the Lieutenant Governor's Office. No other entities will be processing signature packets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule establishes procedures for the Lieutenant Governor's Office and county clerks to process and verify candidate nomination petition packets. Businesses are not involved in the candidate nomination verification process; consequently, there will be no cost for businesses.

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

LIEUTENANT GOVERNOR
ELECTIONS
ROOM 220 UTAH STATE CAPITOL
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Thomas by phone at 801-538-1041, by FAX at 801-538-1133, or by Internet E-mail at mjthomas@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Mark Thomas, Chief Deputy

R623. Lieutenant Governor, Elections.

R623-4. Processing Partisan Candidate Nomination Petitions.

R623-4-1. Purpose.

A. Pursuant to Utah Code Annotated Subsection 20A-9-403(3)(f), this rule provides for the transparent orderly, and timely submission, verification, and certification of nomination petition signatures.

B. Pursuant to Utah Code Annotated Section 20A-9-410, this rule provides procedures for complying with, and verifying compliance with, the candidate nominating process described in that part.

R623-4-2. Authority.

This rule is required by Chapter 9 of Title 20A, Candidate Qualifications and Nominating Procedures, and is enacted under the authority of the Utah Constitution Art. VII, Sections 1 and 14, and Chapter 3 of Title 63G, the Utah Administrative Rulemaking Act.

R623-4-3. Definitions.

A. "Filing Officer" for the purposes of this section means:

1. The Lieutenant Governor will serve as the filing officer for federal, state and multicounty legislative races.

2. The County Clerk will serve as the filing officer for single county legislative races.

B. "Qualification Threshold" means:

1. The number of signatures required for a given office as set forth in 20A-9-403(3) (a)(ii) and 20A-9-408(8)(b).

R623-4-4. Uniform Nomination Petition Processing Standards.

A. Nomination Petition Packet Submission Procedure.

1. Any candidate who submits a nomination petition for verification shall submit their nomination petition packets, personally or by a designated agent, to the filing officer before the deadlines established in UCA Sections 20A-9-403 and 20A-9-408

2. Any submission of nomination petition packets must contain sufficient signatures to meet or exceed the qualification threshold.

3. At the time of submitting any nomination petition, a candidate or designated agent must provide, on a form provided by the filing officer:

a. The candidate's contact information.

b. The estimated number of nomination petition packets in the submission.

c. The estimated number of signatures in the submission.

d. A signed statement that the candidate has gathered the amount of signatures, required to meet the qualification threshold.

4. The filing officer shall provide the candidate a receipt of the submission that includes:

a. The date and submission time.

b. A copy of the form required by Subsection (A)(3).

5. The filing officer shall reject a submission if:

a. The candidate fails to provide the form required in Subsection (A)(3);

b. The candidate did not gather the amount of signatures required to meet or exceeds the qualification threshold;

c. The candidate did not meet the submission deadline established in Utah Code Sections 20A-9-403 and 20A-9-408; or

d. The candidate has already met the qualification threshold.

6. If the filing officer rejects a submission in accordance with Subsection (A)(5), the filing officer shall provide the candidate with a written explanation of the rejection.

B. Supplementing Nomination Petition Packets.

1. Candidates may submit supplemental nomination petition packets following their first submission until the filing officer notifies the candidate that they have met the qualification threshold in accordance with Subsection (E)(1) or until the deadlines established in Utah Code Sections 20A-9-403 and 20A-9-408, whichever comes first.

2. The intake of supplemental nomination petition packets shall comply with Subsections (A)(1) through (A)(6).

3. The processing of supplemental nomination petition packets shall comply with Subsection (C)(1) through (E)(1).

C. Order of Nomination Petition Packet Verification.

1. The filing officer shall verify nomination petition submissions in the order received.

2. The filing officer shall ensure that nomination petition packets for candidates for the same office are not verified simultaneously.

D. Verifying Nomination Petition Packets.

1. The filing officer shall verify nomination petition packets in accordance with Utah Code Section 20A-7-206.3.

2. The filing officer shall verify all signatures of a nomination petition until the candidate has sufficient signatures to meet the qualification threshold.

3. The filing officer may discontinue the verification of a nomination petition if the candidate officially withdraws their candidacy or withdraws their notice of intent to gather signatures.

E. Communication of Results to Candidate.

1. Within one (1) business day after verifying all signatures in a candidate's submission or after the candidate meets or exceeds the qualification threshold, the filing officer shall notify the candidate of the total number of valid signatures in the submission and whether the candidate has met the qualification threshold.

R623-4-5. Withdrawal of Petition Packets and Petition Signatures.

A. A candidate may not withdraw nomination petition packets once they are submitted in accordance with Subsection R623-4-4(A).

B. A voter who has signed a candidate's nomination petition may have the voter's signature removed from the petition by submitting to the filing officer a statement requesting that the voter's signature be removed.

C. The statement shall include:

1. the name of the voter;
2. the name of the candidate;
3. the resident address at which the voter is registered to vote;
4. the last four digits of the voter's Social Security number;
5. the voter's driver license or identification card number;

and

6. the signature of the voter.

D. A voter may not submit a statement by email or other electronic means.

E. In order for the signature to be removed, the statement must be received before the candidate submits any petition signatures for verification in accordance with Subsection R623-4-4(A).

R624-4-6. Declarations of Candidacy for State and Local School Board Candidates.

A. Any state or local school board candidate under Utah Code Title 20A shall file a declaration of candidacy in accordance with 20A-9-201 and 20A-9-202.

B. If Utah Code does not establish a deadline for state or local school board candidates to file a declaration of candidacy, the candidate shall file a declaration of candidacy before 5 p.m. on the third Thursday in March before the next regular general election.

KEY: candidate petitions, election law, elections
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: Art. VII, Secs. 1 and 14; 20A-9

Tax Commission, Property Tax
R884-24P-53
2015 Valuation Guides for Valuation of
Land Subject to the Farmland
Assessment Act Pursuant to Utah Code
Ann. Section 59-2-515

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39815

FILED: 10/08/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment annually updates the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act (FAA). The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

SUMMARY OF THE RULE OR CHANGE: Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in Section R884-24P-53. The rule sets the acreage value rates for 418 separate class-county combinations. This year it is proposed that 126 rates decrease slightly, 164 increase slightly, and 128 have no change.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-515

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the Education Fund based on increased or decreased real and personal property valuation, including property assessed under the FAA. Property valuation (taxable value) changes have been recommended by class and by county. This year it is proposed that 126 rates decrease slightly, 164 increase slightly, and 128 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment.

