

# UTAH STATE BULLETIN

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

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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**

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

### **Notice for January 2016 Medicaid Rate Changes**

Effective January 1, 2016, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>.

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

### **Licensed Psychologists**

The Division of Medicaid and Health Financing will amend Attachments 3.1-A and 3.1-B of the Medicaid State Plan to remove provisions for psychologist services already described in the Rehabilitative section of these attachments.

This State Plan Amendment (SPA 16-0001-UT) does not affect total annual expenditures for the Medicaid program.

The SPA is pending approval from the Centers for Medicare and Medicaid Services and the proposed effective date is January 1, 2016.

*A copy of this change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, PO Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.*

**End of the Special Notices Section**



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between November 17, 2015, 12:00 a.m., and December 01, 2015, 11:59 p.m. are included in this, the December 15, 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 January 14, 2016. 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 April 13, 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 OR A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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

Agriculture and Food, Horse Racing Commission (Utah) R52-7 Horse Racing

NOTICE OF PROPOSED RULE (Amendment) DAR FILE NO.: 39951 FILED: 11/18/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes the rules and guidelines for horse racing in the State of Utah. The changes to the rule clarify the requirements for entry and add some safety provisions.

SUMMARY OF THE RULE OR CHANGE: The rule changes remove some of the discretion given to the stewards making the requirements for entry in the race uniform. Further, the changes add some protection to the jockeys by requiring long sleeves while racing and removing the head number which obstructs the vision.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-38-4

ANTICIPATED COST OR SAVINGS TO: THE STATE BUDGET: None of the changes have an impact on how the state manages horse racing. LOCAL GOVERNMENTS: Local governments have no role in the enforcement of this rule. SMALL BUSINESSES: This rule makes minor changes to what a jockey should wear. PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: As the rules require jockey's to wear long sleeves there will be an anticipated cost of the purchasing of a shirt in the appropriate racing colors.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be minimal costs to the jockeys to purchase the long sleeve shirt, if they are not already in possession of the appropriate attire.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes are for the protection of the jockeys and to ensure that all entry requirements are being meet. This rule does not add restrictions to businesses and therefore, there are no fiscal impacts to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: AGRICULTURE AND FOOD HORSE RACING COMMISSION (UTAH) 350 N REDWOOD RD SALT LAKE CITY, UT 84114 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

R52. Agriculture and Food, Horse Racing Commission (Utah). R52-7. Horse Racing.

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R52-7-7. Entries and Declarations.

- 1. Control Over Entries And Declarations. All entries and declarations are under the supervision of the Stewards or their designee; and they, without notice, may refuse the entries any person or the transfer of entries. 2. Racing Secretary To Establish Conditions. The racing secretary may establish the conditions for any race, the allowances or handicaps to be established for specific races, the procedures for the acceptance of entries and declarations, and such other conditions as are necessary to provide and conduct the organization's race meeting. 3. Entries. No horse shall be entered in more than one race on the same day. No person shall enter or attempt to enter a horse for a race unless such entry is a bona fide entry made with the intention that such horse is to compete in the race for which entry is made except, if racing conditions permit, for entry back in finals or consolations involving physically disabled or dead qualifiers for purse payment purposes. Entries shall be in writing on the entry card provided by the organization and must be signed by the trainer or assistant trainer of the horse. Entries made by telephone are valid properly confirmed by the track when signing the entry card. No horse shall be allowed to start unless the entry card has been signed by the trainer or his assistant trainer.



4. **Determining Eligibility.** Determination of a horse's eligibility, penalty or penalties and the right to allowance or allowances for all races shall be from the date of the horse's last race unless the conditions specify otherwise. The trainer is responsible for the eligibility of his horse and to properly enter his horse in condition. In the event the records of the Racing Secretary or the appropriate breed registry do not reflect the horse's most recent starts, the trainer or owner shall accurately provide such information. If a horse is not eligible under the first condition of any race, he cannot be eligible under subsequent conditions. If the conditions specify nonwinners of a certain amount, it means that the horse has not won a race in which the winner's share was the specified amount or more. If the conditions specify noneamers of a stated amount, it means that the horse has not earned that stated amount in any total number of races regardless of the horse's placing.

5. **Entries Survive With Transfer.** All entries and rights of entry are valid and survive when a horse is sold with his engagements duly transferred. If a partnership agreement is properly filed with the Horsemen's Bookkeeper, subscriptions, entries and rights of entry survive in the remaining partners. Unless written notice to the contrary is filed with the stewards, the entries, rights of entry, and engagements remain with the horse and are transferred therewith to the new owner. No entry or right of entry shall become void on the death of the nominator unless the conditions of the race state otherwise.

6. **Horses Ineligible To Start In A Race.** In addition to any other valid ground or reason, a horse is ineligible to start any race if:

A. Such horse is not registered by The Jockey Club if a Thoroughbred; the American Quarter Horse Association if a Quarter Horse; the Appaloosa Horse Club if an Appaloosa; the Arabian Horse Club Registry of America if an Arabian; the American Paint Horse Association if a Paint; the Pinto Horse Association of America, Inc., if a Pinto; or any successors to any of the foregoing or other registry recognized by the Commission.

B. The Certificate of Foal Registration, eligibility papers, or other registration issued by the official registry for such horse is not on file with the racing secretary one hour prior to post time for the race in which the horse is scheduled to race.

C. Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry.

D. The Win Certificate, Certificate of Foal Registration, eligibility papers or other registration issued by the official registry has been materially altered, erased, removed, or forged.

E. Such horse is ineligible to enter said race, is not duly entered for such race, or remains ineligible to time of starting.

F. The trainer of such horse has not completed the prescribed licensing procedures required by the Commission before entry and the ownership of such horse has not completed the prescribed licensing procedures prior to the horse starting or the horse is in the care of an unlicensed trainer.

G. Such horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry.

H. Such horse is a suspended horse.

I. Such horse is on the stewards' list, starter's list, or the veterinarian's list.

J. Except with permission of the stewards and identifier, the identification markings of the horse do not agree with identification as

set forth on the registration certificate to the extent that a correction is required from the appropriate breed registry.

K. ~~[Except with the permission of the stewards, a]~~A horse has not been lip tattooed by a Commission approved tattooer.

L. The entry of a horse is not in the name of his true owner.

M. The horse has drawn into the field or has started in a race on the same day.

N. Its age as determined by an examination of its teeth by the official veterinarian does not correspond to the age shown on its registration certificate, such determination by tooth examination to be made in accordance with the current "Official Guide for Determining the Age of the Horse" as adopted by the American Association of Equine Practitioners.

7. **Horses Ineligible To Enter Or Start.** Any horse ineligible to be entered for a race or ineligible to start in any race which is entered or competes in such race, may be scratched or disqualified; and the stewards may discipline any person responsible.

8. **Registration Certificate To Reflect Correct Ownership.** Every certificate of registration, eligibility certificate or lease agreement filed with the organization and its racing secretary to establish the eligibility of a horse to be entered for any race shall accurately reflect the correct and true ownership of such horse, and the name of the owner which is printed on the official program for such horse shall conform to the ownership as declared on the certificate of registration or eligibility certificate. A stable name may be registered for such owner or ownership with the Commission. In the event ownership is by syndicate, corporation, partnership or other association or entity, the name of the owner which is printed on the official program for such shall be the responsible managing owner, officer, or partner who assumes all responsibilities as the owner.

9. **Alteration Or Forgery Of Certificate Of Registration.** No person shall alter or forge any win sheet, certificate of registration, certificate of eligibility, or any other document of ownership or registration, nor willfully forge or alter the signature of any person required on any such document or entry card.

10. **Declarations And Scratches.** Any trainer or assistant trainer of a horse which has been entered in a race who does not wish such horse to participate in the draw must declare his horse from the race prior to the close of entries. Any trainer or assistant trainer of a horse which has been drawn into or is also eligible for a race who does not wish such horse to start in the race, must scratch his horse from the race prior to the designated scratch time. The declaration or scratch of a horse from a race is irrevocable.

11. **Deadline For Arrival Of Entered Horses.** All horses scheduled to compete in a race must be present within the enclosure no later than 30 minutes prior to their scheduled race without stewards' approval. Horses not within the enclosure by their deadline may be scratched and the trainer subject to fine and/or suspension.

12. **Refund Of Fees.** If a horse is declared or scratched from a race, the owner of such horse shall not be entitled to a refund of any nomination, sustaining and penalty payments, entry fees, or organization charges paid or remaining due at the time of the declaration or scratch. In the event any race is not run, declared off, or canceled for any reason, the owners of such horses that remain eligible at the time the race is declared off or canceled shall be entitled to a complete refund of all the above payments and fees less monies specified in written race conditions for advertising and promotion.

13. **Release Of Certificates.** Any certificate of registration or document of ownership filed with the racing secretary to establish

eligibility to enter a race shall be released only to the trainer of record of the horse. However, the trainer may authorize in a form provided by the racing secretary the release of the certificate to the owner named on the certificate or his authorized agent. Any disputes concerning the rights to the registration certificates shall be decided by the stewards.

14. Nomination Races. Prior to the closing of nominations, the organization shall file with the Commission a copy of the nomination blank and all advertisements for races to be run during a race meeting. For all races which nominations close no earlier than 72 hours before post time, the organization shall furnish the Commission and the owners of horses previously made eligible by compliance with the conditions of such race, with a list of all horses nominated and which remain eligible. The list shall be distributed within 15 days after the due date of each payment and shall include the horse's name, the owner's name and the total amount of payments and gross purse to date, including any added monies, applicable interest, supplementary payments, and deduction for advertising and administrative expenses. The organization shall deposit all monies for a nomination race in an escrow account according to procedures approved by the Commission.

15. Limitations On Field And Number Of Races. No race with less than two horses entered and run, shall be approved by the UHRC. No more than 20 races may be run on a race day, except with permission of the Commission. A race day may be canceled if less than 75 horses have been entered on the day's program, with the exception of days on which trials or finals for a nomination race are scheduled.

16. Agreement Upon Entry. No entry shall be accepted in any race except upon the condition that all disputes, claims, and objections arising out of the racing or with respect to the interpretation of Commission and track rules or conditions of any race shall be decided by the Board of Stewards at the race meet; or, upon appeal, decided by the Commission.

17. Selection Of Entered Horses. The manner of selecting post positions of horses shall be determined by the stewards. The selection shall be by lot and shall be made by one of the stewards or their designee and a horseman, in public, at the close of entries. If the number of entries to any race is in excess of the number of horses which may, because of track limitations, be permitted to start in any one race, the race may be split; or four horses not drawing into the field may be placed on an also eligible list.

18. Preferred List Of Horses. The racing secretary may maintain a list of entered horses eliminated from starting by a surplus of entries, and these horses shall constitute a preferred list and have preference. The manner in which the preferred list shall be maintained and all rules governing such list shall be the responsibility of the Racing Secretary. Such rules must be submitted to the Commission 30 days prior to the commencement of the meet and are subject to approval by the Commission.

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**R52-7-9. Running the Race.**

1. Jockeys To Report. Every jockey engaged to ride in a race shall report to the jockey room at least one hour before post time of the first race and shall weigh out at the appointed time unless excused by the stewards. After reporting, a jockey shall not leave the jockey room until all of their riding engagements have been fulfilled and/or unless excused by the stewards.

2. Entrance To Jockey Room Prohibited. Except with permission of the stewards or the Commission, no person shall be permitted entrance into the jockey room from one hour before post time for the first race until after the last race other than jockeys, their attendants, racing officials and security officers on duty, and organization employees performing required duties.

3. Weighing Out. All jockeys taking part in a race must be weighed out by the Clerk of Scales no more than one hour preceding the time designated for the race. Any overweight in excess of one pound shall be declared by the jockey to the Clerk of Scales, who shall report such overweight and any change in jockeys to the Stewards for immediate public announcement. A jockey's weight includes the riding costume, racing saddle and pad; but shall not include the jockey's safety helmet, whip, the horse's bridle or other regularly approved racing tack. A jockey must be neat in appearance and must wear a conventional riding costume.

4. Unruly Horses In The Paddock. If a horse is so unruly in the saddling paddock that the identifier cannot read the tattoo number and properly identify the horse; or if the trainer or their assistant is uncooperative in the effort to identify the horse, then the horse may be scratched by order of the stewards.

5. Use Of Equipment. No bridle shall weigh more than two pounds, nor shall any whip weigh more than one pound or be more than 31 inches in length. No whip shall be used unless it shall have affixed to the end thereof a leather "popper." All whips are subject to inspection and approval by the stewards. Blinkers are not to be placed on the horse until after the horse has been identified by the official identifier, except with permission of the stewards.

6. Prohibited Use Of Equipment. Jockeys are prohibited from whipping a horse excessively, brutally, or upon the head, except when necessary to control the horse. No mechanical or electrical devices or appliances other than the ordinary whip shall be possessed by any individual or used on any horse at any time a race meeting, whether in a race or otherwise.

7. Responsibility For Weight. The jockey, trainer and owner shall be responsible for the weight carried by the horse after the jockey has been weighed out for the race by the clerk of scales. The trainer or owner may substitute a jockey when the engaged jockey reports an overweight in excess of two pounds.

8. Safety Equipment Required. All persons, when mounted on a race horse within the enclosure or riding in a race, shall wear a properly fastened safety helmet and flak jacket. The Commission or the stewards may require any other person to wear such helmet and jacket when mounted on a horse within the enclosure. All safety helmets and flak jackets so required are subject to approval of the stewards or Commission.

9. Display Of Colors And Post Position Numbers. In a race, each horse shall carry a conspicuous saddle cloth number[~~and a head number~~], and the jockey shall wear racing colors consisting of long sleeves and a numbered helmet cover corresponding to the number of the horse which are furnished by the organization licensee.

10. Deposit Of Jockey Fee. The minimum jockey mount fee for a losing mount in the race must be on deposit with the horsemen's bookkeeper, prior to the time for weighing out, and failure to have such minimum fee on deposit is cause for disciplinary action and cause for the stewards to scratch the horse for which such fee is to be deposited. The organization assumes the obligation to pay the jockey fee when earned by the engaged jockey. The jockey fee shall

be considered earned when the jockey is weighed out by the clerk of scales, unless, in the opinion of the stewards, such jockey capable of riding elect to take themselves off the mount without proper cause.

11. Requirements For Horse, Trainer, And Jockey. Every horse must be in the paddock at the time appointed by the stewards before post time for their race. Every horse must be saddled in the paddock stall designated by the paddock judge unless special permission is granted by the stewards to saddle elsewhere. Each trainer or their assistant trainer having the care and custody of such horse shall be present in the paddock to supervise the saddling of the horse and shall give such instructions as may be necessary to assure the best performance of the horse. Every jockey participating in a race shall give their best effort in order to facilitate the best performance of their horse.

12. Failure To Fulfill Jockey Engagements. No jockey engaged for a certain race or for a specified time may fail or refuse to abide by his or her agreement unless excused by the stewards.

13. Control And Parade Of Horses On The Track. The horses are under the control of the starter from the time they enter the track until dispatched at the start of the race. All horses with jockey mounted shall parade and warm up carrying their weight and wearing their equipment from the paddock to the starting gate, as well as to the finish line. Any horse failing to do so may be scratched by the stewards. After passing the stands at least once, the horses may break formation and warm up until directed to proceed to the starting gate. In the event a jockey is injured during the parade to post or at the starting gate and must be replaced, the horse shall be returned to the paddock and resaddled with the replacement jockey's equipment. Such horse must carry the replacement jockey to the starting gate.

14. Start Of The Race. When the horses have reached the starting gate, they shall be placed in their starting gate stalls in the order stipulated by the starter. Except in cases of emergency, every horse shall be started by the starter from a starting gate approved by the Commission. The starter shall see that the horses are placed in their proper positions without unnecessary delay. Causes for any delay in the start shall immediately be reported to the stewards. If, when the starter dispatches the field, the doors at the front of the starting gate stall should not open properly due to a mechanical failure of malfunction of the starting gate, the stewards may declare such horse to be a nonstarter. Should a horse which is not previously scratched not be in the starting gate stall thereby causing such horse to be left when the field is dispatched by the starter, such horse shall be declared a nonstarter by the stewards.