♦ **LOCAL GOVERNMENTS:** The amount of savings or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property assessed under FAA. Property valuation changes have been recommended by class and by county. This year it is proposed that 126 rates decrease slightly, 164 increase slightly, and 128 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment. County assessors' offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.

♦ **SMALL BUSINESSES:** Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes may affect property values which may result in a change of property tax amounts due.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2015

AUTHORIZED BY: Rebecca Rockwell, Commissioner

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-53. [2015]2016 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) All property qualifying for agricultural use assessment pursuant to Section 59-2-503 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1) Box Elder	[798] 789
2) Cache	[674] 681
3) Carbon	[500] 511
4) Davis	[835] 839
5) Emery	[479] 487
6) Iron	[760] 777
7) Kane	[401] 410
8) Millard	[764] 774
9) Salt Lake	[695] 692
10) Utah	[730] 734
11) Washington	[624] 636
12) Weber	[769] 780

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1) Box Elder	[701] 693
2) Cache	[576] 581
3) Carbon	[398] 407
4) Davis	[734] 738
5) Duchesne	[468] 476
6) Emery	[385] 392
7) Grand	[370] 375
8) Iron	[666] 681
9) Juab	[432] 437
10) Kane	[308] 315
11) Millard	[670] 679
12) Salt Lake	[597] 595
13) Sanpete	[515] 526
14) Sevier	[539] 549
15) Summit	[441] 451
16) Tooele	[434] 440
17) Utah	[631] 635
18) Wasatch	[467] 478
19) Washington	[532] 542
20) Weber	[675] 684

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1) Beaver	[546] 554
2) Box Elder	[552] 545
3) Cache	[437] 441
4) Carbon	[263] 269
5) Davis	[590] 593
6) Duchesne	[328] 334
7) Emery	[242] 247
8) Garfield	[202] 206
9) Grand	[233] 237
10) Iron	[530] 541
11) Juab	[291] 294
12) Kane	[171] 174
13) Millard	[530] 537
14) Morgan	[371] 379
15) Piute	[319] 326
16) Rich	[170] 174
17) Salt Lake	[454] 453
18) San Juan	[178] 171
19) Sanpete	[377] 385
20) Sevier	[401] 409
21) Summit	[300] 307
22) Tooele	[290] 295

23) Uintah	[356] 363
24) Utah	[404] 487
25) Wasatch	[325] 332
26) Washington	[391] 398
27) Wayne	[315] 322
28) Weber	[537] 544

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1) Beaver	[449] 455
2) Box Elder	[456] 450
3) Cache	[339] 342
4) Carbon	[170] 173
5) Daggett	185
6) Davis	[494] 496
7) Duchesne	[230] 234
8) Emery	[151] 153
9) Garfield	[108] 111
10) Grand	[141] 143
11) Iron	[432] 442
12) Juab	[193] 195
13) Kane	[78] 79
14) Millard	[432] 437
15) Morgan	[274] 281
16) Piute	[223] 228
17) Rich	[79] 81
18) Salt Lake	[352] 351
19) San Juan	[81] 78
20) Sanpete	[203] 290
21) Sevier	[307] 313
22) Summit	[208] 212
23) Tooele	[198] 201
24) Uintah	[263] 268
25) Utah	[309] 391
26) Wasatch	[232] 237
27) Washington	[294] 300
28) Wayne	[222] 227
29) Weber	[438] 444

(b) Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

1) Beaver	[603] 601
2) Box Elder	[653] 651
3) Cache	[603] 601
4) Carbon	[603] 601
5) Davis	[658] 656
6) Duchesne	[603] 601
7) Emery	[603] 601
8) Garfield	[603] 601
9) Grand	[603] 601
10) Iron	[603] 601
11) Juab	[603] 601
12) Kane	[603] 601
13) Millard	[603] 601
14) Morgan	[603] 601
15) Piute	[603] 601
16) Salt Lake	[603] 601
17) San Juan	[603] 601
18) Sanpete	[603] 601
19) Sevier	[603] 601
20) Summit	[603] 601
21) Tooele	[603] 601
22) Uintah	[603] 601

23) Utah	[603] 661
24) Wasatch	[603] 601
25) Washington	[713] 711
26) Wayne	[603] 601
27) Weber	[658] 656

22) Wasatch	[46] 47
23) Washington	[46] 47
24) Weber	[75] 76

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

(c) Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1) Beaver	[231] 234
2) Box Elder	[255] 252
3) Cache	[259] 261
4) Carbon	[125] 127
5) Daggett	153
6) Davis	[263] 264
7) Duchesne	[160] 163
8) Emery	[133] 135
9) Garfield	[100] 102
10) Grand	[128] 130
11) Iron	[251] 256
12) Juab	[148] 150
13) Kane	[105] 107
14) Millard	[187] 190
15) Morgan	[189] 193
16) Piute	[183] 187
17) Rich	[100] 103
18) Salt Lake	[223] 222
19) Sanpete	[186] 190
20) Sevier	[191] 195
21) Summit	[193] 198
22) Tooele	[180] 183
23) Uintah	[199] 203
24) Utah	[244] 246
25) Wasatch	[200] 205
26) Washington	[219] 223
27) Wayne	[165] 169
28) Weber	[288] 292

TABLE 8
Dry IV

1) Beaver	15
2) Box Elder	[59] 58
3) Cache	[81] 82
4) Carbon	[14] 15
5) Davis	16
6) Duchesne	19
7) Garfield	[14] 15
8) Grand	[14] 15
9) Iron	[14] 15
10) Juab	[15] 16
11) Kane	[14] 15
12) Millard	[13] 14
13) Morgan	28
14) Rich	[14] 15
15) Salt Lake	15
16) San Juan	17
17) Sanpete	19
18) Summit	[14] 15
19) Tooele	14
20) Uintah	19
21) Utah	[15] 16
22) Wasatch	[14] 15
23) Washington	[13] 14
24) Weber	[43] 44

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze 1. The following counties shall assess Graze I property based upon the per acre values listed below:

TABLE 9
GR I

1) Beaver	[69] 70
2) Box Elder	[75] 74
3) Cache	70
4) Carbon	[50] 51
5) Daggett	51
6) Davis	60
7) Duchesne	[67] 68
8) Emery	[69] 70
9) Garfield	[74] 75
10) Grand	[75] 76
11) Iron	[71] 73
12) Juab	[63] 64
13) Kane	[72] 74
14) Millard	[74] 75
15) Morgan	[64] 66
16) Piute	[87] 89
17) Rich	[63] 64
18) Salt Lake	68
19) San Juan	[77] 74
20) Sanpete	[61] 62
21) Sevier	[62] 63
22) Summit	[69] 71
23) Tooele	[68] 70
24) Uintah	[78] 79
25) Utah	65

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1) Beaver	[50] 51
2) Box Elder	[93] 92
3) Cache	[116] 117
4) Carbon	[47] 48
5) Davis	[50] 51
6) Duchesne	[52] 53
7) Garfield	[46] 47
8) Grand	[47] 48
9) Iron	[47] 48
10) Juab	[49] 50
11) Kane	[46] 47
12) Millard	46
13) Morgan	[61] 63
14) Rich	[46] 47
15) Salt Lake	53
16) San Juan	[54] 52
17) Sanpete	[52] 53
18) Summit	[46] 47
19) Tooele	[50] 51
20) Uintah	[52] 53
21) Utah	49

26) Wasatch	[51] 52
27) Washington	[63] 64
28) Wayne	[85] 87
29) Weber	[67] 68

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

TABLE 10
GR II

1) Beaver	22
2) Box Elder	23
3) Cache	23
4) Carbon	15
5) Daggett	14
6) Davis	19
7) Duchesne	22
8) Emery	21
9) Garfield	[22] 23
10) Grand	22
11) Iron	22
12) Juab	19
13) Kane	[23] 24
14) Millard	[23] 24
15) Morgan	21
16) Piute	[25] 26
17) Rich	20
18) Salt Lake	21
19) San Juan	[25] 24
20) Sanpete	18
21) Sevier	18
22) Summit	20
23) Tooele	20
24) Uintah	[27] 28
25) Utah	23
26) Wasatch	17
27) Washington	21
28) Wayne	[27] 28
29) Weber	20

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values below:

.....

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

.....

(f) Land classified as nonproductive shall be assessed as follows on a per acre basis:

.....

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment: [January 4,] 2015
Notice of Continuation: January 3, 2012
Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Alcoholic Beverage Control, Administration **R81-4B** Airport Lounge Licenses

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39803
FILED: 10/02/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcohol Beverage Control (ABC) Commission to adopt and issue rules; set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses; and prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments licensed as airport lounges. It prohibits transfers of airport lounge licenses without approval; sets procedures for applying for airport lounge licenses; requires

licensees to maintain bonds; sets procedures for placing liquor orders with the DABC; allows licensees to open liquor storage areas during non-sales hours to take inventory, restock, repair and clean; allows customers to run a tab; explains what can be kept in liquor storage areas; sets parameters for use of liquor flavorings; regulates use of price lists to ensure accuracy; and requires employees to have an ID badge to help law enforcement officers identify employees. All of the regulations set forth in this rule remain important and applicable to the operations of airport lounges. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 10/02/2015

Alcoholic Beverage Control, Administration **R81-10A** Recreational Amenity On-Premise Beer Retailer Licenses

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39804
FILED: 10/02/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcohol Beverage Control (ABC) Commission to adopt and issue rules; set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses; and prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments licensed to sell beer for on-premise consumption (non-tavern/recreational amenity). It prohibits the transfer of the license to another without approval; requires licensees to obtain a separate on-premise beer license and restaurant or limited restaurant liquor license to operate the same premises differently at different times of the day; sets procedures for applying for a license; requires maintenance of a bond and insurance; allows storage areas to be opened during non-sales hours to take inventory, restock, repair and clean; requires employees to wear an ID badge to help law enforcement officers identify them; and sets parameters for the service of draft beer. All of the regulations set forth in this rule remain important and applicable to the operations of an on-premise beer retailer. Therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 10/02/2015

Corrections, Administration
R251-104
Declaratory Orders

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39819
FILED: 10/13/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is required by Title 63G, Chapter 4, the Utah Administrative Procedures Act, and is enacted under the authority of Sections 63G-4-503, 63G-3-201, and 64-13-10 of the Utah Code.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to define policy, procedures, and requirements governing the submission, review, and disposition of petitions for declaratory orders determining the applicability of statutes, rules, and orders within the jurisdiction of the department. Therefore, this rule should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER, UT 84020-9549
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steven Turley by phone at 801-545-5633, by FAX at 801-545-5726, or by Internet E-mail at sturley@utah.gov

AUTHORIZED BY: Rollin Cook, Executive Director

EFFECTIVE: 10/13/2015

Corrections, Administration
R251-712
Release

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 39820
FILED: 10/13/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Sections 63G-3-201, 64-13-7, and 64-13-10, of the Utah Code. Release transactions at the prison shall conform to statutory and other legal requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received during this five-year review period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to provide the department's policy regarding inmates leaving the institution of parole, termination, expiration of sentence, or being released to a detainer. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER, UT 84020-9549
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steven Turley by phone at 801-545-5633, by FAX at 801-545-5726, or by Internet E-mail at sturley@utah.gov

AUTHORIZED BY: Rollin Cook, Executive Director

EFFECTIVE: 10/13/2015

Education, Administration
R277-494

Charter School and Online Student
Participation in Extracurricular or Co-
curricular School Activities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 39831
FILED: 10/15/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) permits the Utah State Board of Education (board) to adopt rules in accordance with its responsibilities; Subsection 53A-1a-519(6)(a) directs the board to make rules establishing fees for a charter school student's participation in extracurricular or co-curricular activities at certain public schools; and Subsection 53A-2-214(6) directs the board to make rules establishing fees for an online student's participation in extracurricular or co-curricular activities at certain public schools.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures and requirements for a charter school or a public online school student to participate in an extracurricular activity at a student's boundary school. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 10/15/2015

**Education, Administration
R277-611**

Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39834
FILED: 10/15/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-13-106(5) directs the Utah State Board of Education (board) to make rules specific to limited areas of firearm safety instruction in the public schools; and Subsection 53A-1-401(3) allows the board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides directions to local education agencies (LEAs) to designate public school areas and review materials that may be used for firearm safety training. Therefore, this rule should be continued.

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

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

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

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

EFFECTIVE: 10/15/2015

**Money Management Council,
Administration
R628-4**

Bonding of Public Treasurers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39810
FILED: 10/05/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Money Management Act (Title 51, Chapter 7) in Section 51-7-15, states that public treasurers' as designated in council rule shall be bonded in the amount set out by council rule and that the council shall base the minimum bond amount on the amount of public funds held or in control of the public treasurer.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This year the council received a written request that this rule be reviewed in light of the fact that there is another statute that allows some public treasurers to use crime and theft insurance rather than a bond as the act requires. Council is in the process of reviewing this issue with the intent of changing language in the statute and the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary to provide criteria for the amount a public treasurer must bond for to protect public funds from loss in the event of malfeasance by a treasurer or a treasurer's staff. Regarding the above comment received, council agrees that this issue needs to be clarified and is working on doing so. In the meantime, council has offered a letter to any public entity that

needs this clarification, drafted with help of the attorney generals office, noting that crime and theft insurance can be used in place of a treasurers bond.

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

MONEY MANAGEMENT COUNCIL
 ADMINISTRATION
 ROOM 180 UTAH STATE CAPITOL COMPLEX
 350 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

AUTHORIZED BY: Mark Watkins, Chair, Money Management Council

EFFECTIVE: 10/05/2015

**Money Management Council,
 Administration
 R628-11**

**Maximum Amount of Uninsured Public
 Funds Allowed to be Held by Any
 Qualified Depository**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 39818
 FILED: 10/09/2015

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 51-7-18.1 of the Utah Money Management Act charges the council with determining by rule the amount of uninsured public funds a qualified depository may hold above the federal insured amount. This section describes that the council shall base the amount on the depository's capital and the amount may not be more than two times the depository's capital as defined in council rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments regarding this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is used quarterly to update the maximum uninsured allotment amount for public treasurers depositing into qualified depositories. Without this rule, public entities could not utilize financial institutions. This rule needs to be in place to allow the council to monitor the condition of financial institutions that hold public funds and protect public funds deposited in these institutions. Therefore, this rule should be continued.

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

MONEY MANAGEMENT COUNCIL
 ADMINISTRATION
 ROOM 180 UTAH STATE CAPITOL COMPLEX
 350 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

AUTHORIZED BY: Mark Watkins, Chair, Money Management Council

EFFECTIVE: 10/09/2015

**Natural Resources, Parks And
 Recreation
 R651-637**

**Antelope Island State Park Special
 Mule Deer and Bighorn Sheep Hunt**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 39814
 FILED: 10/06/2015

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Division of State Parks and Recreation is instructed to operate it's parks for multiple uses in Subsection 79-4-203(3) with hunting being listed as a use of state parks.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: No written comments have been received by the division pertaining to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule needs to be continued to allow for continued hunting on Antelope Island. While the Division of State Parks and Recreation does not control the hunting, it does need to authorize access for that activity. This rule accomplishes that need.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Director

EFFECTIVE: 10/06/2015

**Natural Resources, Wildlife Resources
 R657-5
 Taking Big Game**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 39808
 FILED: 10/05/2015

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-5 were received since November 2010, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-5 provides the procedures, standards, and requirements for taking big game. The provisions adopted in this rule are effective in providing the standards and requirements for taking big game. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 10/05/2015

**Natural Resources, Wildlife Resources
 R657-17
 Lifetime Hunting and Fishing License**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 39809
 FILED: 10/05/2015

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-17 were received since November 2010, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-17 provides the procedures, standards, and requirements for issuing lifetime hunting and fishing licenses. The provisions adopted in this rule are effective in providing the standards and requirements for using lifetime hunting and fishing licenses. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 10/05/2015

**Natural Resources, Wildlife Resources
 R657-38
 Dedicated Hunter Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION
 DAR FILE NO.: 39807
 FILED: 10/05/2015**

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-38 were received since November 2010, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-38 provides the procedures, standards, and requirements for participating in the Dedicated Hunter program. The provisions adopted in this rule are

effective in providing the standards and requirements for Dedicated Hunters. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 10/05/2015

**Natural Resources, Wildlife Resources
 R657-41
 Conservation and Sportsman Permits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION
 DAR FILE NO.: 39811
 FILED: 10/05/2015**

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-41 were received since November 2010, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-41 provides the procedures, standards, and requirements for issuing conservation and sportsman permits. The provisions adopted in this rule are effective in providing the standards and requirements for groups to obtain and use conservation and sportsman permits. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 10/05/2015

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 10/05/2015

Natural Resources, Wildlife Resources
R657-56
Recreational Lease of Private Lands for Free Public Walk-in Access

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 39806
 FILED: 10/05/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-56 were received since November 2010, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-56 provides the procedures, standards, and requirements for allowing public access to private lands for hunting and fishing purposes. The provisions adopted in this rule are effective in providing the standards and requirements for allowing public use of private lands. Continuation of this rule is necessary for continued success of this program.

Public Safety, Fire Marshal
R710-6
Liquefied Petroleum Gas Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 39812
 FILED: 10/05/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Liquefied Petroleum Gas Safety Act is authorized in Sections 53-7-301 through 53-7-316. In Section 53-7-305, the Liquefied Gas Board is authorized to make rules as reasonably necessary for the protection of the health, welfare, and safety of the public and persons using liquefied petroleum (LP) gas. The LP Gas Board is also authorized in Section 53-7-305 to make rules setting minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank or tank trailer, or using LP gas.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The last letter received by the office was from Mr. Melvin Wetzel, however, it is dated 06/14/2010 and is outside the five-year review time frame. His concerns dealt with having too many regulations as a result of the safety changes required to convert older propane barbecue bottles with newer, safer valves.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Liquefied Petroleum Gas Safety Act was enacted by the 1987 Utah State Legislature to oversee those that professionally distributed, dispensed, transported, delivered, or installed LP gas systems in the state of Utah. This safety program has substantially lowered LP gas incidents across the state during the many year history of the program. This program should be extended for another five years for the continued safety it provides by its existence. The two times that most LP gas incidents occur is when there is product being transferred or the problem of overfilling the LP gas container. This safety act has indeed lowered each of those concerns and made Utah a safer place to live, work, and recreate. Although the only comment received is over the five-year time frame, this was a safety retrofit of all LP gas containers and was done all across the nation. All new bottles produced in or after 2010 have the upgraded valves in place. Filling companies are not allowed to fill any bottle with propane which has outdated valves. Therefore, this rule should be continued.