15. Leaving The Race Course. Should a horse leave the course while moving from the paddock to starting gate, he shall return to the course at the nearest practical point to that at which he left the course, and shall complete his parade to the starting gate from the point at which he left the course. However, should such horse leave the course to the extent that he is out of the direct line of sight of the stewards, or if such horse cannot be returned to the course within a reasonable amount of time, the stewards shall scratch the horse. Any horse which leaves the course or loses its jockey during the running of a race shall be disqualified and may be placed last, or the horse may be unplaced.

16. Riding Rules. In a straightaway race, every horse must maintain position as nearly as possible in the lane in which he starts. If a horse is ridden, drifts, or swerves out of their lane in such a manner that he interferes with or impedes another horse, it is a foul. Every jockey shall be responsible for making his best effort to control and

guide his mount in such a way as not to cause a foul. The stewards shall take cognizance of riding which results in a foul, irrespective of whether an objection is lodged; and if in the opinion of the stewards a foul is committed as a result of a jockey not making his best effort to control and guide their mount to avoid a foul, whether intentionally or through carelessness or incompetence, such jockey may be penalized at the discretion of the stewards.

17. Stewards To Determine Fouls And Extent Of Disqualification. The stewards shall determine the extent of interference in cases of fouls or riding infractions. They may disqualify the offending horse and place it behind such other horses as in their judgment it interfered with, or they may place it last. The stewards may determine that a horse shall be unplaced.

18. Careless Riding. A jockey shall not ride carelessly or willfully so as to permit his or her mount to interfere with or impede any other horse in the race. A jockey shall not willfully strike at another horse or jockey so as to impede, interfere with, or injure the other horse or jockey. If a jockey rides in a manner contrary to this rule, the horse may be disqualified and/or the jockey may be fined and/or suspended, or otherwise disciplined.

19. Ramifications Of A Disqualification. When a horse is disqualified by the stewards, every horse in the race owned wholly or in part by the same owner, or trained by the same trainer, may be disqualified. When a horse is disqualified for interference in a time trial race, it shall receive the time of the horse it is placed behind plus 0.01 of a second penalty, or more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

20. Dead Heat. When a race results in a dead heat, the heat shall not be run off. The purse distribution due the horses involved in the dead heat shall be divided equally between them. All prizes or trophies for which a duplicate is not awardable shall be drawn for by lot.

21. Returning To The Finish After The Race. After the race, the jockey shall return their horse to the finish and before dismounting, salute the stewards. No person shall assist a jockey in removing from their horse the equipment that is to be included in the jockey's weight except by permission of the stewards. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in his weight.

22. Objection - Inquiry Concerning Interference. Before the race has been declared official, a jockey, trainer or their assistant trainer, owner or their authorized agent of the horse, who has reasonable grounds to believe that their horse was interfered with or impeded or otherwise hindered during the running of a race, or that any riding rule was violated by any jockey or horse during the running of the race, may immediately make a claim of interference or foul with the stewards or their delegate. The stewards shall thereupon hold an inquiry into the running of the race; however, the stewards may upon their own motion conduct an inquiry into the running of a race. Any claim of foul, objection, and/or inquiry shall be immediately announced to the public.

23. Official Order Of Finish. When satisfied that the order of finish is correct, that all jockeys unless excused have been properly weighed in, and that the race has been properly run in accordance with the rules of the Commission, the Stewards shall declare that the order of finish is official; and it shall be announced to the public, confirmed, and the official order of finish posted for the race.

24. Time Trial Qualifiers. When two or more time trial contestants have the same qualifying time, to a degree of .001 of a second, or more exact measurement if photo finish equipment permits, for fewer positions in the finals or consolation necessary for all contestants, then a draw by lot will be conducted in accordance with Subsection R52-7-7(17). However, no contestant may draw into a finals or consolation instead of a contestant which out finished such contestant. When scheduled races are trial heats for futurities or stakes races electronically timed from the starting gates, no organization licensee shall move the starting gates or allow the starting gates to be moved until all trial heats are complete, except in an emergency as determined by the stewards.

.....

**KEY: horses, horse racing**  
**Date of Enactment or Last Substantive Amendment: [~~December 11, 2013~~2016**  
**Notice of Continuation: August 30, 2011**  
**Authorizing, and Implemented or Interpreted Law: 4-38-4**

**Agriculture and Food, Plant Industry**  
**R68-9**  
**Utah Noxious Weed Act**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 39965  
FILED: 11/30/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed changes would add specific weeds that need to be contained and managed so as to avoid their spread across the state.

**SUMMARY OF THE RULE OR CHANGE:** The rule is amended to adjust the list of the state's noxious weeds. Weed species are being added to the list at the advisement of the State Weed Committee. The new list was proposed by the State Weed Committee in cooperation with the Utah Department of Agriculture and Food, Utah Department of Natural Resources, Utah State University, Utah Association of Counties, Utah Weed Control Association, Utah Weed Supervisors Association, and Private Land Owners.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 4, Chapter 17

**ANTICIPATED COST OR SAVINGS TO:**  
♦ **THE STATE BUDGET:** The new list of weeds is a watch list for new weed species entering the state. The state fiscal budget should not be impacted by this change, as there is already an existing program and operating procedures for controlling noxious weeds.

♦ **LOCAL GOVERNMENTS:** County weed control programs identify and control noxious weeds found in their individual counties. County weed supervisors will need to increase identification of potential noxious weeds from the new list. If the new weeds from the list are found, then additional control methods will need to be used which would increase the cost of control in individual county budgets where these weeds are found. For some counties, it is anticipated that the cost for control of the new list could range from \$100,000 through \$500,000 in additional costs to a single county budget.  
♦ **SMALL BUSINESSES:** No impact is expected, rule only governs county weed control programs. Small businesses play no role in the enforcement of this rule and therefore will not be affected by this rule.  
♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There may be minimal impact on lands owners who are found to have these weeds on their properties. Land owners will have to treat the species if located on their properties. However, as most of newly listed weeds are currently not known to exist in the state it is anticipated that there will be no additional costs at this time.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This change in the rule will cause an increase in the costs for compliance. Affected persons who are land owners will have to treat the new list of noxious weeds located on their properties. Because most of the new weeds being added to the list are not known to exist in our state, it is not anticipated that this cost will be substantial at this time. As these new weeds are identified and treated in the early stage of development, the future costs of compliance should remain fairly low. Several of the weed species on the new list are found in several of the counties located along the Wasatch Front. For these counties it is anticipated that the cost for control of the new list could range from \$100,000 through \$500,000 in additional costs to a single county budget.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be a minimal cost increase for businesses. The new weed list will mainly affect individual property owners and City/County weed control budgets. Businesses that purchase, maintain, or sell land infested with noxious weeds are not expected to be directly impacted by this rule change since the new weeds listed are not generally known to exist in our state at this time. The reason for the rule change is to give additional protection against the possibility of infestation from weeds found in surrounding states.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
AGRICULTURE AND FOOD  
PLANT INDUSTRY  
350 N REDWOOD RD  
SALT LAKE CITY, UT 84116-3034  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

**R68. Agriculture and Food, Plant Industry.**

**R68-9. Utah Noxious Weed Act.**

**R68-9-1. Authority.**

Promulgated under authority of 4-2-2 and 4-17-3.

**R68-9-2. Designation and Publication of State Noxious Weeds.**

A. The following weeds are hereby officially designated and published as noxious for the State of Utah, as per the authority vested in the Commissioner of Agriculture and Food under Section 4-17-3:

There are hereby designated ~~three~~ five classes of noxious weeds in the state: Class 1A (EDRR Watch List), Class [B]1 (EDRR), Class 2 (Control), [and] Class [C]2 (Containment), and Class 4 (Prohibited for sale or propagation).

TABLE

~~[Class A: Early Detection Rapid Response (EDRR) Declared noxious weeds not native to the state of Utah that pose a serious threat to the state and should be considered as a very high priority.~~

<del>Blackhenbane</del>	<del>Hyoscyamus niger (L.)</del>
<del>Diffuse Knapweed</del>	<del>Centaurea diffusa (Lam.)</del>
<del>Leafy Spurge</del>	<del>Euphorbia esula L.</del>
<del>Medusahead</del>	<del>Taeniatherum caput-medusae</del>
<del>Oxeye daisy</del>	<del>Chrysanthemum leucanthemum L.</del>
<del>Perennial Sorghum spp.</del>	<del>including but not limited to Johnson Grass (Sorghum halepense (L.) Pers. and Sorghum Alnum (Sorghum Alnum, Parodi).</del>
<del>Purple Loosestrife</del>	<del>Lythrum salicaria L.</del>
<del>Spotted Knapweed</del>	<del>Centaurea maculosa Lam.</del>
<del>Squarrose Knapweed</del>	<del>Centaurea Squarrosa Gugle.</del>
<del>St. Johnsworts</del>	<del>Hypericum perforatum L.</del>
<del>Sulfur cinquefoil</del>	<del>Potentilla recta L.</del>
<del>Yellow Starthistle</del>	<del>Centaurea solstitialis L.</del>
<del>Yellow Toadflax</del>	<del>Linaria vulgaris Mill.]</del>

Class 1A: Early Detection Rapid Response (EDRR) Watch List  
Declared noxious and invasive weeds not native to the state of Utah and not known to exist in the State that pose a serious threat to the state and should be considered as a very high priority.

Common crupina	Crupina vulgaris
African rue	Peganum harmala
Small bugloss	Anchusa arvensis

Mediterranean sage	Salvia aethiopsis
Spring millet	Milium vernale
Syrian beancaper	Zygophyllum fabago
Ventenata (North Africa grass)	Ventenata dubia
Plumeless thistle	Carduus acanthoides
Malta starthistle	Centaurea melitensis

~~[Class B: (Control) Declared noxious weeds not native to the state of Utah, that pose a threat to the state and should be considered a high priority for control.~~

<del>Bermudagrass*</del>	<del>Cynodon dactylon (L.) Pers.</del>
<del>Broad leaved Peppergrass</del>	<del>Lepidium latifolium L.</del>
<del>(Tall Whitetop)</del>	
<del>Dalmation Toadflax</del>	<del>Linaria dalmatica (L.) Mill</del>
<del>Dyers Wood</del>	<del>Isatis tinctoria L.</del>
<del>Hoary cress</del>	<del>Cardaria spp.</del>
<del>Musk Thistle</del>	<del>Carduus nutans L.</del>
<del>Poison Hemlock</del>	<del>Conium maculatum L.</del>
<del>Russian Knapweed</del>	<del>Centaurea repens L.</del>
<del>Scotch Thistle</del>	<del>Onopordium acanthium L.</del>
<del>(Cotton Thistle)</del>	
<del>Squarrose Knapweed</del>	<del>Centaurea virgata Lam. Ssp]</del>

Class 1B: Early Detection Rapid Response (EDRR)  
Declared noxious and invasive weeds not native to the State of Utah that are known to exist in the state in very limited populations and pose a serious threat to the state and should be considered as a very high priority.

Camelthorn	Alhagi maurorum
Garlic mustard	Alliaria petiolata
Purple starthistle	Centaurea calcitrapa
Goatsrue	Galega officinalis
African mustard	Brassica tournefortii
Giant reed	Arundo donax
Japanese knotweed	Polygonum cuspidatum
Blueweed (Vipers bugloss)	Echium vulgare
Elongated mustard	Brassica elongata
Common St. Johnswort	Hypericum perforatum
Oxeye daisy	Leucanthemum vulgare
Cutleaf vipergrass	Scorzonera laciniata

~~[Class C: (Containment) Declared noxious weeds not native to the state of Utah that are widely spread but pose a threat to the agricultural industry and agricultural products with a focus on stopping expansion.~~

<del>Field Bindweed</del>	<del>Convolvulus spp.</del>
<del>(Wild Morning glory)</del>	
<del>Canada Thistle</del>	<del>Cirsium arvense (L.) Scop.</del>
<del>Houndstoungue</del>	<del>Cynoglossum officinale L.</del>
<del>Saltcedar</del>	<del>Tamarix ramosissima Ledeb.</del>
<del>Quackgrass</del>	<del>Agropyron repens (L.) Beauv.</del>

~~\* Bermudagrass (Cynodon dactylon) shall not be a noxious weed in Washington County and shall not be subject to provisions of the Utah Noxious Weed Law within the boundaries of that county. It shall be a noxious weed throughout all other areas of the State of Utah and shall be subject to the laws therein.]~~

Class 2: Control  
Declared noxious and invasive weeds not native to the state of Utah, that pose a threat to the state and should be considered a high priority for control. Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control or eradication may be possible.

Leafy spurge	Euphorbia esula
Medusahead	Taeniatherum caput-medusae
Rush skeletonweed	Chondrilla juncea

Spotted knapweed	<i>Centaurea stoebe</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Squarrose knapweed	<i>Centaurea virgata</i>
Dyers woad	<i>Isatis tinctoria</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Yellow toadflax	<i>Linaria vulgaris</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Black henbane	<i>Hyoscyamus niger</i>
Dalmation toadflax	<i>Linaria dalmatica</i>

**Class 3: Containment**

Declared noxious and invasive weeds not native to the State of Utah that are widely spread. Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations. Known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority. These weeds pose a threat to the agricultural industry and agricultural products.

Russian knapweed	<i>Acroptilon repens</i>
Houndstoungue	<i>Cynoglossum officianale</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
(Tall whitetop)	
Phragmites (Common reed)	<i>Phragmites australis</i> ssp.
Tamarisk(Saltcedar)	<i>Tamarix ramosissima</i>
Hoary cress	<i>Cardaria</i> spp.
Canada thistle	<i>Cirsium arvense</i>
Poison hemlock	<i>Conium maculatum</i>
Musk thistle	<i>Carduus nutans</i>
Quackgrass	<i>Elymus repens</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Bermudagrass*	<i>Cynodon dactylon</i>
Perennial Sorghum spp.	including but not limited to Johnson Grass ( <i>Sorghum halepense</i> )and Sorghum alnum ( <i>Sorghum alnum</i> ).
Scotch thistle (Cotton thistle)	<i>Onopordum acanthium</i>
Field bindweed	<i>Convolvulus</i> spp.
(Wild Morning-glory)	
Puncturevine(Goathead)	<i>Tribulus terrestris</i>

\* Bermudagrass (*Cynodon dactylon*) shall not be a noxious weed in Washington County and shall not be subject to provisions of the Utah Noxious Weed Law within the boundaries of that county. It shall be a noxious weed throughout all other areas of the State of Utah and shall be subject to the laws therein.

**Class 4: Prohibited**

Declared noxious and invasive weeds, not native to the state of Utah, that pose a threat to the state through the retail sale or propagation in the nursery and greenhouse industry. Prohibited noxious weeds are annual, biennial, or perennial plants that the commissioner designates as having the potential or are known to be detrimental to human or animal health, the environment, public roads, crops, or other property.

Cogongrass	<i>Imperata cylindrica</i>
(Japanese blood grass)	
Myrtle spurge	<i>Euphorbia myrsinites</i>
Dames Rocket	<i>Hesperis matronalis</i>
Scotch broom	<i>Cytisus scoparius</i>
Russian olive	<i>Elaeagnus angustifolia</i>

Each county in Utah may have different priorities regarding specific State designated Noxious Weeds and is therefore able to reprioritize these weeds for their own needs.

**R68-9-3. Designations and Publication of Articles Capable of Disseminating Noxious Weeds.**

A. As provided in Section 4-17-3, the following articles are designated and published by the Commissioner as capable of disseminating noxious weeds:

1. Machinery and equipment, particularly combines and hay balers.
2. Farm trucks and common carriers.
3. Seed.
4. Screenings sold for livestock feed.
5. Livestock feed material.
6. Hay, straw, or other material of similar nature.
7. Manure.
8. Soil, sod and nursery stock.
9. Noxious weeds distributed or sold for any purpose.
10. Livestock.