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

PUBLIC SAFETY
FIRE MARSHAL
ROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Coy Porter by phone at 801-284-6358, by FAX at 801-284-6351, or by Internet E-mail at coyporter@utah.gov
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Ted Black by phone at 801-284-6352, or by Internet E-mail at tblack@utah.gov

AUTHORIZED BY: Coy Porter, State Fire Marshal

EFFECTIVE: 10/05/2015

Public Safety, Fire Marshal

R710-10

Rules Pursuant to Fire Service Training, Education, and Certification

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39813
FILED: 10/05/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Fire Prevention and Safety Act is authorized in Sections 53-7-101 through 53-7-226. In Subsection 53-7-204(1)(g), the Utah Fire Prevention Board shall: "establish a statewide fire prevention, fire education, and fire service training program in cooperation with the Board of Regents..."; further, in Subsection 53-7-204.2(2) The board shall: (a) establish a fire academy that: (i) provides instruction and training for paid, volunteer, institutional, and industrial firefighters; (ii) develops new methods of firefighting and fire prevention; (iii) provides training for fire and arson detection and investigation; (iv) provides public education programs to promote fire safety; (v) provides for certification of firefighters, pump operators, instructors, and officers; and (vi) provides facilities for teaching fire-fighting skills...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received concerning Rule R710-10 over the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Legislature established the organization, responsibility and funding for a fire academy which would provide training for all firefighters within the State of Utah many years ago. In 1993, the legislature also included a permanent funding source for such training programs and thereby enabled all firefighters, career and volunteer to receive said training free of charge for their departments and respective municipalities, special service districts and counties. An annual contract is completed between the Utah Fire and Rescue Academy, a division within the Utah Valley University and Utah Fire Prevention Board, through the Commissioner of Public Safety for the services rendered in the training, education and certification arena for all firefighters. The rules that the Utah Fire Prevention Board has established surrounding the establishment of the fire training academy and the firefighters should continue for the next five years. All certifications established have a three year span and continued education, training and certification would suffer without the ability of having such training available especially to the volunteer fire service. Therefore, this rule should be continued.

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

PUBLIC SAFETY
FIRE MARSHAL

ROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Coy Porter by phone at 801-284-6358, by FAX at 801-284-6351, or by Internet E-mail at coyporter@utah.gov
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Ted Black by phone at 801-284-6352, or by Internet E-mail at tblack@utah.gov

AUTHORIZED BY: Coy Porter, State Fire Marshal

EFFECTIVE: 10/05/2015

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Education

Administration

No. 39584 (R&R): R277-116. Utah State Board of Education
Internal Audit Procedure
Published: 09/01/2015
Effective: 10/08/2015

No. 39585 (AMD): R277-200. Utah Professional Practices
Advisory Commission (UPPAC), Definitions
Published: 09/01/2015
Effective: 10/08/2015

No. 39586 (AMD): R277-201. Utah Professional Practices
Advisory Commission (UPPAC), Rules of Procedure:
Notification to Educators, Complaints and Final Disciplinary
Actions
Published: 09/01/2015
Effective: 10/08/2015

No. 39587 (AMD): R277-202. UPPAC Hearing Procedures
and Reports
Published: 09/01/2015
Effective: 10/08/2015

No. 39588 (AMD): R277-203. Request for Licensure
Reinstatement and Reinstatement Procedures
Published: 09/01/2015
Effective: 10/08/2015

No. 39589 (AMD): R277-204. Utah Professional Practices
Advisory Commission Criminal Background Review
Published: 09/01/2015
Effective: 10/08/2015

No. 39590 (AMD): R277-205. Alcohol Related Offenses
Published: 09/01/2015
Effective: 10/08/2015

No. 39591 (AMD): R277-206. Drug Related Offenses
Published: 09/01/2015
Effective: 10/08/2015

No. 39592 (AMD): R277-406. K-3 Reading Improvement
Program and the State Reading Goal
Published: 09/01/2015
Effective: 10/08/2015

No. 39593 (R&R): R277-477. Distribution of Funds from the
Interest and Dividend Account and Administration of the
School LAND Trust Program
Published: 09/01/2015
Effective: 10/08/2015

No. 39594 (R&R): R277-491. School Community Councils
Published: 09/01/2015
Effective: 10/08/2015

No. 39595 (AMD): R277-497. School Grading System
Published: 09/01/2015
Effective: 10/08/2015

No. 39596 (AMD): R277-498. Grant for Math Teaching
Training
Published: 09/01/2015
Effective: 10/08/2015

No. 39597 (REP): R277-514. Board Procedures: Sanctions
for Educator Misconduct
Published: 09/01/2015
Effective: 10/08/2015

No. 39598 (AMD): R277-515. Utah Educator Standards
Published: 09/01/2015
Effective: 10/08/2015

NOTICES OF RULE EFFECTIVE DATES

No. 39599 (AMD): R277-516. Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees
Published: 09/01/2015
Effective: 10/08/2015

No. 39600 (REP): R277-517. Board and UPPAC Disciplinary Definitions and Actions
Published: 09/01/2015
Effective: 10/08/2015

No. 39601 (AMD): R277-602. Special Needs Scholarships - Funding and Procedures
Published: 09/01/2015
Effective: 10/08/2015

Environmental Quality

Air Quality

No. 39554 (AMD): R307-110-28. Regional Haze
Published: 08/15/2015
Effective: 10/09/2015

Insurance

Administration

No. 39603 (AMD): R590-154. Unfair Marketing Practices Rule
Published: 09/01/2015
Effective: 10/08/2015

Labor Commission

Adjudication

No. 39567 (AMD): R602-1-4. Filing of Documents
Published: 09/01/2015
Effective: 10/09/2015

Pardons (Board Of)

Administration

No. 39419 (AMD): R671-201. Original Parole Grant Hearing Schedule and Notice
Published: 07/01/2015
Effective: 10/15/2015

No. 39419 (CPR): R671-201. Original Parole Grant Hearing Schedule and Notice
Published: 09/01/2015
Effective: 10/15/2015

No. 39570 (AMD): R671-311. Special Attention Hearings and Decisions Reviews
Published: 09/01/2015
Effective: 10/15/2015

No. 39421 (AMD): R671-316. Redetermination
Published: 07/01/2015
Effective: 10/15/2015

No. 39421 (CPR): R671-316. Redetermination
Published: 09/01/2015
Effective: 10/15/2015

Public Service Commission

Administration

No. 39566 (AMD): R746-100-3. Pleadings
Published: 09/01/2015
Effective: 10/08/2015

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2015 through October 15, 2015. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

<p>AMD = Amendment (Proposed Rule) CPR = Change in Proposed Rule EMR = 120-Day (Emergency) Rule EXD = Expired Rule EXP = Expedited Rule EXT = Five-Year Review Extension GEX = Governor's Extension</p>	<p>LNR = Legislative Nonreauthorization NEW = New Rule (Proposed Rule) NSC = Nonsubstantive Rule Change R&R = Repeal and Reenact (Proposed Rule) REP = Repeal (Proposed Rule) 5YR = Five-Year Notice of Review and Statement of Continuation</p>
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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administrative Rules</u>					
R15-1	Administrative Rule Hearings	39726	5YR	09/11/2015	2015-19/113
R15-2	Public Petitioning for Rulemaking	39727	5YR	09/11/2015	2015-19/113
R15-3	Definitional Clarification of Administrative Rule	39728	5YR	09/11/2015	2015-19/114
R15-4	Administrative Rulemaking Procedures	39729	5YR	09/11/2015	2015-19/115
R15-5	Administrative Rules Adjudicative Proceedings	39730	5YR	09/11/2015	2015-19/115
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	39033	R&R	03/03/2015	2015-2/4
R23-1-1504	Performance Evaluation	39642	NSC	09/30/2015	Not Printed
R23-2	Procurement of Architect-Engineer Services	39061	REP	03/16/2015	2015-3/4
R23-7	State Construction Contracts and Drug and Alcohol Testing	39482	5YR	06/30/2015	2015-14/139
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	39301	AMD	06/22/2015	2015-10/6
R25-10	State Entities Posting of Financial Information to the Utah Public Finance Website	39360	AMD	07/08/2015	2015-11/4
R25-25-7	Travel-Related Reimbursements for State Employees	39160	AMD	04/21/2015	2015-6/10
<u>Purchasing and General Services</u>					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39327	AMD	06/23/2015	2015-10/11
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39472	AMD	08/21/2015	2015-14/6
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39523	NSC	08/24/2015	Not Printed
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-6-109	Only One Bid Received	39366	AMD	07/09/2015	2015-11/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
R33-7	Request for Proposals	39513	NSC	07/30/2015	Not Printed
R33-7-702	Only One Proposal Received	39365	AMD	07/09/2015	2015-11/6
R33-7-702	Only One Proposal Received	39432	AMD	08/07/2015	2015-13/6
R33-8	Exceptions to Procurement Requirements	39328	AMD	06/23/2015	2015-10/15
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38977	AMD	01/28/2015	2014-24/9
R33-16	Controversies and Protests	39470	AMD	08/21/2015	2015-14/9

R33-16-401	Protest Officer May Correct Noncompliance, Errors and Discrepancies	38978	AMD	01/28/2015	2014-24/12
R33-26	State Surplus Property	39084	NSC	01/28/2015	Not Printed
R33-26	State Surplus Property	39271	AMD	06/10/2015	2015-9/4
R33-26-202	Information Technology Equipment	39042	AMD	03/31/2015	2015-2/33
R33-26-202	Disposal of State-Owned Surplus Electronic Data Devices	39454	AMD	08/21/2015	2015-14/11
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	39400	AMD	07/31/2015	2015-11/7
R35-2	Declining Appeal Hearings	39401	AMD	07/31/2015	2015-11/9
R35-4	Compliance with State Records Committee Decisions and Orders	39402	AMD	07/31/2015	2015-11/10
R35-5	Subpoenas Issued by the Records Committee	39403	AMD	07/31/2015	2015-11/11
R35-6	Expedited Hearing	39404	AMD	07/31/2015	2015-11/12
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-1	Public Petitions for Declaratory Rulings	39633	EXD	09/01/2015	2015-18/137
R51-1	Public Petitions for Declaratory Rulings	39636	EMR	09/02/2015	2015-19/109
<u>Animal Industry</u>					
R58-1	Admission, Identification, and Inspection of Livestock, Poultry and other Animals	39423	AMD	08/12/2015	2015-13/7
R58-2	Disease, Inspections, and Quarantines	39422	AMD	08/12/2015	2015-13/14
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	39075	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39073	5YR	01/13/2015	2015-3/67
R58-12	Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments	39573	5YR	08/12/2015	2015-17/97
R58-13	Custom Exempt Slaughter	39614	EXD	08/25/2015	2015-18/137
R58-13	Custom Exempt Slaughter	39616	EMR	08/25/2015	2015-18/131
R58-15	Collection of Annual Fees for the Wildlife Damage Prevention Act	39602	5YR	08/13/2015	2015-17/97
R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37
R58-22	Equine Infectious Anemia (EIA)	39424	AMD	08/12/2015	2015-13/15
<u>Chemistry Laboratory</u>					
R63-1	Fee Schedule	39611	5YR	08/24/2015	2015-18/133
<u>Plant Industry</u>					
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R68-1	Utah Bee Inspection Act Governing Inspection of Bees	39612	5YR	08/24/2015	2015-18/133
R68-2	Utah Commercial Feed Act Governing Feed	39471	5YR	06/29/2015	2015-14/139
R68-6	Utah Nursery Act	39548	5YR	07/29/2015	2015-16/79
R68-10	Quarantine Pertaining to the European Corn Borer	39507	5YR	07/10/2015	2015-15/31
R68-12	Quarantine Pertaining to Mint Wilt	39408	5YR	05/21/2015	2015-12/33
R68-22	Industrial Hemp Research	39148	NEW	04/22/2015	2015-6/14
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	39223	5YR	03/16/2015	2015-7/57
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	39407	R&R	07/22/2015	2015-12/6
R70-610	Uniform Retail Wheat Standards of Identify	39561	5YR	08/05/2015	2015-17/98
R70-620	Enrichment of Flour and Cereal Products	39560	5YR	08/05/2015	2015-17/98
R70-910	Registration of Servicepersons for Commercial Weighing and Measuring Devices	39562	5YR	08/05/2015	2015-17/99
R70-950	Uniform National Type Evaluation	39563	5YR	08/05/2015	2015-17/99