**R68-9-4. Prescribed Treatment for Articles.**

A. As provided in Section 4-17-3, the Commissioner has determined that the following treatments shall be considered minimum to prevent dissemination of noxious weed seeds or such parts of noxious weed plants that could cause new growth by contaminated articles:

1. Machinery and Equipment.
  - a. It shall be unlawful for any person, company or corporation to
    - (1) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners or other farm vehicles or machinery into the state without first cleaning such equipment free from all noxious weed seed and plant parts; or
    - (2) move any harvesting or threshing machinery, portable feed grinders or portable seed cleaners from any farm infested with any noxious weed without first cleaning such equipment free from all noxious weed seed and plant parts.
      - (a) Immediately after completing the threshing of grain or seed which is contaminated with noxious weeds, such machine is to be cleaned by:
        - (1) removing all loose material from the top and side of the machine by sweeping with a blower
        - (2) opening the lower end of elevator, return and measuring device and removing infested material from shakers, sieves, and other places of lodgement;
        - (3) running the machine empty for not less than five minutes, alternately increasing and retarding the speed; and
        - (4) following the manufacturer's detailed suggestions for cleaning the machine.
2. Farm Trucks and Common Carriers.

It shall be unlawful for any person, company or corporation to transport seed, screenings or feed of any kind containing noxious weed seed over or along any highway in this State or on any railroad operating in this State unless the same is carried or transported in such vehicles or containers which will prevent the leaking or scattering thereof. All common carriers shall thoroughly clean and destroy any noxious weed seeds or plant parts in cars, trucks, vehicles or other receptacles used by them after each load shall have been delivered to consignee before again placing such car, truck, vehicle or receptacle into service.

3. Seed.

a. It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale or distribute in Utah any agricultural, vegetable, flower or tree and shrub seeds for seeding purposes which contain any seeds of those weeds declared noxious by the Commissioner of Agriculture and Food.

b. It shall be the duty of the State Agricultural Inspector to remove from sale any lots of seeds offered for sale which are found to contain noxious weed seeds. Such seed may be recleaned under the supervision of the inspector and, if found to be free from noxious weed seeds, the same may be released for sale or distribution; otherwise, such seed shall be returned to point of origin, shipped to another state where such weed shall be returned to point of origin, shipped to another state where such weed seed is not noxious, or destroyed or processed in such a manner as to destroy viability of the weed seeds.

4. Screenings Sold for Livestock Feed.

a. All screenings or by-products of cleaning grains or other seeds containing noxious weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy such weed seeds so that the finished product contains not more than six whole noxious weed seeds per pound.

b. All mills and plants cleaning or processing any grains or other seeds shall be required to grind or otherwise treat all screenings containing noxious weed seeds so as to destroy such weed seeds to the extent that the above stated tolerance is not exceeded before allowing the same to be removed from the mill or plant. Such screenings may be moved to another plant for grinding and treatment; provided that: each container or shipment is labeled with the words "screenings for processing - not for seeding or feeding" and with the name and address of the consignor and the consignee.

5. Livestock Feed Material.

a. It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away to the ultimate consumer any livestock feed material, including whole grains, which contain more than six whole noxious weed seeds per pound. Whole feed grain which exceeds this tolerance of noxious weed seeds may be sold to commercial processors or commercial feed mixers where the manner of processing will reduce the number of whole noxious weed seed to no more than six per pound.

6. Hay, Straw or Other Material of Similar Nature.

a. It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away any hay, straw, or other material of similar nature, which is contaminated with mature noxious weed seeds or such parts of noxious weed plants which could cause new growth, or to alter, change or falsify in anyway information contained on a phytosanitary certificate.

7. Manure.

a. Manure produced from grain, hay, or other forage infested with noxious weeds shall not be applied or dumped elsewhere than upon the premises of the owner thereof.

8. Soil, Sod and Nursery Stock.

a. No soil, sod or nursery stock which contains or is contaminated with noxious weed seeds, or such parts of the plant that could cause new growth, shall be removed from the premises upon which it is located until cleaned of such weed seed or plant parts, except that such contaminated soil may be used for restrictive non-planting purposes upon permission and under direction of the county

weed supervisor or a representative of the Utah Department of Agriculture and Food.

9. Noxious Weeds Distributed or Sold for Any Purpose.

a. It shall be unlawful for any person, company or corporation to sell, barter or give away any noxious weed plants or seeds for any purpose.

10. Livestock.

a. No livestock to which grain, hay, or other forage containing noxious weed seeds has been fed shall be permitted to range or graze upon fields other than those upon which they have been so fed for a period of 72 hours following such feeding. During such period, they shall be fed materials which are not contaminated with noxious weed seeds.

**R68-9-5. Reports From Counties.**

A. The Board of County Commissioners of each county, with the aid of their county Weed Board and their County Weed Supervisor, shall submit an "Annual Progress Report of County Noxious Weed Control Program" to the Commissioner of Agriculture and Food by January 15 of each year, covering the activities of the previous calendar year. A prescribed form for this report shall be supplied by the Commissioner.

**R68-9-6. Notices.**

A. General and individual notices pertaining to the control and prevention of noxious and invasive weeds shall be substantially of the types prescribed herein; namely, General Notice to Control Noxious Weeds, Individual Notice to Control Noxious Weeds, and Notification of Noxious Weed Lien Assessment.

1. General Notice To Control Noxious Weeds.

A general public notice shall be posted by the County Weed Board in at least three public places within the county and be published in one or more newspapers of general circulation throughout the county, on or before May 1 of each year and at any other times the County Weed Board determines. Such public notice shall state that it is the duty of every property owner to control and prevent the spread of noxious weeds on any land in his possession, or under his control, and shall serve as a warning that if he fails to comply with this notice, enforced weed control measures may be imposed at the direction of county authorities. Such general notice shall also include a list of weeds declared noxious for the State of Utah and for said county, if any.

2. Individual Notice to Control Noxious Weeds.

Following publication of a general notice, if a County Weed Board determines that definite weed control measures are required to control noxious weeds on a particular property, the Board shall cause an individual notice to be served upon the owner or the person in possession of said property, giving specific instructions concerning when and how the noxious weeds are to be controlled within a specified period of time. The individual notice shall also inform the property owner or operator of legal action which may be taken against him if he fails to comply with said notice.

3. Notification of Noxious Weed Lien Assessment.

If it is deemed advisable, the Board of County Commissioners may cause noxious weeds to be controlled on a particular property and any expenses incurred by the county shall be paid by the owner of record or the person in possession of the property. A notice shall be provided such person, showing an itemized cost

statement of the labor and materials necessarily used in the work of said control measures. This notice shall also state that the expense constitutes a lien against the property and shall be added to the general taxes unless payment is made to the County Treasurer within 90 days.

**KEY:** noxious weeds, weed classifications, weed control

**Date of Enactment or Last Substantive Amendment:** ~~[July 2, 2008]~~ **2016**

**Notice of Continuation:** June 6, 2013

**Authorizing, and Implemented or Interpreted Law:** 4-2-2; 4-17-3

## Agriculture and Food, Regulatory Services **R70-530** Food Protection

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39950  
FILED: 11/17/2015

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes to the rule are to adopt the 2013 FDA Food Code.

**SUMMARY OF THE RULE OR CHANGE:** The changes update the 2009 FDA Food Code to the 2013 Food Code; clean up some wording and organize the sections into an order that helps coordinate with the food code; and some additional changes were made to make the rule consistent with Utah Plumbing Code. Some other basic changes were put in place in order to have consistency with the state and local health departments food service rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 4, Chapter 5

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Updates 2013 FDA Food Code, published by US Department of Health and Human Services, 2013

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This was just an update, so the state did not and will not incur any costs by adopting the 2013 Food Code.
- ◆ **LOCAL GOVERNMENTS:** The local health departments have already been working with the 2009 Food Code and they have not and will not incur any costs due to this rule update.
- ◆ **SMALL BUSINESSES:** The update to the 2013 and its minimal changes has more cost savings than costs incurred. Some changes to requirements will save industry money. They changed the shelf life from 15 to 30 days for vacuum sealed food products allowing for the longer sell of products.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These minimal changes will not make a difference in costs or savings to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** These changes were very minimal. The Food Code is already in place, and with this update there will not be any additional compliance costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These minor changes will not affect fiscal impact of businesses because the changes made to the Food Code of a nature that will not add a financial cost to the business.

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

AGRICULTURE AND FOOD  
REGULATORY SERVICES  
350 N REDWOOD RD  
SALT LAKE CITY, UT 84116-3034  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at [kmathews@utah.gov](mailto:kmathews@utah.gov)
- ◆ Noel Schvaneveldt by phone at 801-538-7108, by FAX at 801-538-7124, or by Internet E-mail at [nschvaneveldt@utah.gov](mailto:nschvaneveldt@utah.gov)
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at [sericson@utah.gov](mailto:sericson@utah.gov)
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at [twaller@utah.gov](mailto:twaller@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016**

**THIS RULE MAY BECOME EFFECTIVE ON:** 01/21/2016

**AUTHORIZED BY:** LuAnn Adams, Commissioner

#### **R70. Agriculture and Food, Regulatory Services.**

##### **R70-530. Food Protection.**

##### **R70-530-1. Authority and Purpose.**

(1) Authority.

This rule is promulgated under the authority of Section 4-5-17 UCA.

(2) Purpose.

This rule shall be liberally construed and applied to promote its underlying purpose of safeguarding public health and providing to consumers food that is safe, unadulterated, and honestly presented.

##### **R70-530-2. Scope.**

This rule establishes definitions; sets standards for management and personnel, food operations, equipment, and facilities; and provides for food establishment plan review, inspection, and



employee restriction. It shall be used to regulate bakeries, grocery and convenience stores, meat markets, food and grain processors, warehouses and any other establishment meeting the definition of a food establishment.

### **R70-530-3, Incorporation by Reference.**

(1) The food standards, labeling requirements and procedures as specified in 21 CFR, 1 through 200, 2013 edition, 40 CFR 185, April 17, 2012 edition, and 9 CFR 200 to End, January 1, 2012 edition, are incorporated by reference.

(2) The requirements as found in the U.S. Public Health Service, Food and Drug Administration, Food Code 2013[2009], Chapters 1 through 8[~~Annex 1~~], with the exclusion of Subparagraphs 8-302.14(C)(1), Paragraphs 8-302.14(D) and (E), Paragraph 8-304.11(K), Paragraph 5-203.15(B), Paragraphs 5-402.11(B), (C) and (D); and exclusion of Section 8-905.40, Subparagraphs 8-905.90(A)(1) and (2), Section 8-909.20, Subparagraphs 8-911.10(B)(1) and (2), Annex 1 comprising Parts 8-6 through 8-9 with the exclusion of Section 8-905.40, Subparagraphs 8-905.90(A)(1) and (2), Section 8-909.20, Subparagraphs 8-911.10(B)(1) and (2); and Annex 2, Federal Food, Drug, and Cosmetic Act, 21, U.S.S. 342, Sec. 402 are adopted and incorporated by reference, [~~with the exclusion of Sections 8-302.14(C)(2),(D) and (E)~~], and with the following additions or amendments:

(a) In Paragraph 1-201.10(B), insert a new subparagraph after subparagraph (b) in subparagraph (2) under "Food Establishment" to read: "(c) A catering operation which is a business entity that operates from a permitted food establishment that contracts with a client for food service to be provided to a client, the client's guests, and/or customers at a different location. A catering operation may cook or perform final preparation of foods at the service location. A catering operation does not include routine services offered at the same location, or meals that are individually purchased with the exception of cash bars."

(b) In paragraph-201.10(B), insert a new subparagraph after subparagraph (2) under "Core Item" to read: "(3) 'Core Item' will also be referred to as 'non-critical' in the state rule."

(c) In [~~section~~] Paragraph 1-201.10(B) under "Priority Item", replace the semicolon and the word "and" at the end of subparagraph (2) with a period; replace the period at the end of subparagraph (3) with "; and"; and insert a new subparagraph after paragraph (3) to read: "(4) 'Priority Item' will also be referred to as 'critical 1' in the state rule."

(d)[~~(h)~~] In paragraph[~~section~~] 1-201.10(B) under "Priority Foundation Item," replace the semicolon and the word "and" at the end of subparagraph (2) with a period; replace the period at the end of subparagraph (3) with "; and"; and add a new subparagraph after subparagraph (3) to read: "(4) 'Priority foundation item' will also be referred to as 'critical 2' in the state rule."

(e)[~~(i)~~] After subparagraph[~~section~~] 2-102.11 [paragraph] (17), add a new section to read: "2-102-12 Food Employee Training. Food employees shall be trained in food safety as required under 26-15-5 and shall hold a valid food handler's permit issued by a local health department."

(f) Amend Paragraph 3-201.16 (A) to read: "Except as specified in paragraph (B) of this section, mushroom species picked in the wild shall not be offered for sale or service by a food establishment."

(g) After Paragraph 3-501.17 (G), add a new paragraph to read: "(H) A date marking system that meets the criteria stated in paragraph (A) of this section shall use one of two types of date marks, and that date mark must be used consistently throughout the food establishment. The date mark will either be of the date: (1) before which food must be used as specified in paragraph (A) of this section; or (2) be the date of Day 1."

(h) Amend Subparagraph 3-501.19(B)(2) to read: "(2) Only one time marking scheme may be used, and it must be used consistently throughout the food establishment. The food shall be marked with either: (a) the time the food is removed from temperature control; or (b) the time before which the food shall be -cooked and served, served at any temperature if ready-to-eat, or discarded."

(i) After Paragraph 4-204.123(B), add a section to read: "4-204.124 Restraint of Pressurized Containers. Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over."

(j) At the end of section 5-101.12, add: "The process shall be in accordance with the American Water Works Association (AWWA) C651-2005 for disinfection and testing."

(k) [~~At the end of~~] Replace section 5-202.13, [~~add~~] with the following: "(A) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is greater than three times the diameter of the inlet, or greater than four times for intersecting walls, an air gap between the water supply inlet and the floor level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 millimeters (1 inch). (B) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is less than three times the diameter of the inlet, or less than four times for intersecting walls, an air gap between the water supply inlet and the floor level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least three times the diameter of the water supply inlet and may not be less than 38 millimeters (1.5 inches)." [~~"Where the distance to the adjacent wall is closer than three pipe diameters, the air gap shall not be less than 1-1/2 inch."~~]

(l) Amend Paragraph 5-203.15(A) to read: "If not provided with an air gap as specified under Section 5-202.13, an American Society of Safety Engineers (ASSE) 1022 dual check valve with an intermediate vent shall be installed upstream from a carbonating device and downstream from an copper in the water supply line." [~~After the reference to the section number "5-202.13" in section 5-203.15 paragraph (A), delete the article "a" and insert: "an American Society of Safety Engineers (ASSE) 1022."~~]

(m) Amend Paragraph 5-402.11(A) to read: "A direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are place." [~~After the reference to paragraph (B) in section 5-402.11 paragraph (A), delete the coma; insert the word "and"; and delete the text, ", and (D)" that follows the reference to paragraph (C).~~]

[~~(n)~~ Delete paragraph (D) from section 5-402.11]

(n)[~~(o)~~] Amend section 8-103.11 to add:

(D) In addition, a variance from section 3-301.11 may be issued only when:

- (1) the variance is limited to a specific task or work station;
- (2) the applicant has demonstrated good cause why section 3-301.11 cannot be met;

(3) suitable utensils are used to the fullest extent possible with ready-to-eat foods in the rest of the establishment; and

(4) the applicant can demonstrate active ~~management~~ managerial control of this risk factor at all times.

(o)~~(d)~~ Amend section 8-302.14 to renumber (F) to (D), (G) to (E), and (H) to (F).