RULES INDEX

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-3	General Policies	39156	AMD	04/28/2015	2015-6/16
R81-1-6	Violation Schedule	39158	AMD	04/28/2015	2015-6/18
R81-1-26	Criminal History Background Checks	39329	AMD	06/24/2015	2015-10/17
R81-2-1	Special Orders of Liquor by Public	39154	AMD	04/28/2015	2015-6/22
R81-2-8	Accepting Checks as Payment for Liquor	39476	AMD	08/25/2015	2015-14/13
R81-2-9	Accepting Credit Cards as Payment for Liquor	39330	AMD	06/24/2015	2015-10/20
R81-3-1	Definition	39417	AMD	07/28/2015	2015-12/12
R81-3-5	Special Orders of Liquor by Public	39155	AMD	04/28/2015	2015-6/23
R81-3-14	Type 5 Package Agencies	39418	AMD	07/28/2015	2015-12/14
R81-3-19	Credit Cards	39331	AMD	06/24/2015	2015-10/21
R81-4B	Airport Lounge Licenses	39803	5YR	10/02/2015	Not Printed
R81-4E	Resort Licenses	39059	5YR	01/08/2015	2015-3/69
R81-10A	Recreational Amenity On-Premise Beer Retailer Licenses	39804	5YR	10/02/2015	Not Printed

ATTORNEY GENERAL

Administration

R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39032	AMD	03/26/2015	2015-2/34
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39099	AMD	03/26/2015	2015-4/4
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39363	EMR	05/12/2015	2015-11/171
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39364	AMD	07/13/2015	2015-11/13
R105-3	White Collar Crime Registry	39445	NEW	08/10/2015	2015-13/17

AUDITOR

Administration

R123-6	Allocation of Money in the Property Tax Valuation Agency Fund	39136	AMD	04/08/2015	2015-5/8
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CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-2	Capitol Hill Complex Facility Use	39025	AMD	02/24/2015	2015-2/41
R131-6	Board Designation of Space	39501	5YR	07/06/2015	2015-15/31
R131-9	Art and Exhibits	39266	EXD	04/08/2015	2015-9/87
R131-15	State Construction Contracts and Drug and Alcohol Testing	39502	5YR	07/06/2015	2015-15/32

COMMERCE

Administration

R151-4-109	Extension of Time and Continuance of Hearing	39144	AMD	04/10/2015	2015-5/9
R151-14-3	Adjudicative Proceedings	39034	AMD	02/24/2015	2015-2/49

Consumer Protection

R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	39281	5YR	04/15/2015	2015-9/83
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	39273	AMD	06/08/2015	2015-9/5
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R152-39	Child Protection Registry Rules	39282	5YR	04/15/2015	2015-9/83
R152-49	Immigration Consultants Registration Act Rules	39524	NEW	09/21/2015	2015-16/8

Occupational and Professional Licensing

R156-17b	Pharmacy Practice Act Rule	39056	5YR	01/05/2015	2015-3/69
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R156-17b	Pharmacy Practice Act Rule	39018	AMD	02/24/2015	2015-2/51
R156-20a	Environmental Health Scientist Act Rule	39306	5YR	04/27/2015	2015-10/101
R156-20a	Environmental Health Scientist Act Rule	39351	AMD	07/09/2015	2015-11/20
R156-24b-302b	Qualifications for Licensure - Examination Requirements	39092	AMD	03/24/2015	2015-4/9
R156-26a-501	Unprofessional Conduct	39055	AMD	04/02/2015	2015-3/7
R156-28-304	Continuing Professional Education	39233	AMD	05/27/2015	2015-8/6
R156-31b	Nurse Practice Act Rule	39132	AMD	04/07/2015	2015-5/10
R156-31b-103	Authority - Purpose	39615	NSC	09/11/2015	Not Printed
R156-31b-202	Advisory Peer Education Committee Created -- Membership - Duties	38981	AMD	01/22/2015	2014-24/13
R156-31b-609	Standards for Out-of-State Programs Providing Clinical Experiences in Utah	38980	AMD	01/22/2015	2014-24/14
R156-37	Utah Controlled Substances Act Rule	39015	AMD	02/24/2015	2015-2/80
R156-37f-102	Definitions	39020	AMD	02/24/2015	2015-2/84
R156-44a-609	Standards for Out-of-State Programs Providing Certified Nurse Midwife Clinical Experiences in Utah	39176	AMD	05/11/2015	2015-7/2
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R671-204	Hearing Continuances	39545	NEW	10/01/2015	2015-16/63
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R671-205	Credit for Time Served	39547	NSC	08/17/2015	Not Printed
R671-303-1	Information Received, Maintained or Used by the Board	39107	AMD	04/07/2015	2015-5/90
R671-305-1	Board Decisions and Orders	39137	AMD	04/07/2015	2015-5/91
R671-311	Special Attention Hearings and Decisions Reviews	39570	AMD	10/15/2015	2015-17/86
R671-316	Redetermination	39421	AMD	10/15/2015	2015-13/44
R671-316	Redetermination	39421	CPR	10/15/2015	2015-17/95
R671-405	Parole Termination	39794	EMR	10/01/2015	2015-20/126

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R686-103	Utah Professional Practices Advisory Commission Review of Licensure Due to Background Check Offenses	39392	REP	07/08/2015	2015-11/149
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R722-330	Licensing of Private Investigators	39058	5YR	01/07/2015	2015-3/74
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R722-370	Firearm Safety Program	39019	NEW	02/24/2015	2015-2/100
R722-380	Firearm Background Check Information	39091	NEW	03/24/2015	2015-4/22
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R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	39236	AMD	05/26/2015	2015-8/17
R708-32	Uninsured Motorist Identification Database	39179	5YR	03/10/2015	2015-7/77

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R708-41	Requirements for Acceptable Documentation, Storage and Maintenance	39182	5YR	03/10/2015	2015-7/79
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R708-51	Mobility Vehicle Permit	39043	NEW	02/25/2015	2015-2/97
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R746-312	Electrical Interconnection	39311	5YR	04/29/2015	2015-10/107
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R765-609	Regents' Scholarship	39157	5YR	02/25/2015	2015-6/48
R765-611	Veterans Tuition Gap Program	39023	NEW	02/25/2015	2015-2/101
R765-649	Utah Higher Education Assistance Authority (UHEAA) Privacy Policy	39605	5YR	08/18/2015	2015-18/135
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R810-1	University of Utah Parking Regulations	39224	AMD	05/19/2015	2015-7/44
R810-2	Parking Meters	39225	AMD	05/19/2015	2015-7/46
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R810-6	Permit Prices and Refunds	39227	AMD	05/19/2015	2015-7/48
R810-8	Vendor Regulations	39228	AMD	05/19/2015	2015-7/49
R810-9	Contractors and Their Employees	39229	AMD	05/19/2015	2015-7/50
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R850-50	Range Management	39429	AMD	08/11/2015	2015-13/48
R850-90	Land Exchanges	39295	NSC	05/11/2015	Not Printed
R850-150	Rare Plant Species	39309	NEW	06/22/2015	2015-10/92
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R865-6F-28	Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 63M-1-401 through 63M-1-416	39425	NSC	06/24/2015	Not Printed
R865-9I-37	Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63M-1-401 through 63M-1-414	39426	NSC	06/24/2015	Not Printed
R865-20T-10	Procedures for the Revocation, Renewal, and Reinstatement of Licenses Issued Pursuant to Utah Code Ann. Sections 59-14-202, 59-14-203.5, and 59-14-301.5	39438	AMD	08/27/2015	2015-13/51
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R895-1	Access to Records	39725	NSC	09/30/2015	Not Printed
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R916-4	Construction Manager/General Contractor Contracts	39506	5YR	07/09/2015	2015-15/34
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R916-6	Drug and Alcohol Testing in State Construction Contracts	39455	NSC	07/13/2015	Not Printed
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R918-7	Highway Sponsorship Programs	39150	AMD	04/23/2015	2015-6/36

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R930-8	Utility Relocations Required by Highway Projects	39297	CPR	08/24/2015	2015-14/135

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R986-200	Family Employment Program	39439	AMD	09/01/2015	2015-13/57
R986-200	Family Employment Program	39635	5YR	09/02/2015	2015-19/121
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R986-400	General Assistance	39644	5YR	09/03/2015	2015-19/122
R986-500	Adoption Assistance	39645	5YR	09/03/2015	2015-19/122
R986-600	Workforce Investment Act	39646	5YR	09/03/2015	2015-19/123
R986-700	Child Care Assistance	39098	AMD	05/01/2015	2015-4/28
R986-700	Child Care Assistance	39395	AMD	09/01/2015	2015-11/159
R986-700	Child Care Assistance	39496	AMD	09/01/2015	2015-14/110
R986-700	Child Care Assistance	39647	5YR	09/03/2015	2015-19/123
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R986-700-775	High Quality School Readiness Grant Program	38939	AMD	01/29/2015	2014-23/46
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R990-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	39085	AMD	03/10/2015	2015-3/58
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R994-304	Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates	39242	5YR	03/25/2015	2015-8/42
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>abortion</u> Health, Health Care Financing, Coverage and Reimbursement Policy	39341	R414-1B	AMD	07/01/2015	2015-10/32
<u>abrasive blasting</u> Environmental Quality, Air Quality	39116 39119	R307-206 R307-306	5YR 5YR	02/05/2015 02/05/2015	2015-5/105 2015-5/107
<u>abusive conduct</u> Human Resource Management, Administration	39323	R477-16	NEW	07/01/2015	2015-10/67
<u>acceptable documents</u> Public Safety, Driver License	39182	R708-41	5YR	03/10/2015	2015-7/79
<u>access</u> Environmental Quality, Drinking Water	39194	R309-545	5YR	03/13/2015	2015-7/70
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<u>accessibility guidelines</u> Technology Services, Administration	39427	R895-14	NEW	08/07/2015	2015-13/52
<u>accidents</u> Natural Resources, Parks and Recreation	39090	R651-223	5YR	01/23/2015	2015-4/38
<u>accountants</u> Commerce, Occupational and Professional Licensing	39055	R156-26a-501	AMD	04/02/2015	2015-3/7
<u>accounts</u> Money Management Council, Administration	39810	R628-4	5YR	10/05/2015	Not Printed
<u>accreditation</u> Education, Administration	39485 39490	R277-410 R277-410	5YR AMD	07/01/2015 08/26/2015	2015-14/140 2015-14/43
<u>activities</u> Education, Administration	39831	R277-494	5YR	10/15/2015	Not Printed
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	38770	R313-17-4	CPR	02/17/2015	2014-24/40
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	39727	R15-2	5YR	09/11/2015	2015-19/113
	39728	R15-3	5YR	09/11/2015	2015-19/114
	39729	R15-4	5YR	09/11/2015	2015-19/115
	39730	R15-5	5YR	09/11/2015	2015-19/115
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	39636	R51-1	EMR	09/02/2015	2015-19/109
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	38770	R313-17-4	CPR	02/17/2015	2014-24/40
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	39322	R477-15	AMD	07/01/2015	2015-10/65
	39323	R477-16	NEW	07/01/2015	2015-10/67
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	39380	R602-2-4	AMD	07/08/2015	2015-11/117
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	39256	R850-27	5YR	04/01/2015	2015-8/40
	39429	R850-50	AMD	08/11/2015	2015-13/48
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	39349	R307-302	5YR	05/06/2015	2015-11/185
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	39476	R81-2-8	AMD	08/25/2015	2015-14/13
	39330	R81-2-9	AMD	06/24/2015	2015-10/20
	39417	R81-3-1	AMD	07/28/2015	2015-12/12
	39155	R81-3-5	AMD	04/28/2015	2015-6/23
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	39165	R414-303-8	AMD	05/08/2015	2015-7/26

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	39103	R590-271	CPR	06/22/2015	2015-10/98
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	39279	R313-22	CPR	08/26/2015	2015-14/124
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	39585	R277-200	AMD	10/08/2015	2015-17/15
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	39480	R495-878	AMD	08/25/2015	2015-14/101
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	39590	R277-205	AMD	10/08/2015	2015-17/36
	39388	R277-206	NEW	07/08/2015	2015-11/53
	39591	R277-206	AMD	10/08/2015	2015-17/37
	39597	R277-514	REP	10/08/2015	2015-17/58
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	39086	R58-21	5YR	01/21/2015	2015-4/37	
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	39409	R512-300	AMD	07/22/2015	2015-12/20	
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	39530	R357-5	NSC	08/17/2015	Not Printed	
	39531	R357-6	NSC	08/17/2015	Not Printed	
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	39494	R277-700	AMD	08/26/2015	2015-14/59	
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