(p)~~(b)~~ Amend ~~section~~ Paragraph 8-304.10(A) to read:

(A) Upon request, the regulatory authority shall provide a copy of the Utah Food Protection Rule~~[food service sanitation rule]~~ according to the policy of the local regulatory agency.

(q)~~(e)~~ Amend ~~section~~ subparagraph 8-401.10(A) to read: "(A) Except as specified in paragraphs (B) and (C) of this section, the regulatory authority shall inspect a food establishment at least once every 6 months. (B)(2) [to delete the phrase "and at least once every 6 months the establishment is contacted by telephone or other means by the regulatory authority to ensure that the establishment manager and the nature of food operation are not changed."] to read: "The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction".

(r)~~(f)~~ Add Paragraph~~section~~ 8-501.10(C) to read: (C) Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703.

(s)~~(g)~~ Amend section 8-601.10 to read: Due process and equal protection shall be afforded as required by law in all enforcement and regulatory actions. Enforcement of this Rule shall be in accordance with title 4-2-2(J), Title 4-2-12, and R70-201.

(t)~~(h)~~ Add "8-7 Penalties; 8-701.10 State Construction Code

All parts of the food establishment shall be designed, constructed, maintained, and operated to meet the standards of the state construction code adopted by the Utah Legislature under Title 15A UCA. A copy of the construction code is available at the office of the local building inspector."

(3) All references to food that requires time or temperature control for safety, TCS, in this rule are equivalent to references in past editions of the U.S. Public Health Service, Food and Drug Administration, Food Code to potentially hazardous food, PHF.

**KEY: food, inspections**

**Date of Enactment or Last Substantive Amendment:** ~~[March 27, 2014]~~2016

**Notice of Continuation:** March 7, 2012

**Authorizing, and Implemented or Interpreted Law:** 4-5-17

Governor, Criminal and Juvenile  
Justice (State Commission on)

## R356-1

Procedures for the Calculation and  
Distribution of Funds to Reimburse  
County Correctional Facilities Housing  
State Probationary Inmates or State  
Parole Inmates

## NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39964

FILED: 11/27/2015

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes to the rule incorporate changes to statute outlined in H.B. 348 (2015 General Session).

**SUMMARY OF THE RULE OR CHANGE:** Changes include: conditions for reimbursement of felony offenders sanctioned in response to an individual's violation of terms of probation or parole; changes to monthly billing invoices; and calculation of payments to counties for reimbursement for housing state probationary inmates and state parole inmates.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 64-13e-101 through 64-13e-105

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There are no anticipated costs or savings because of this rule. The counties and CCJJ all realized that counties could lose jail reimbursement money as a result of H.B. 348 (2015) if the bill results in more drug offenders being charged with a misdemeanor instead of a felony. To counter this, the Department agreed to amend the jail reimbursement law to require that any jail reimbursement fund remaining after all COP bed days have been compensated will go to counties as reimbursement to the one to three day jail stays by probationers and parolees.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings because of this rule. The counties and CCJJ all realized that counties could lose jail reimbursement money as a result of H.B. 348 (2015) if the bill results in more drug offenders being charged with a misdemeanor instead of a felony. To counter this, the Department agreed to amend the jail reimbursement law to require that any jail reimbursement fund remaining after all COP bed days have been compensated will go to counties as reimbursement to the one to three day jail stays by probationers and parolees.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings because of this rule. The counties and CCJJ all realized that counties could lose jail reimbursement money as a result of H.B. 348 (2015) if the bill results in more drug offenders being charged with a misdemeanor instead of a felony. To counter this, the Department agreed to mend the jail reimbursement law to require that any jail reimbursement fund remaining after all COP bed days have been compensated will go to counties as reimbursement to the one to three day jail stays by probationers and parolees.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings because of this rule. The counties and CCJJ all realized that counties could lose jail reimbursement money as a result of H.B. 348 (2015) if the bill results in more drug offenders being charged with a misdemeanor instead of a felony. To counter this, the Department agreed to mend the jail reimbursement law to

require that any jail reimbursement fund remaining after all COP bed days have been compensated will go to counties as reimbursement to the one to three day jail stays by probationers and parolees.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated costs because of this rule. The counties and CCJJ all realized that counties could lose jail reimbursement money as a result of H.B. 348 (2015) if the bill results in more drug offenders being charged with a misdemeanor instead of a felony. To counter this, the Department agreed to amend the jail reimbursement law to require that any jail reimbursement fund remaining after all COP bed days have been compensated will go to counties as reimbursement to the one to three day jail stays by probationers and parolees.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule has no effect on businesses.

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

GOVERNOR  
CRIMINAL AND JUVENILE JUSTICE (STATE  
COMMISSION ON)  
SUITE 330 SENATE BUILDING  
STATE CAPITOL COMPLEX  
420 N STATE STREET  
SALT LAKE CITY, UT 84114  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Clair Webster by phone at 801-538-1047, or by Internet E-mail at [clairwebster@utah.gov](mailto:clairwebster@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016**

**AUTHORIZED BY: Ronald Gordon, Executive Director**

**R356. Governor, Criminal and Juvenile Justice (State Commission on).**

**R356-1. Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates.**

**R356-1-1. Authority and Purpose.**

(1) This rule is authorized in accordance with Subsection 64-13e-104(5)(b).

(2) The purpose of this rule is to establish procedures to reimburse counties for incarcerating state probationary inmates or state parole inmates and to determine the rate at which the counties shall be reimbursed.

**R356-1-2. Definitions.**

In addition to terms defined in Section 64-13e-102:

(1) "Total Inmate Days" means the total number of eligible probationary and state parole inmate incarceration days.

(2) "Business Day" means Monday through Friday excluding holidays.

**R356-1-3. Conditions for Reimbursement of State Probationary Inmates.**

Counties shall be eligible for reimbursement for days served in county correctional facilities under the following conditions:

(1) The inmate has been convicted of a felony, and as a condition of probation, has been sentenced to a county correctional facility for a period not exceeding one year. The reimbursement period will begin with the sentencing date.

(2) Days served under Subsection 1 which are eligible for reimbursement may include:

(a) Consecutive felony probation jail sentences, pursuant to Section 76-3-401;

(b) The inmate is sentenced by the courts to a county correctional facility following a violation of felony probation (Order to Show Cause). If the inmate's probation has been terminated it must be reinstated for the county to be eligible for reimbursement;

(c) The inmate is sentenced by the courts to a county correctional facility after a court has formally entered a guilty plea that had been held in abeyance as a conviction.

**R356-1-4. Conditions Not Eligible for Reimbursement of State Probationary Inmates.**

Counties are not eligible for reimbursement for incarcerating inmates in the following circumstances:

(1) Time served in a county correctional facility prior to sentencing, notwithstanding an order from the court for credit for time served;

(2) Time served in a county correctional facility following an unsuccessful termination of probation;

(3) Time served in a county correctional facility under a Plea in Abeyance agreement prior to the entering of the guilty plea as a conviction in the case;

(4) Time served on a felony probation sentence outside a correctional facility on electronic monitoring;

(5) Time served in a county correctional facility on a federal Immigration and Customs Enforcement hold beyond the number of days sentenced to jail by the Courts, even if probation is still in effect;

(6) Time served in a county correctional facility under the jurisdiction of the Juvenile Court;

(7) Time served in a county correctional facility on a probationary 3-day hold.

**R356-1-5. Conditions for Reimbursement of State Parole Inmates.**

(1) Counties shall be eligible for reimbursement for days served in county correctional facilities by state parole inmates when the inmate is being held on a 3-day hold issued by the Board of Pardons and Parole.

(2) Counties shall be reimbursed for state parole inmates on a 3-day hold for up to 3 business days plus weekends and holidays for a maximum of 6 days of reimbursement per 3 day hold.

**R356-1-6. Conditions for Reimbursement of Felony Offenders Sanctioned in Response to an Individual's Violation of Terms of Probation or Parole.**

(1) Counties may be eligible for reimbursement for time spent by inmates in a county correctional facility as a sanction for a violation of the terms of probation or parole as ordered by the court or the Board of Pardons and Parole.

(2) Reimbursement shall not exceed three consecutive days and shall not exceed five days within a period of 30 days.

**R356-1-7. Monthly Billing Invoices.**

(1) Counties requesting reimbursement for incarcerating state probationary inmates or state parole inmates shall submit, on a monthly basis, the following information in the format specified below in an MS Excel file to CCJJ:

- (a) Inmate name (last, first, middle initial);
- (b) Inmate date of birth (mm/dd/yyyy);
- (c) Sentencing date (mm/dd/yyyy);
- (d) Court case number(s) authorizing jail as a condition of probation;
- (e) Court location identified by Originating Agency Identifier;
- (f) Name of judge assigned to case;
- (g) Whether the requested reimbursement is for a 72 hour hold;
- (h) UDC offender number if the requested reimbursement is for a 72 hour hold;
- (i) Incarceration start date (mm/dd/yyyy);
- (j) Release date from correctional facility (mm/dd/yyyy);
- (k) Length (number of days) of court-ordered sentence;
- (l) Total number of state probationary inmate days of incarceration and total number of state parole inmate days of incarceration for which the county is requesting reimbursement; and
- (m) Total number of state inmates (probation and parole) for which the county is requesting reimbursement.

(n) Total number of felony offenders housed pursuant to Subsection 64-13-21(2)(b); and

(o) Total number of days of incarceration of felony offenders housed pursuant to Subsection 64-13-21(2)(b).

(2) Counties shall be reimbursed for all inmate incarceration days (felony probation and felony parole) beginning on the first day of incarceration after sentencing (day of sentencing shall be included), but never the last day of incarceration (day of release). Counties incarcerating inmates beyond eligible sentence days shall only be reimbursed for those days the inmate was eligible for reimbursement.

(3) Monthly billing invoices shall be submitted to CCJJ by the 10th business day of each month unless prior approval has been authorized by the Executive Director of CCJJ or designee. Invoices shall be submitted by email to the following email address: jailreimburse@utah.gov.

(4) CCJJ shall audit each billing invoice for accuracy, using Utah State Courts X-Change program and Department of Corrections Otrack-Ftrack data systems to verify information. When

necessary, CCJJ shall contact the correctional facility or sentencing court to verify accuracy of information.

(5) Back billings or late billings are eligible for reimbursement within the same fiscal year period. The 10th business day of August shall be the final day to submit late billings for the previous fiscal year.

(6) For each monthly billing invoice submitted, CCJJ shall return to the county a copy of the original billing invoice with any corrections that were made to the original billing.

(7) CCJJ may request counties to submit additional information regarding inmate booking and release when necessary to complete invoice audits.

**R356-1-[7]8. Calculation of Payments to Counties for Reimbursement for Housing State Probationary Inmates and State Parole Inmates.**

To ensure compliance with Subsection 64-13e-104(5)(c), CCJJ shall prepare two calculations of payment for counties. CCJJ shall determine which calculation to use based upon funds appropriated by the Legislature for payment.

(1) When funds appropriated by the Legislature are sufficient to reimburse counties at a rate of 50% of the final daily incarceration rate for the preceding fiscal year established pursuant to Section 64-13e-105, the Division of Finance shall reimburse each county that houses a state probationary inmate or state parole inmate at a rate of 50% of the state daily incarceration rate multiplied by the average inmate days of incarceration established in the Administrative Rule Section R356-1-6 for the preceding five fiscal years.

(2) When funds appropriated by the Legislature are not sufficient to reimburse counties under Subsection 64-13e-104(2), each county that houses a state probationary inmate or state parole inmate shall be reimbursed by a rate calculated on a pro rata basis, based on the total inmate days of incarceration that were approved for each county for the preceding five fiscal years. The funds appropriated by the legislature will be divided by the total of inmate days of incarceration of all counties during the previous five years to establish a pro rata rate. Each county shall be reimbursed by multiplying the pro rata rate established under this subsection by the total inmate days of incarceration for each county established in this Administrative Rule Section R356-1-6 for the preceding five fiscal years.

(3) If funds appropriated under Subsection 64-13e-104(2) remain after payments are made pursuant to Subsection 64-13e-104(8), the Division of Finance shall pay a county that houses in its jail a person convicted of a felony who is on probation or parole and who is incarcerated pursuant to Subsection 64-13-21(2)(b) on a pro rata basis not to exceed 50% of the final state daily incarceration rate.

**KEY: jail reimbursement, state probationary inmates, state parole inmates**

**Date of Enactment or Last Substantive Amendment: [November 4, 2015]2016**

**Authorizing, and Implemented or Interpreted Law: 64-13e-104**

**Health, Disease Control and  
Prevention, Epidemiology  
R386-702  
Communicable Disease Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39952

FILED: 11/18/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment will provide for updates related to 2015 Council of State and Territorial Epidemiologists (CSTE) approved position statements; address changes in support of improved use of informatics; incorporate general edits and updates to improve format and accuracy of language; and will include additional changes as recommended by Department leadership. Proposed changes were sent to local health department, infection control, and laboratory partners informally prior to finalizing this revision in order to solicit, and include input from these critical partners.

**SUMMARY OF THE RULE OR CHANGE:** The proposed changes reflect suggestions and requests from staff, leadership and stakeholders, including: 1) in Section R386-702-1, the revised purpose statement to update language regarding emerging infections; previous language was outdated; 2) in Section R386-702-2, added a definition for "Good Samaritan"; 3) in Section R386-702-3, updated language for "Acinetobacter species" to ensure consistency with other drug-resistant organism reporting language; 4) added "Acute Flaccid Myelitis (AFM)", this condition is emerging and of interest nationally, and while it is not nationally-notifiable, CSTE approved standardized criteria for reporting and case classification in 2015; 5) removed "Amebiasis", this condition is not nationally notifiable, and its occurrence is rare in Utah. Most investigated cases lack symptoms and do not end up meeting case definition. Removing it will allow public health resources to remain available for more critical investigations; 6) added "Clostridium difficile" through electronic laboratory reporting (ELR). This will allow for establishment of baseline incidence in Utah, which will allow for better characterization of, and response to, morbidity and mortality associated with this infection; 7) added "Cytomegalovirus (CMV), congenital" via ELR. This is already reportable as per Section R398-4-5. Inclusion in Rule R386-702 will reinforce the reporting requirement, and facilitate laboratory reporting that is indicative of this condition; 8) removed "Echinococcosis", this condition is not nationally notifiable, and is very rare. In Utah, almost all cases are imported. Removing it will allow public health resources to remain available for more critical investigations; 9) updated language for drug-resistant "Escherichia coli" to be consistent with language approved in a CSTE position statement; 10) updated language for drug-

resistant "Enterobacter species" to be consistent with language approved in a CSTE position statement; 11) added "(Sin Nombre virus)" to "Hantavirus pulmonary syndrome" in order to clarify that they are associated; 12) simplified language for "Hepatitis C" by removing "acute and chronic infection". This is consistent with language approved in a CSTE position statement; 13) updated language for drug-resistant "Klebsiella species" to be consistent with language approved in a CSTE position statement; 14) clarified language for "Staphylococcus aureus" to indicate reports of this organism, with drug-resistance to vancomycin, from any clinical specimen, are reportable; 15) separated "Streptococcal disease" into two reporting categories: a) streptococcal disease, invasive, due to Streptococcus pneumoniae and Groups A and B isolated from a normally sterile site, and b) streptococcal disease, invasive, other, reported via ELR only. Applicable only to laboratories and hospitals currently participating in ELR; 16) added "meningitis" and "encephalitis" to the list of examples of conditions of interest for "(cccc) Any outbreak, epidemic, or unusual or increased occurrence of illness..."; 17) in Section R386-702-4, made changes in format and minor edits throughout to improve readability; 18) updated language to clarify requirements for ELR; 19) modified the list of conditions for which negative laboratory result reporting is required as follows: a) added "Cytomegalovirus (CMV)", b) removed "Salmonellosis", c) removed "STEC", d) added "Lyme disease", and e) added "Syphilis"; 20) added "Creutzfeldt-Jakob Disease and other suspected prion diseases" to the list of "Immediately Reportable Conditions"; 21) modified language under "Confidentiality of Reports" to clarify allowance of information sharing with attending clinicians and public health workers, and to address sharing of information related to good Samaritans who may aid a person with an infectious disease; 22) in Section R386-702-6, added language regarding fees for testing based on new criteria and procedures for charging for rabies-related testing; and 23) in Section R386-702-13, updated links and references as needed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-30 and Section 26-6-3 and Title 26, Chapter 23b

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Updates Control of Communicable Diseases Manual, published by American Public Health Association, 11/07/2015
- ◆ Updates Red Book: 2012 Report of the Committee on Infectious Diseases, published by American Academy of Pediatrics, 05/01/2015

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The majority of proposed changes provide clarification, or improve language and formatting overall, and do not represent additional costs or savings beyond some small savings since less time will be required to review and interpret the rule. Of the three conditions being added to the list of reportable conditions, one is already

reportable (CMV), two will be reportable by electronic laboratory reporting only (CMV and *Clostridium difficile*), and one is emerging and rare (AFM). CMV will continue to be managed as it currently is, without local health department investigation; *Clostridium difficile* cases will not be investigated individually, rather, they will be monitored in aggregate over time, unless an outbreak is identified and investigated. Two conditions are being removed. While some minimal costs will be required to facilitate programming in order to add new conditions into the communicable disease database, and remove conditions as well, and a disease plan will be developed for AFM, overall, changes in the reportable disease list will likely be approximately cost-neutral. Changes for electronic reporting are minimal since they entail minor programming changes in order to modify data feeds from reporting facilities, and to modify UDOH's ability to receive data feeds. In terms of volume of data to be received and stored, costs should be approximately neutral since the addition of CMV and *Clostridium difficile* data will be offset by removal of negative result reporting of *Salmonella* and STEC tests, both of which were high-volume reporting streams. Adding information regarding rabies testing will result in some savings since tests that do not meet listed criteria will result in a fee being paid for testing to UPHL vs. public health covering costs for all requested tests. This may end up cost neutral, though, when taking staff time into account for processing and managing any appeals that may be received.

◆ **LOCAL GOVERNMENTS:** The main cost that may be incurred by local health departments is personnel time required to manage AFM cases, or to assist with investigation of outbreaks of *C. difficile* that may be detected. AFM is rare, and has already been reported under Subsection R386-702-3(1)(bbbb). UDOH has provided support as needed for investigating suspect cases and will continue to do so. Outbreaks of any condition have always been reportable, so investigating outbreaks of *C. difficile* would not be a new expectation, or incur new costs. Also, savings will accrue removing amebiasis and echinococcosis. This should result in overall costs associated with the proposed changes being neutral.

◆ **SMALL BUSINESSES:** Electronic laboratory reporting is optional, so modifications to electronic laboratory reporting should not incur significant costs for small laboratories unless they are using it already and need to modify codes in order to add in/modify reporting according to proposed changed in conditions. In that case, costs associated with updating programming to identify and report new conditions and remove conditions will be incurred, but it is anticipated that this will result in significant savings over time since reporting is automated, ultimately requiring significantly less personnel time to manage.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** As noted above, the main cost that may be incurred by local health departments is personnel time required to manage AFM cases, or to assist with investigation of outbreaks of *C. difficile* that may be detected. AFM is rare, and has already

been reported under Subsection R386-702-3(1)(bbbb). UDOH has provided support as needed for investigating suspect cases and will continue to do so. Outbreaks of any condition have always been reportable, so investigating outbreaks of *C. difficile* would not be a new expectation, or incur new costs. Also, savings will accrue removing amebiasis and echinococcosis. This should result in overall costs associated with the proposed changes being neutral. Electronic laboratory reporting is optional, so modifications to electronic laboratory reporting should not incur significant costs for laboratories unless they are using it already and need to modify codes in order to add in/modify reporting according to proposed changed in conditions. In that case, costs associated with updating programming to identify and report new conditions and remove conditions will be incurred, but it is anticipated that this will result in significant savings over time since reporting is automated, ultimately requiring significantly less personnel time to manage.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no direct compliance costs associated with this amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule is being amended to include updates relating to the 2015 Council of State and Territorial Epidemiologists (CSTE) approved position statements. It also addresses changes to improve the use of informatic and include addition changes as recommended by Department leadership. LHD's, infection control and laboratory partners have already reviewed the proposed changes.

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

HEALTH  
DISEASE CONTROL AND PREVENTION,  
EPIDEMIOLOGY  
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:**

◆ Melissa Stevens Dimond by phone at 801-538-6810, by FAX at 801-538-9923, or by Internet E-mail at [mellisastevens@utah.gov](mailto:mellisastevens@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016**

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

**R386. Health, Disease Control and Prevention, Epidemiology.**

**R386-702. Communicable Disease Rule.**

**R386-702-1. Purpose Statement.**

(1) The Communicable Disease Rule is adopted under authority of Sections 26-1-30, 26-6-3, and 26-23b.

(2) This rule outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the emergence of diseases[;] such as [~~Human Immunodeficiency Virus, Hantavirus, and Severe Acute Respiratory Syndrome~~] Middle Eastern Respiratory Syndrome (MERS), and the rapid spread of diseases such as West Nile virus to the United States from other parts of the world[; such as West Nile virus], made possible by advances in transportation, trade, food production, and other factors, highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies, and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

**R386-702-2. Definitions.**

(1) Terms in this rule are defined in Section 26-6-2 and 26-23b-102, except that for purposes of this rule, "Department" means the Utah Department of Health.

(2) In addition, for purposes of this rule:

(a) "Outbreak" means an increase in incidence of disease, or two or more cases of disease with a common exposure.

(b) "Case" means a person identified as having a disease, health disorder, or condition that meets criteria for being reportable under this rule, or that is otherwise under public health investigation.

(c) "Suspect case" means a person who a reporting entity, local health department, or Department believes might be a case, but for whom it has not been established that the criteria necessary to become a case have been met.

(d) "Good Samaritan" means a person who gives reasonable aid to strangers in grave physical distress.

**R386-702-3. Reportable Diseases, Emergency Illnesses, and Health Conditions.**

(1) The Utah Department of Health declares the following conditions to be of concern to public health and reportable as required or authorized by Section 26-6-6 and Title 26, Chapter 23b of the Utah Health Code.

(a) Acinetobacter species, from any clinical specimen, that is resistant to at least one carbapenem-class antibiotic, or that has demonstrated carbapenemase production [with resistance or intermediate resistance to carbapenems (specifically, meropenem and imipenem) from any anatomical site]

(b) Acquired Immunodeficiency Syndrome

(c) Acute Flaccid Myelitis (AFM)

(~~d~~[e]) Adverse event resulting from smallpox vaccination

[~~d~~]-Amebiasis]

(e) Anaplasmosis

(f) Anthrax

(g) Arbovirus infection, including Saint Louis encephalitis and West Nile virus infection

(h) Babesiosis

(i) Botulism

(j) Brucellosis

(k) Campylobacteriosis

(l) Chancroid

(m) Chickenpox

(n) Chlamydia trachomatis infection

(o) Cholera

(p) Clostridium difficile, reported via electronic laboratory reporting (ELR) only. Applicable only to laboratories and hospitals currently participating in ELR.

(~~q~~[p]) Coccidioidomycosis

(~~r~~[q]) Colorado tick fever

(~~s~~[r]) Creutzfeldt-Jakob disease and other transmissible human spongiform encephalopathies

(~~t~~[s]) Cryptosporidiosis

(~~u~~[t]) Cyclospora infection

(v) Cytomegalovirus (CMV), congenital, via ELR (see Utah Administrative Rule R398-4-5 and R386-702-4 (2)(b))

(~~w~~[u]) Dengue fever

(~~x~~[v]) Diphtheria

[~~w~~]-Echinococcosis]

(~~y~~[x]) Ehrlichiosis, human granulocytic, human monocytic, or unspecified

(~~z~~[y]) Encephalitis

(~~z~~[aa])(1) Escherichia coli, [~~with resistance or intermediate resistance to carbapenems (meropenem, ertapenem, and imipenem) from any site]~~from any clinical specimen, that is resistant to at least one carbapenem-class antibiotic, or that has demonstrated carbapenemase production

(~~z~~[aa])(2) Shiga toxin-producing Escherichia coli (STEC) infection

(bb) Enterobacter species, from any clinical specimen, that is resistant to at least one carbapenem-class antibiotic, or that has demonstrated carbapenemase production

(~~cc~~[aa]) Giardiasis

(~~dd~~[bb]) Gonorrhea: sexually transmitted and ophthalmia neonatorum

(~~ee~~[ee]) Haemophilus influenzae, invasive disease

(~~ff~~[dd]) Hansen Disease (Leprosy)

(~~gg~~[ee]) Hantavirus pulmonary syndrome (Sin Nombre

virus)

(~~hh~~[ff]) Hemolytic Uremic Syndrome, postdiarrheal

(~~ii~~[gg]) Hepatitis A

(~~jj~~[hh]) Hepatitis B, acute, chronic, and perinatal

(~~kk~~[ii]) Hepatitis C[~~-acute and chronic infection~~]

(~~ll~~[jj]) Hepatitis, other viral

(~~mm~~[kk])(1) Human Immunodeficiency Virus Infection. Special measures for the control of HIV/AIDS are included in R386-702-9.

(~~nn~~[kk])(2) Pregnancy in a HIV case

(~~oo~~[H]) Influenza-associated hospitalization

(pp[mm]) Influenza-associated death, in a person less than 18 years of age

(qq[nn]) ~~Klebsiella species, [with resistance or intermediate resistance to carbapenems (meropenem, ertapenem, and imipenem) from any site] from any clinical specimen, that is resistant to at least one carbapenem-class antibiotic, or that has demonstrated carbapenemase production~~

(rr[oo]) Legionellosis

(ss[pp]) Leptospirosis

(tt[qq]) Listeriosis

(uu[rr]) Lyme Disease

(vv[ss]) Malaria

(ww[tt]) Measles

(~~xx[uu]~~) Meningitis (aseptic, bacterial, fungal, parasitic, protozoan, and viral)

(yy[~~vv~~]) Meningococcal Disease

(zz[~~ww~~]) Mumps

(aaa[~~xx~~]) Mycobacteria other than tuberculosis

(bbb[yy]) Norovirus, outbreaks only

(ccc[zz]) Pertussis

(ddd[aaa]) Plague

(eee[bbb]) Poliomyelitis, paralytic and nonparalytic

(fff[eee]) Psittacosis

(ggg[ddd]) Q Fever (Coxiella infection)

(hhh[eee]) Rabies, human and animal

(iii[fff]) Relapsing fever, tick-borne and louse-borne

(jjj[ggg]) Rubella, including congenital syndrome

(kkk[hhh]) Salmonellosis

(lll[iii]) Severe Acute Respiratory Syndrome (SARS)

(mmm[jjj]) Shigellosis

(nnn[kkk]) Smallpox

(ooo[lll]) Spotted fever rickettsioses (including Rocky Mountain Spotted Fever)

(ppp[mmm]) Staphylococcus aureus from any clinical specimen with resistance or intermediate resistance to vancomycin isolated from any site

(qqq[nnn])(1) Streptococcal disease, invasive, due to [including] Streptococcus pneumoniae and Groups A[;] and B[-C;] and G-streptococci isolated from a normally sterile site

(qqq)(2) Streptococcal disease, invasive, other, reported via ELR only. Applicable only to laboratories and hospitals currently participating in ELR.

(rrr[ooo]) Syphilis, all stages and congenital

(sss[ppp]) Tetanus

(ttt[qqq]) Toxic-Shock Syndrome, staphylococcal or streptococcal

(uuu[rrr]) Trichinellosis

(vvv[sss]) Tuberculosis. Special Measures for the Control of Tuberculosis are listed in R388-804.

(www[ttt]) Tularemia

(xxx[uuu]) Typhoid, cases and carriers

(yyy[~~vvv~~]) Vibriosis

(zzz[~~www~~]) Viral hemorrhagic fever

(aaaa[xxx]) Yellow fever

(bbbb[yyy]) Any unusual occurrence of infectious or communicable disease or any unusual or increased occurrence of any illness that may indicate a [B]bioterrorism event or public health hazard, including any single case or multiple cases of a newly recognized, emergent or re-emergent disease or disease-producing

agent, including newly identified multi-drug resistant bacteria or a novel influenza strain such as a pandemic influenza strain.

(ccc[zzz]) Any outbreak, epidemic, or unusual or increased occurrence of any illness that may indicate an outbreak or epidemic. This includes suspected or confirmed outbreaks of foodborne disease, waterborne disease, meningitis, encephalitis, disease caused by antimicrobial resistant organisms, any infection that may indicate a bioterrorism event, or of any infection that may indicate a public health hazard.

(2) In addition to the reportable conditions set forth in R386-702-3(1) the Department declares the following reportable emergency illnesses, health conditions, and patient encounter information to be of public health importance and reporting is authorized by Title 26, Chapter 23b, Utah Code, unless made mandatory by the declaration of a public health emergency:

(a) respiratory illness (including upper or lower respiratory tract infections, difficulty breathing and Adult Respiratory Distress Syndrome);

(b) gastrointestinal illness (including vomiting, diarrhea, abdominal pain, or any other gastrointestinal distress);

(c) influenza-like constitutional symptoms and signs;

(d) neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(e) rash illness;

(f) hemorrhagic illness;

(g) botulism-like syndrome;

(h) lymphadenitis;

(i) sepsis or unexplained shock;

(j) febrile illness (illness with fever, chills or rigors);

(k) nontraumatic coma or sudden death;

(l) other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin; and

(m) patient encounter data including, but not limited to, chief complaint and discharge diagnosis data from healthcare settings which support early identification and ruling out of public health threats, disasters, disease outbreaks, suspected incidents, and acts of bioterrorism; assist in characterizing population groups at greatest risk for disease or injury; support assessment of the severity and magnitude of possible threats; or satisfy syndromic surveillance objectives of the Federal Centers for Medicaid and Medicare Meaningful Use incentive program.

#### R386-702-4. Reporting.

(1) Who must report: Each reporting entity shall report each confirmed case, and any [ease]individual, who the reporting entity believes, in its professional judgment, is likely to harbor an illness, infection, or condition reportable under R386-702-3(1), and each outbreak, epidemic, or unusual occurrence described in R386-702-3(1) ([yyy]bbbb) or ([zzz]cccc) to the local health department or to the Bureau of Epidemiology, Utah Department of Health. Unless otherwise specified, the report of these diseases to the local health department or to the Bureau of Epidemiology, Utah Department of Health shall provide the following information: name, age, sex, address, date of onset, and all other information as prescribed by the Department. A standard report form has been adopted and is supplied to physicians and other reporting entities by the Department. Upon receipt of a report, the local health department shall promptly forward



a written or electronic copy of the report to the Bureau of Epidemiology, Utah Department of Health.

(2) Time frames for reporting:

(a) Manual reporting:

(i) Where immediate reporting is required as noted in R386-702-4 (4), the reporting entity shall report as soon as possible, but not later than 24 hours after identification. Immediate reporting shall be made by telephone to the local health department or to the Bureau of Epidemiology, Utah Department of Health at 801-538-6191 or 888-EPI-UTAH (888-374-8824).

(b)(ii) All diseases not required to be reported immediately shall be reported within three working days from the time of identification. Reporting entities shall send reports to the local health department by phone, secured fax, secured email, or mail; or to the Bureau of Epidemiology by phone (801-538-6191), secured fax (801-538-9923), secured email (please contact the Bureau of Epidemiology at 801-538-6191 for information on this option), or by mail (288 North 1460 West, P. O. Box 142104, Salt Lake City, Utah 84114-2104).

(b) Electronic reporting:

(c)(i) ~~Hospitals and~~ laboratories are encouraged to report case information electronically in a manner approved of by the Department if the laboratory has the capacity to do so. ~~Laboratories should refer~~ Refer to <https://health.utah.gov/phaccess/public/elr/> for information about this option. Please contact the Bureau of Epidemiology at 801-538-6191 for questions regarding this option.

(d)(ii) When more than one licensed laboratory or hospital is involved in testing a specimen, all ~~laboratories~~ entities involved are required to report results.

(iii) All entities that report electronically shall either choose to report on demand (as each report is released) or batch reports every 24 hours (including holidays and weekends if the entity is open).

(e)(iv) The following requirements apply to laboratories that are reporting information electronically:

(f)(1) Laboratories reporting electronically shall send the following information with all reports:

(g)(A) First and last name of the patient;

(g)(B) Patient date of birth;

(g)(C) Patient hospitalization status;

(g)(D) Name ~~and telephone number~~ of the reporting facility;

(g)(E) Name ~~and telephone number~~ of the testing laboratory;

(g)(F) Patient address (including street address, unit/apartment number, city, state, and zip code);

(g)(G) Name and ~~address~~ phone number of the requesting health care provider;

(g)(H) Pregnancy status;

(g)(I) Specimen source;

(g)(J) The laboratory's name for, or description of, the test;

(K) Testing results:

(h)(L) Test reference range; and

(h)(M) Test status (e.g. preliminary, final, amended and/or corrected).

(i)(2) Hospitals reporting electronically shall use HL7 2.5.1 message structure and standard LOINC and SNOMED terminology in accordance with Meaningful Use regulations. Laboratories reporting electronically shall use HL7 2.3.1 or 2.5.1 message structure for all fields and appropriate LOINC codes designating the test performed.

(j)(3) Laboratories reporting electronically shall submit all local vocabulary codes with translations to UDOH, if applicable.

~~(iv) Laboratories reporting electronically must send reports within 24 hours of finalization of test results.]~~

(k)(4) Laboratories reporting electronically must report preliminary positive results for immediately notifiable conditions as specified in R386-702-4 (4).

(l)(c) Electronic reporting of negative results:

(m)(i) Electronic reporting shall include negative as well as positive results ~~for tests ordered~~ for the following conditions:

(n)(1) Chlamydia

(o) Cytomegalovirus (CMV), congenital (see Utah Administrative Rule R398-4-5 and R386-702-4 (2)(b)(i))

(p)(b) Gonorrhea

(q)(e) Hepatitis A

(r)(d) Hepatitis B

(s)(e) Hepatitis C, including viral loads

(t)(f) Human Immunodeficiency Virus (HIV), including viral loads and confirmatory tests

~~(g) Salmonellosis]~~

~~(h) STEC]~~

(u) Lyme disease

(v) Syphilis

(w)(10) Tuberculosis

(x)(ii) Negative test results reported for these conditions will be used for the following purposes as authorized in Utah Health Code Section 26-1-30(2)(c),(d), and (f):

(y)(1) To determine when a previously reported case becomes non-infectious;

(z)(2) To identify newly acquired infections through identification of a seroconversion window; or

(aa)(3) To provide information critical for assignment of a case definition.

(ab)(iii) Information associated with a negative test result will be retained by the Utah Department of Health for a period of 18 months.

(ac)(1) At the end of the 18 month period, if the result has not been appended to an existing case, personal identifiers will be stripped and expunged from the result.

(ad)(2) The de-identified result will be added to a de-identified, aggregate dataset which will be retained for use by public health to analyze trends associated with testing patterns and case distribution, enabling identification and establishment of prevention and intervention efforts for at-risk populations, and assessment of trends over time in those populations, as authorized by Utah Health Code 26-1-30(2)(f).

(3) Entities Required to Report Communicable Diseases: Title 26, Chapter 6, Section 6 Utah Code lists those individuals and facilities required to report diseases known or suspected of being communicable.

(a) Physicians, hospitals, health care facilities, home health agencies, health maintenance organizations, and other health care providers shall report details regarding each case.

(b) Schools, child care centers, and citizens shall provide any relevant information.

(c) Laboratories and other testing sites shall report laboratory evidence ~~confirming~~ of any of the reportable diseases. Laboratories and other testing sites shall also report any test result[s] that provides presumptive evidence of infection, which may include

positive tests for HIV, syphilis, measles, viral hepatitis, and tuberculosis. ~~This would also include reporting ordered tests for [and] Creutzfeldt-Jakob disease and other [transmissible human spongiform encephalopathies] prion diseases.~~

(i) Detailed lists of reportable laboratory events, e.g. laboratory tests and results that signify a reportable condition, are found at: <https://health.utah.gov/phaccess/public/elr/>; click on "Spreadsheet of Reportable Events and Vocabulary" to access this list.

(ii) Events noted within the "Spreadsheet of Reportable Events and Vocabulary" constitute those that are reportable according to this Rule, and as such are considered mandatory for laboratories to report.

(iii) The "Spreadsheet of Reportable Events and Vocabulary" defines, for laboratory reporting purposes, those unusual occurrences of conditions as noted in R386-702-3 (1)(~~yyy~~)~~bbb~~) and (~~zzz~~)~~ccc~~.

(d) Pharmacists shall report unusual prescriptions or patterns of prescribing as specified in section 26-23b-105.

(4) Immediately Reportable Conditions: Case and suspect case reports of anthrax, botulism (except for infant botulism), cholera, Creutzfeldt-Jakob disease and other suspected prion diseases, diphtheria, Haemophilus influenzae (invasive disease), hepatitis A, measles, meningococcal disease, plague, poliomyelitis, rabies, rubella (excluding congenital syndrome), Severe Acute Respiratory Syndrome (SARS), smallpox, Staphylococcus aureus with resistance (VRSA) or intermediate resistance (VISA) to vancomycin isolated from any site, tuberculosis, tularemia, typhoid, viral hemorrhagic fever, yellow fever, and any condition described in R386-702-3(1)(~~yyy~~)~~bbb~~) or (~~zzz~~)~~ccc~~ are to be made immediately as provided in R386-702-4(2).

(5) Mandatory Submission of Clinical Material:

(a) Laboratories shall submit clinical material from all cases identified with organisms listed in (5)(c) below to the Utah Department of Health, Utah Public Health Laboratory (UPHL). Clinical material is defined as:

(i) A clinical isolate containing the infectious organism for which submission of material is required, or

(ii) If an isolate is not available, material containing the infectious organism for which submission of material is required, in the following order of preference:

(A) a patient specimen;

(B) nucleic acid; or

(C) other laboratory material.

(b) Laboratories should alert UPHL via telephone during business hours at (801) 965-2400, or after hours at (801) 560-6586, of all bioterrorism (BT) agents that are being submitted. BT agents are marked below (as (BT)) with other organisms mandated for submission.

(c) Organisms that are mandated for clinical submission in Utah include:

(i) Bacillus anthracis (BT);

(ii) Brucella species (BT);

(iii) Campylobacter species;

(iv) Clostridium botulinum (BT);

(v) Corynebacterium diphtheriae;

(vi) Shiga toxin-producing Escherichia coli (STEC) (including enrichment and/or MacConkey broths that tested positive by enzyme immunoassay for Shiga toxin);

(vii) Francisella tularensis (BT);

(viii) Haemophilus influenzae, from normally sterile sites;

(ix) Influenza virus (hospitalized cases only);

(x) Legionella species;

(xi) Listeria monocytogenes;

(xii) Measles (rubeola);

(xiii) Mycobacterium tuberculosis complex;

(xiv) Neisseria gonorrhoeae;

(xv) Neisseria meningitidis, from normally sterile sites;

(xvi) Salmonella species;

(xvii) Shigella species;

(xviii) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site;

(xix) Vibrio species;

(xx) West Nile virus;

(xxi) Yersinia species (Yersinia pestis, BT); and

(xxii) any organism implicated in an outbreak when instructed by authorized local or state health department personnel.

(6) Full reporting of all relevant patient information related to laboratory-confirmed influenza is authorized and may be required by local or state health department personnel for purposes of public health investigation of a documented threat to public health.

(7) Reports of emergency illnesses, health conditions, and patient encounter information under R386-702-3(2) shall be made as soon as practicable using a process and schedule approved by the Department. Full reporting of all relevant patient information is authorized. The report shall include at least, if known:

(a) name of the facility;

(b) a patient identifier;

(c) date of visit;

(d) time of visit;

(e) patient's age;

(f) patient's sex;

(g) zip code of patient's residence;

(h) chief complaint(s), reason for visit, and/or diagnosis;

and

(i) whether the patient was admitted to the hospital.

(8) An entity reporting emergency illnesses, health conditions, and patient encounter information under R386-702-3(2) is authorized to report on other encounters during the same time period that do not meet definition for a reportable emergency illness, health condition, or patient encounter. Submission of an isolate does not replace the requirement to report the case also to the local health department or Bureau of Epidemiology, Utah Department of Health. The report shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex; and

(f) patient's zip code for patient's residence.

(9) Epidemiological Review: The Department or local health department may conduct an investigation, including review of the hospital and health care facility medical records and contacting the individual patient to protect the public's health.

(10) Confidentiality of Reports:

(a) All reports required by this rule are confidential and are not open to public inspection. [Nothing in this rule, however, precludes the discussion of case information with the attending physician or public health workers.] All information collected

pursuant to this rule may not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

(b) Nothing in this rule precludes the discussion of case information with an attending clinician or public health workers.

(c) Good Samaritans:

(i) The Department or local health department shall disclose communicable disease-related information regarding the person who was assisted to the medical provider of a good Samaritan when that medical provider submits a request to the Department or local health department. The request must include:

(A) information regarding the occurrence of the accident, fire, or other life-threatening emergency.

(B) a description of the exposure risk to the good Samaritan, and

(C) contact information for the good Samaritan and their medical provider.

(ii) Information shall be provided to the medical provider of the good Samaritan only in order to ensure that:

(A) appropriate education and follow-up is provided, and

(B) confidentiality is maintained for the person who was aided.

(iii) No identifying information will be shared regarding the person who was assisted with the good Samaritan or their medical provider. The good Samaritan shall receive written information warning them that information regarding the person who was assisted is protected by state law.

(11) If public health conducts a retrospective surveillance project, such as to assess completeness of case finding or assess another measure of data quality, the department may, at its discretion, waive any penalties for participating facilities, medical providers, laboratories, or other reporters if cases are found that were not originally reported for whatever reason.

#### **R386-702-5. General Measures for the Control of Communicable Diseases.**

(1) The local health department shall maintain all reportable disease records as needed to enforce Chapter 6 of the Health Code and this rule, or as requested by the Utah Department of Health.

(2) General Control Measures for Reportable Diseases.

(a) The local health department shall, when an unusual or rare disease occurs in any part of the state or when any disease becomes so prevalent as to endanger the state as a whole, contact the Bureau of Epidemiology, Utah Department of Health for assistance, and shall cooperate with the representatives of the Utah Department of Health.

(b) The local health department shall investigate and control the causes of epidemic, infectious, communicable, and other disease affecting the public health. The local health department shall also provide for the detection, reporting, prevention, and control of communicable, infectious, and acute diseases that are dangerous or important or that may affect the public health. The local health department may require physical examination and measures to be performed as necessary to protect the health of others.

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person shall be kept from contact with the public, the local health officer shall establish, maintain and enforce involuntary treatment, isolation and quarantine as

provided by Section 26-6-4. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the Bureau of Epidemiology, Utah Department of Health or official reference listed in R386-702-12.

(3) Prevention of the Spread of Disease From a Case.

The local health department shall take action and measures as may be necessary within the provisions of Section 26-6-4; Title 26, Chapter 6b; and this rule, to prevent the spread of any communicable disease, infectious agent, or any other condition which poses a public health hazard. Action shall be initiated upon discovery of a case or upon receipt of notification or report of any disease.

(4) Prevention of the Spread of Disease or Other Public Health Hazard.

A case, suspected case, carrier, contact, other person, or entity (e.g. facility, hotel, organization) shall, upon request of a public health authority, promptly cooperate during:

(a) An investigation of the circumstances or cause of a case, suspected case, outbreak, or suspected outbreak.

(b) The carrying out of measures for prevention, suppression, and control of a public health hazard, including, but not limited to, procedures of restriction, isolation, and quarantine.

(5) Public Food Handlers.

A person known to be infected with a communicable disease that can be transmitted by food or drink products, or who is suspected of being infected with such a disease, may not engage in the commercial handling of food or drink products, or be employed on any premises handling those types of products, unless those products are packaged off-site and remain in a closed container until purchased for consumption, until the person is determined by the local health department to be free of communicable disease, or incapable of transmitting the infection.

(6) Communicable Diseases in Places Where Food or Drink Products are Handled or Processed.

If a case, carrier, or suspected case of a disease that can be conveyed by food or drink products is found at any place where food or drink products are handled or offered for sale, or if a disease is found or suspected to have been transmitted by these food or drink products, the local health department may immediately prohibit the sale, or removal of drink and all other food products from the premises. Sale or distribution of food or drink products from the premises may be resumed when measures have been taken to eliminate the threat to health from the product and its processing as prescribed by R392-100.

(7) Request for State Assistance.

If a local health department finds it is not able to completely comply with this rule, the local health officer or his representative shall request the assistance of the Utah Department of Health. In such circumstances, the local health department shall provide all required information to the Bureau of Epidemiology. If the local health officer fails to comply with the provisions of this rule, the Utah Department of Health shall take action necessary to enforce this rule.

(8) Approved Laboratories.

Laboratory analyses that are necessary to identify the causative agents of reportable diseases or to determine adequacy of treatment of patients with a disease shall be ordered by the physician or other health care provider to be performed in or referred to a laboratory holding a valid certificate under the Clinical Laboratory Improvement Amendments of 1988.

**R386-702-6. Special Measures for Control of Rabies.****(1) Rationale of Treatment.**

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

**(2) Management of Biting Animals.**

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite, regardless of vaccination status, as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in R386-702-6(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in R386-702-6(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be reported to the local health department or the Bureau of Epidemiology, Utah Department of Health.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section 26-26-1, bite or scratch a human, the Bureau of Epidemiology, Utah Department of Health shall be notified. The provisions of subsection R386-702-6(2) (e) may be waived by the Bureau of Epidemiology, Utah Department

of Health if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept postexposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of 180 days. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least six months and vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in subsection R386-702-6(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in subsection R386-702-6(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

**(3) Testing Fees at Utah Public Health Laboratory (UPHL).**

**(a) Animals being submitted to UPHL for rabies testing must follow criteria defined in The Compendium of Animal Rabies Prevention and Control to be eligible for testing without a fee. Testing of animals that fit this criteria will be eligible for a waived fee for testing. Testing of animals that do not meet this criteria will incur a testing fee as set forth by UPHL.**

**(b) The following situations will not incur a rabies testing fee if testing is ordered for them through UPHL:**

**(i) Any bat in an instance where a person or animal has had an exposure, or reasonable probability of exposure, including, but not limited to: known bat bites, exposure to bat saliva, a bat found in a**

room with a sleeping person or unattended child, or a bat found near a child or mentally impaired or intoxicated person.

(ii) Dogs, cats, or ferrets, regardless of rabies vaccination status, if signs suggestive of rabies are documented in them.

(iii) Wild mammals and hybrids that expose persons, pets, or livestock (e.g., skunks, foxes, coyotes, and raccoons) may be tested.

(iv) Livestock may be tested if signs suggestive of rabies are documented.

(v) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may warrant testing at (801) 538-6191.

(c) The following situations will incur a \$95 testing fee if testing is ordered for them through UPHL:

(i) Any stray with unknown or undocumented vaccination history that exposes a person, if signs suggestive of rabies are not documented, or if the animal has not been confined and observed for at least 10 days.

(ii) Dogs, cats, and ferrets: currently vaccinated animals that expose a person, if signs suggestive of rabies are not documented, or animals have not been confined and observed for at least 10 days.

(iii) Regardless of rabies vaccination status, a healthy dog, cat, or ferret that has not exposed a person.

(iv) Small rodents (e.g., rats, mice, squirrels, chipmunks, voles, or moles) and lagomorphs (rabbits and hares).

(v) Incomplete paperwork accompanying the sample will also result in a fee for testing; a thorough description of the situation must be included with each sample submission.

(vi) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may not warrant testing at (801) 538-6191.

(d) If the submitting party feels they are charged inappropriately for rabies testing, they may send a letter describing the situation and requesting a waiver for fees to the: Utah Department of Health, Bureau of Epidemiology, P.O. Box 142104, Salt Lake City, UT 84114, attention: Zoonotic Diseases Epidemiologist. Information may be submitted electronically via email to: [epi@utah.gov](mailto:epi@utah.gov), with a note in the subject line "Attention: Zoonotic Diseases Epidemiologist".

(i) The submitting party has 30 days from receipt of the testing fee invoice to file an appeal. The letter must include copies of the original paperwork that was submitted, and a copy of the invoice received, for a waiver to be considered.

(ii) UDOH and UPHL have 30 days to review information after receipt of an appeal request to make an official decision and notify the submitter.

(iii) UDOH Bureau of Epidemiology staff are available to discuss questions about testing fees and the appeal process at (801) 538-6191.

([3]4) Measures for Standardized Rabies Control Practices.

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as adopted and incorporated by reference in R386-702-12(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Bureau of Epidemiology, Utah Department of Health.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report all serious

systemic neuroparalytic or anaphylactic reactions to rabies vaccine to the Bureau of Epidemiology, Utah Department of Health, using the process described in R386-702-4.

(c) The Compendium of Animal Rabies Prevention and Control, as adopted and incorporated by reference in R386-702-12(3), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with the Compendium of Animal Rabies Prevention and Control.

(f) All agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, which can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and the Utah Department of Agriculture.

([4]5) Measures to Prevent or Control Rabies Outbreaks.

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination.

(i) All dogs, cats, and ferrets in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) Local governments should establish effective programs to ensure vaccination of all dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health determines that a rabies outbreak is present in an area of the state, the Utah Department of Health may require that:

(i) all dogs, cats, and ferrets in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

#### **R386-702-7. Special Measures for Control of Typhoid.**

(1) Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following outline:

(2) Cases: Standard precautions are required during hospitalization. Use contact precautions for diapered or incontinent patients for the duration of illness. Hospital care is desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative cultures of feces (and of urine in patients with schistosomiasis) taken at least 24

hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in R386-702-7(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in R386-702-7(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

(3) **Contacts:** Administration of typhoid vaccine is recommended for all household members of known typhoid carriers. Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

(4) **Carriers:** If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the Bureau of Epidemiology, Utah Department of Health using the process described in R386-702-4. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling, child care, and patient care until released in accordance with R386-702-7(4)(a) or R386-702-7(4)(b). All reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection 26-6-27(2)(c).

(a) **Convalescent Carriers:** Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in R386-702-7(6).

(b) **Chronic Carriers:** Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) **Other Carriers:** If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the Bureau of Epidemiology, Utah Department of Health. If the person continues to excrete typhoid bacilli for more than 12 months, he is a chronic carrier and may be released after satisfying the criteria for chronic carriers in R386-702-7(6).

(5) **Carrier Restrictions and Supervision:** The local health department shall report all typhoid carriers to the Bureau of Epidemiology, and shall:

- (a) Require the necessary laboratory tests for release;
- (b) Issue written instructions to the carrier;
- (c) Supervise the carrier.

(6) **Requirements for Release of Convalescent and Chronic Carriers:** The local health officer or his representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) For carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(c) the local health officer or his representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state; or

(d) the local health officer or his representative determines the carrier no longer presents a risk to public health according to the evaluation of other factors.

#### **R386-702-8. Special Measures for the Control of Ophthalmia Neonatorum.**

Every physician or midwife practicing obstetrics or midwifery shall, within three hours of the birth of a child, instill or cause to be instilled in each eye of such newborn one percent silver nitrate solution contained in wax ampules, or tetracycline ophthalmic preparations or erythromycin ophthalmic preparations, as these are the only antibiotics of currently proven efficacy in preventing development of ophthalmia neonatorum. The value of irrigation of the eyes with normal saline or distilled water is unknown and not recommended.

#### **R386-702-9. Special Measures for the Control of HIV/AIDS.**

(1) Authority for this section is established by Title 26, Chapter 6, Sections 3 and 3.5 of the Utah Communicable Disease Control Act. This section establishes requirements for:

(a) General reporting of screening, diagnostic, and treatment test results related to Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS).

(b) Partner identification and notification.

(2) Reporting of HIV and AIDS:

(a) A health care provider who administers or causes to have administered any of the following tests shall report all positive and indeterminate results (preliminary and confirmatory) to the Department or the local health department:

- (i) Presence of antibodies to HIV;
- (ii) Presence of HIV antigen;
- (iii) Isolation of HIV;
- (iv) Demonstration of HIV pro-viral DNA;
- (v) Demonstration of HIV specific nucleic acids;
- (vi) HIV viral load determination;
- (vii) Any other test or condition indicative of HIV infection;

and

(viii) CD4+ T-Lymphocyte tests, regardless of known HIV status.

(b) A laboratory that analyzes samples for any of the tests listed in R386-702-9(2)(a) shall report all results to the Department or the local health department.

(i) Specific electronic reporting requirements are described in R386-702-4(2)([e]b).

(c) Reports shall include, as available:

- (i) First and last name of the patient;
- (ii) Patient date of birth;
- (iii) Sex;
- (iv) Race;
- (v) Occupation;
- (vi) Patient phone number;

(vii) Patient hospitalization status;  
 (viii) Name and telephone number of the reporting facility;  
 (ix) Name and telephone number of the testing laboratory;  
 (x) Patient home and work address;  
 (xi) Name, address, and phone number of the requesting health care provider;  
 (xii) Specimen source;  
 (xiii) Testing results;  
 (xiv~~(ii)~~) Laboratory's name for, or description of, the test;  
 (x~~(i)~~v) Test reference range; and  
 (xvi) Test status (e.g. preliminary, final, amended and/or corrected).

(d) Reports may be made via ELR, or in writing, by telephone, or by other electronic means acceptable to the Department as described in R386-702-4(2).

(3) Partner identification and notification: if an individual is tested and found to have an HIV infection, the Department and/or local health department shall provide partner services, linkage-to-care activities, and promote retention to HIV care.

(a) Definitions:

(i) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual.

(ii) "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.

(iii) "Linkage to care" is defined by a reported CD4+ T-Lymphocyte test and/or HIV viral load determination within three months of HIV positive diagnosis.

(iv) "Retention to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination twice within a 12-month period and at least three months apart.

(b) Partner services include:

(i) Confidential partner notification within 30 days of receiving a positive HIV result;

(ii) Prevention counseling;

(iii) Testing for HIV;

(iv) Providing recommendations for testing for other sexually transmitted diseases;

(v) Providing recommendations for hepatitis screening and vaccination;

(iv) Treatment or linkage to medical care within three months of HIV diagnosis; and

(v) Linkage or referral to other prevention services and support.

(4) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall submit the following to the Department:

(a) A summary of the research protocol including funding sources and justification for requiring anonymity;

(b) Written approval of the Utah Department of Health institutional review board; and

(c) A final report indicating the number of HIV positive and HIV negative individuals enrolled in the study.

**R386-702-10. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.**

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface

antigen (HBsAg) at an early prenatal care visit. The provisions of this section do not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or personal beliefs.

(2) The licensed healthcare provider who provides prenatal care should repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

(a) evidence of clinical hepatitis during pregnancy;

(b) injection drug use;

(c) occurrence during pregnancy or a history of a sexually transmitted disease;

(d) occurrence of hepatitis B in a household or close family contact; or

(e) the judgment of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Utah Department of Health, as specified in Section 26-6-6. That report shall indicate that the woman was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record;

(b) when a pregnant woman is admitted for delivery, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;

(c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, and if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;

(d) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

(e) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(f) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours; and

(g) if at the time of birth the mother's HBsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth.

(h) hepatitis B immune globulin (HBIG) administration and birth dose hepatitis B vaccine status of infants born to mothers who are HBsAg-positive, or whose status is unknown, are reported within 24 hours of delivery to the local health department and Utah Department of Health Immunization Program at (801) 538-9450.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) All females between the ages of 12 and 50 years at the time an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result.

(b) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in in the most current version of "The Red Book" as cited in R386-702-13 (4).

(c) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 18 months of age (testing is done at least one month after the final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age) to monitor the success of therapy and identify cases of perinatal hepatitis B infection.

(i) Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in (c) receive additional vaccine doses and are retested as specified in the most current version of "The Red Book" as cited in R386-702-13 (4).

(d) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(e) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B.

(f) All identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B.

(7) The provisions of subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(i) HBsAg positive, and total antibody against hepatitis B core antigen (anti-HBc) positive (if done) and IgM anti-HBc negative; or

(a) An individual with chronic hepatitis B infection should be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(b) Household members and sex partners of individuals with chronic hepatitis B infection should be evaluated to determine susceptibility to hepatitis B infection, and if determined to be susceptible, should be offered or advised to obtain vaccination against Hepatitis B.

#### **R386-702-11. Public Health Emergency.**

(1) Declaration of Emergency: With the Governor's and Executive Director's or in the absence of the Executive Director, his designee's, concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in sections R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and for the duration of the public health emergency, the following definitions apply.

(a) "emergency center" means:

(i) a health care facility licensed under the provisions of Title 26, Chapter 21, Utah Code, that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

(b) "encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in section R386-702-3(2); and

(c) "diagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) Reporting Encounters: The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in R386-702-4.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day; or

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9:00 a.m. the following day, or

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in R386-702-4~~(6)~~ and shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex;

(f) patient's zip code for patient's residence.

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected. However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

#### **R386-702-12. Penalties.**

Any person who violates any provision of R386-702 may be assessed a penalty as provided in Section 26-23-6.



**R386-702-13. Official References.**

All treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, which are adopted and incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual". [49]20th ed., Heymann, David L., editor, 20[08]15.

(2) Centers for Disease Control and Prevention. "Human Rabies Prevention--United States, 2008: Recommendations of the Advisory Committee on Immunization Practices." Morbidity and Mortality Weekly Report. 57 (RR03) (2008):1-26, 28.

(3) National Association of State Public Health Veterinarians Committee. "Compendium of Animal Rabies Prevention and Control, 2011." Naspvh.org. National Association of State Public Health Veterinarians, 31 May 2011. Web. <http://naspvh.org/Documents/RabiesCompendium.pdf>

(4) American Academy of Pediatrics. "Red Book: 2012 Report of the Committee on Infectious Diseases" [29]30th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 201[2]5.

(5) National Association of State Public Health Veterinarians Animal Contact Compendium Committee 2013. "Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2013." Journal of the American Veterinary Medicine Association 243 (2013): 1270-288.

**KEY: communicable diseases, quarantines, rabies, rules and procedures**

**Date of Enactment or Last Substantive Amendment: [December 15, 2014]2016**

**Notice of Continuation: October 12, 2011**

**Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-6-3; 26-23b**

**Health, Family Health and  
Preparedness, Licensing  
R432-100  
General Hospital Standards**

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 39963  
FILED: 11/27/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule amendment is to add a section that outlines requirements for hospitals to allow patients to designate a caregiver for continuing care after discharge from the hospital. The rule change was suggested by AARP in order to give patients more understanding of continuing care after hospitalization to help reduce the number of re-admissions to the hospital.

**SUMMARY OF THE RULE OR CHANGE:** This amendment adds a new Section R432-100-12 to the hospital rule for designated caregivers. This rule requires hospitals to allow inpatients to designate a caregiver when leaving the hospital. The hospital must document the designation in the record and provide information and basic training to the caregiver so that the caregiver understands what the patient will need after leaving the hospital.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 21

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no fiscal impact to the state budget because the addition to this rule will not change current practice for any government agency.

◆ **LOCAL GOVERNMENTS:** There is no fiscal impact to local governments because the addition to this rule is a process that government-owned hospitals are already doing.

◆ **SMALL BUSINESSES:** There is no fiscal impact to small businesses because the addition to the rule is a process that hospitals are already doing.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no fiscal impact to businesses, individuals, local governments, and persons that are not small businesses because the addition to rule is already being accomplished by hospitals. This rule formalizes the process for regulatory reasons. The Utah Hospital Association was contacted to obtain correct information regarding costs.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no fiscal impact to hospitals or any individuals. The Utah Hospital Association reports that this process is already being done.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to business because the amendments incorporate processes already practiced by hospitals.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at [jhoffman@utah.gov](mailto:jhoffman@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016**

THIS RULE MAY BECOME EFFECTIVE ON: 02/08/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R432. Health, Family Health and Preparedness, Licensing.**

**R432-100. General Hospital Standards.**

**R432-100-12. ~~[Nursing Care Services]~~ Patient Designated Caregiver.**

(1) The hospital shall give a patient admitted to the hospital the opportunity to designate a caregiver who will assist the patient with continuing care after discharge from the hospital.

(a) A caregiver is an individual designated by an inpatient of the hospital to assist with continuing care that can be given in the patient's residence after discharge;

(b) The hospital shall document the designated caregiver in the patient record and include contact information; and

(c) If the patient declines to designate a caregiver, the hospital shall document the patient's choice in the medical record.

(2) The hospital shall notify the designated caregiver as soon as practicable before any of the following circumstances occur:

(a) The patient is transferred to another health facility;

(b) The patient is discharged back to their own residence.

(3) If the hospital is unable to contact the designated caregiver when changes occur, the lack of contact shall not interfere with, delay or otherwise affect the medical care provided to the patient or the transfer or discharge of the patient.

(4) The hospital shall document any attempt to contact the designated caregiver in the patient record, to include dates and times attempted.

(5) The patient may give written consent to allow the hospital to release medical information to the designated caregiver, pursuant to the hospital's established procedures for the release of personal health information.

(6) Prior to the patient being discharged, the hospital shall provide a written discharge plan for continuing care needs to the patient and designated caregiver, which shall include:

(a) The name and contact information of the designated caregiver and relation to the patient;

(b) A description of continuing care tasks that the patient requires, in a culturally competent manner; and

(c) Contact information for any other health care resources necessary to meet the needs of the patient.

(7) Prior to the patient being discharged, the hospital shall provide the designated caregiver with an opportunity for instruction in continuing care tasks outlined in the discharge plan, which shall include:

(a) Demonstration of the continuing care tasks by hospital personnel; and

(b) Opportunity for the patient and designated caregiver to ask questions and receive answers regarding the continuing care tasks; and

(c) Education and counseling about medications, including dosing and proper use of delivery devices.

(8) The hospital shall document the instruction given to the patient and designated caregiver in the patient record, to include the date, time and contents of the instructions.

**R432-100-13. Nursing Care Services.**

(1) There shall be an organized nursing department that is integrated with other departments and services.

(a) The chief nursing officer of the nursing department shall be a registered nurse with demonstrated ability in nursing practice and administration.

(b) Nursing policies and procedures, nursing standards of patient care, and standards of nursing practice shall be approved by the chief nursing officer.

(c) A registered nurse shall be designated and authorized to act in the chief nursing officer's absence.

(d) Nursing tasks may be delegated pursuant to R156-31-701, Delegation of Nursing Tasks.

(2) Qualified registered nurses shall be on duty at all times to give patients nursing care that requires the judgment and special skills of a registered nurse. The nursing department shall develop and maintain a system for determining staffing requirements for nursing care on the basis of demonstrated patient need, intervention priority for care, patient load, and acuity levels.

(3) Nursing care shall be documented for each patient from admission through discharge.

(a) A registered nurse shall be responsible to document each patient's nursing care and coordinate the provision of interdisciplinary care.

(b) Nursing care documentation shall include the assessments of patient's needs, clinical diagnoses, intervention identified to meet the patient's needs, nursing care provided and the patient's response, the outcome of the care provided, and the ability of the patient, family, or designated caregiver in managing the continued care after discharge.

(c) Patients shall receive prior to discharge written instructions for any follow-up care or treatment.

**R432-100-1[3]4. Critical Care Unit.**

(1) Hospitals that provide critical care units shall comply with the requirements of R432-100-13. Medical direction for the unit(s) shall be according to the scope of services provided as delineated in hospital policy and approved by the board.

(2) Critical care unit nursing direction shall be provided by a designated, qualified registered nurse manager who has relevant education, training and experience in critical care. The supervising nurse shall coordinate the care provided by all nursing service personnel in the critical care unit. The registered nurse manager shall have administrative responsibility for the critical care unit, assuring that a registered nurse who has advanced life support certification is on duty and in the unit at all times.

(3) Each critical care unit shall be designed and equipped to facilitate the safe and effective care of the patient population served. Equipment and supplies shall be available to the unit as determined by hospital policy in accordance with the needs of the patients.

(4) An emergency cart must be readily available to the unit and contain appropriate drugs and equipment according to hospital policy. The cart, or the cart locking mechanism, must be checked every shift and after each use to assure that all items required for immediate patient care are in place in the cart and in usable condition.

(5) The following support services shall be immediately available to the critical care unit on a 24-hour basis:

- (a) blood bank or supply;
- (b) clinical laboratory; and
- (c) radiology services.

(6) If the hospital provides dialysis services, the dialysis services shall comply with R432-650 End Stage Renal Disease Facility Rules, sections R432-650-7, Required Staffing; and R432-650-12, Water Quality.

#### **R432-100-1[4]5. Surgical Services.**

(1) Surgical services provided by the hospital shall be integrated with other departments or services of the hospital. The relationship, objective, and scope of all surgical services shall be specified in writing.

(a) Administrative direction of surgical services shall be provided by a person appointed and authorized by the administrator.

(b) Medical direction of surgical services shall be provided by a member of the medical staff.

(c) Qualified registered nurses shall supervise the provision of surgical nursing care.

(d) The operating room suites shall be directed and supervised by a qualified registered nurse. The supervisor shall have authority and responsibility for:

(i) assuring that the planned procedure is within the scope of privileges granted to the physician.

(ii) maintaining the operating room register; and

(iii) other administrative functions, including serving on patient care committees.

(e) The hospital shall establish a policy governing the use of obstetrical delivery and operating rooms to ensure that any patient with parturition imminent, or with an obstetrical emergency requiring immediate medical intervention to preserve the health and life of the mother or her infant, is given priority over other obstetrical and non-emergent surgical procedures.

(f) Qualified surgical assistants shall be used as needed in operations in accordance with hospital by-laws.

(g) Surgical technicians and licensed practical nurses may serve as scrub nurses under the direct supervision of a registered nurse, but may not function as circulation nurses in the operating rooms, unless the scrub nurse is a registered nurse.

(h) Outpatient surgical patients shall not be routinely admitted to the hospital as inpatients. A systematic review process shall evaluate patients who require hospitalization after outpatient surgery.

(2) A safe operating room environment shall be established, controlled and consistently monitored.

(a) Surgical equipment including suction facilities and instruments in good repair shall be provided to assure safe and aseptic treatment of all surgical cases.

(b) Traffic in and out of the operating room shall be controlled. There shall be no through traffic.

(c) There shall be a scavenging system for evacuation of anesthetic waste gases.

(d) The following equipment shall be available to the operating suite:

- (i) a call-in system;
- (ii) a cardiac monitor;
- (iii) a ventilation support system;
- (iv) a defibrillator;
- (v) an aspirator; and

(vi) equipment for cardiopulmonary resuscitation.

(3) The administration of anesthetics shall conform to the requirements of Anesthesia Services, R432-100-15.

(4) Removal of surgical specimens shall conform with the requirements of Laboratory and Pathology Services, R432-100-22.

#### **R432-100-1[5]6. Anesthesia Services.**

(1) There shall be facilities and equipment for the administration of anesthesia commensurate with the clinical and surgical procedures planned for the institution. Anesthesia care shall be available on a 24-hour basis.

(a) Administrative direction of anesthesia services shall be provided by a person appointed and authorized by the hospital administrator.

(b) Medical direction of anesthesia services shall be provided by a member of the medical staff.

(c) Anesthesia care shall be provided by anesthesiologists, other qualified physicians, dentists, oral surgeons, or Certified Registered Nurse Anesthetists who are members of the medical staff within the scope of their practice and license.

(i) A qualified physician, dentist or oral surgeon shall have documented training that includes the equivalent of 40 days preceptorship with an anesthesiologist and shall be able to perform at least the following:

(A) procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, and other pain producing clinical procedures;

(B) life support functions during the administration of anesthesia, including induction and intubation procedures; and

(C) provide pre-anesthesia and post-anesthesia management of the patient.

(ii) The responsibilities and privileges of the person administering anesthesia shall be clearly defined by the medical staff.

(iii) Both the patient and the operating surgeon shall be informed prior to surgery of who will be administering anesthesia.

(iv) Medicaid certified hospitals shall comply with the requirements of 42 CFR 482.52(a), Subpart D, Anesthesia Services.

(2) The use of flammable anesthetic agents for anesthesia or for the pre-operative preparation of the surgical field is prohibited.

(3) The anesthetic equipment shall be inspected and tested by the person administering anesthesia before use in accordance with hospital policy.

#### **R432-100-1[6]7. Emergency Care Service.**

(1) Each hospital shall evaluate and classify itself to indicate its capability in providing emergency care. Acute Hospitals and Critical Access Hospitals shall be classified as Type I, II or III. Type IV category may be used for Specialty Hospitals.

(a) Type I offers comprehensive emergency care 24 hours a day in-house, with at least one physician experienced in emergency care on staff in the emergency care area. There shall be in-hospital support by members of the medical staff for at least medical, surgical, orthopedic, obstetric, pediatric, and anesthesia services. Specialty consultation shall be available within 30 minutes, or two-way voice communication is available for the initial consultation.

(b) Type II offers emergency care 24 hours a day, with at least one physician experienced in emergency care on duty in the emergency care area, and with specialty consultation available within 30 minutes by members of the medical staff.

(c) Type III offers emergency care 24 hours a day, with at least one physician available to the emergency care area within approximately 30 minutes through a medical staff call roster. Specialty consultation shall be available by request of the attending medical staff member by transfer to a type I or type II hospital where care can be provided.

(d) Type IV offers emergency first aid treatment to patients, staff, and visitors; and to persons who may be unaware of, or unable to immediately reach services in other facilities.

(2) The emergency service shall be organized and staffed by qualified individuals based on the defined capability of the hospital.

(a) Administrative direction of emergency services shall be provided by an individual appointed and authorized by the hospital administrator.

(b) Medical direction of emergency services shall be defined in writing and provided by one or more members of the medical staff. The medical staff shall provide back-up and on-call coverage for emergency services and as needed for emergency specialty services.

(c) The evaluation and treatment of a patient who presents himself or is brought to the emergency care area shall be the responsibility of a licensed practitioner and shall include an appropriate medical screening examination, stabilizing treatment, and, if necessary for definitive treatment, an appropriate transfer to another medical facility that has agreed to accept the patient for care.

(d) The priority by which persons seeking emergency care are seen by a physician may be determined by trained personnel using guidelines established by the emergency room director and approved by the medical staff.

(e) Rosters designating medical staff members on duty or on call for primary coverage and specialty consultation shall be posted in the emergency care area.

(f) A designated registered nurse who is qualified by relevant training, experience, and current competence in emergency care shall supervise the care provided by all nursing service personnel in the department.

(i) The number of nursing service personnel shall be sufficient for the types and volume of patients served.

(ii) Type I and II emergency departments shall have at least one registered nurse with Advanced Cardiac Life Support certification, and sufficient number of other nursing staff assigned and on duty within the emergency care area.

(iii) The emergency nurse supervisor shall participate in internal committee activities concerned with the emergency service.

(g) The emergency service shall be integrated with other departments in the hospital.

(i) Clinical laboratory services with the capability of performing all routine studies and standard analyses of blood, urine, and other body fluids shall be available. A supply of blood shall be available at all times.

(ii) Diagnostic radiology services shall be available at all times.

(h) The duties and responsibilities of all personnel, including physicians and nurses, providing care within the emergency service area shall be defined in writing.

(3) Each hospital shall define its scope of emergency services in writing and implement a plan for emergency care, based on community need and on the capability of the hospital.

(a) Each hospital shall comply with federal anti-dumping regulations as defined in CFR 489.20 and 489.24.

(b) The role of the emergency service in the hospital's disaster plans shall be defined.

(c) Each hospital must have a communication system that permits instant contact with law enforcement agencies, rescue squads, ambulance services, and other emergency services within the community.

(d) Emergency department policies and protocols shall address the care, security, and control of prisoners or people to be detained for police or protective custody.

(e) Emergency department policies and protocols shall address the provision of care to an unemancipated minor not accompanied by parent or guardian, or to an unaccompanied unconscious patient.

(f) Emergency department policies and procedures shall address the evaluation and handling of alleged or suspected child or adult abuse cases. Criteria shall be developed to alert emergency department and service personnel to possible child or adult abuse. The criteria shall address:

(i) suspected physical assault;

(ii) suspected rape or sexual molestation;

(iii) suspected domestic abuse of elders, spouses, partners and children;

(iv) the collection, retention, and safeguarding of specimens, photographs, and other evidentiary materials; and

(v) visual and auditory privacy during examination and consultation of patients.

(g) A list shall be available in the emergency department of private and public community agencies and resources that provide, arrange, evaluate and care for the victims of abuse.

(h) Emergency department policies and procedures shall address the handling of hazardous materials and contaminated patients.

(i) Emergency department policies and procedures shall address the reporting of persons dead-on-arrival to the proper authorities including the legal requirements for the collection and preservation of evidence.

(4) The hospital shall in a timely manner make reasonable effort to contact the guardian, parents, or next of kin of any unaccompanied minor, or any unaccompanied unconscious patient admitted to the emergency department.

#### **R432-100-1[7]8. Perinatal Services.**

(1) Each hospital shall comply with the requirements of this section and shall designate its capability to provide perinatal (antepartum, labor, delivery, postpartum and nursery) care in accordance with Level I basic, Level II specialty, or Level III subspecialty or tertiary care as described in the Guidelines for Perinatal Care, Sixth Edition and the Guidelines for Design and Construction of Health Care Facilities, 2010 Edition, which are incorporated by reference.

(a) A qualified member of the hospital staff shall provide administrative, medical and nursing direction and oversight for perinatal services according to each hospital's designated level of care, Level I, IIA, IIB, IIIA, IIIB or IIIC.

(b) A qualified registered nurse shall be immediately available at all hours of the day and as well as sufficient numbers of trained competent staff to meet the designated level.

(c) Support personnel shall be available to the perinatal care service according to each hospital's designated level of care.

(2) Each hospital shall establish and implement security protocols for perinatal patients.

(3) The perinatal department shall include facilities and equipment for antepartum, labor and delivery, nursery, postpartum, and optional birthing rooms.

(a) Perinatal areas shall be located and arranged to avoid non-related traffic to and from other areas.

(b) The hospital shall isolate patients with infections or other communicable conditions. The use of maternity rooms for patients other than maternity patients shall be restricted according to hospital policy.

(c) Each hospital shall have at least one surgical suite for operative delivery.

(d) Equipment and supplies shall be immediately available and maintained for the mother and newborn, including:

- (i) furnishings suitable for labor, birth, and recovery;
- (ii) oxygen with flow meters and masks or equivalent;
- (iii) mechanical suction and bulb suction;
- (iv) resuscitation equipment;
- (v) emergency medications, intravenous fluids, and related supplies and equipment;

(vi) a device to assess fetal heart rate;

(vii) equipment to monitor and maintain the optimum body temperature of the newborn;

(viii) a clock capable of showing seconds;

(ix) an adjustable examination light; and

(x) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements. The unit must be capable of administering oxygen and suctioning.

(e) The hospital shall maintain a delivery room record keeping system for cross referencing information with other departments.

(4) If birthing rooms are provided, they shall be equipped in accordance with 100-17(3(d)).

(5) The nursery shall include facilities and equipment according to its designated level of care: Level I - Basic Newborn Care; Level II - Specialty Continuing Care; and Level III - Sub-specialty or Tertiary Newborn Intensive Care including an individual bassinets for each infant; with space between bassinets as follows:

(a) Level I Basic: Full Term or Well Baby Nursery 24 inches between bassinets;

(b) Level II Specialty: Continuous Care Nursery four feet between bassinets for Continuing Care nurseries;

(c) Level III Sub-specialty: Newborn Intensive Care Nursery four feet between bassinets.

(d) accurate scales; and

(e) a wall thermometer;

(6) The following equipment and supplies shall be available:

(a) an individual thermometer, or one with disposable tips, for each infant;

(b) a supply of medication shall be immediately available for emergencies;

(c) a covered soiled-diaper container with removable lining;

(d) a linen hamper with removable bag for soiled linen other than diapers;

(e) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements;

(f) oxygen, oxygen equipment, and suction equipment; and

(g) an oxygen concentration monitoring device.

(7) Temperature shall be maintained between 70-80 degrees Fahrenheit in the nursery area.

(8) Infant formula storage space shall be available that conforms to the manufacturer's recommendations. Only single-use bottles shall be used for newborn feeding.

(9) A suspect nursery or isolation area shall be available. Equipment and supplies shall be provided for the isolation area.

(a) Isolation facilities shall be used for any infant who:

(i) has a communicable disease;

(ii) is delivered of an ill mother infected with a communicable disease;

(iii) is readmitted after discharge from a hospital; or

(iv) is delivered outside the hospital.

(b) There shall be separate hand washing facilities for the isolation area.

(10) Each hospital shall comply with the following provisions:

(a) No attempt shall be made to delay the imminent, normal birth of a child;

(b) A prophylactic solution in accordance with R386-702-9 shall be instilled in the eyes of the infant within three hours of birth;

(c) Metabolic screening shall be performed in accordance with Section 26-10-6 and R398-1; and

(d) A newborn hearing screening shall be performed in accordance with R398-2.

#### **R432-100-1[8]9. Pediatric Services.**

(1) If the hospital provides pediatric services, those services shall be under the direction of a member of the medical staff who is experienced in pediatrics and whose functions and scope of responsibility are defined by the medical staff.

(a) A pediatrics qualified registered nurse must supervise nursing care and must supervise the documentation of the implementation of pediatric patient care on an interdisciplinary plan of care.

(b) If the hospital provides a pediatric unit, it shall have an interdisciplinary committee responsible for policy development and review of practice within the unit. This committee must include representatives from administration, the medical and nursing staff, and rehabilitative support staff.

(c) Hospitals admitting pediatric patients shall have written policies and procedures specifying the criteria for admission to the hospital and conditions requiring transfer when indicated. These policies and procedures shall be based upon the resources available at the hospital, specifically, in terms of personnel, space, equipment, and supplies.

(d) The hospital shall assess all pediatric patients for maturity and development. Information obtained from the maturity and development assessment must be incorporated into the plan of care.

(e) The hospital shall establish and implement security protocols for pediatric patients.

(f) The hospital shall provide a safe area for diversional play activities.

(2) Hospitals admitting pediatric patients shall have equipment and supplies in accordance with the hospital's scope of pediatric services.

(3) The hospital shall have written guidelines for the placement or room assignment of pediatric patients according to patient acuity under usual, specific, or unusual conditions within the hospital. The guidelines shall address the use of cribs, bassinets, or beds; including the proper use of restraints, bed rails, and other safety devices.

(a) The hospital shall place infant patients in beds where frequent observation is possible.

(b) Pediatric patients other than infants shall be placed in beds to allow frequent observation according to each patient's assessed care needs.

(4) Personnel working with pediatric patients shall have specific training and experience relating to the care of pediatric patients.

(5) Orientation and inservice training for pediatric care staff shall include pediatric specific training on drugs and toxicology, intravenous therapy, pediatric emergency procedures, infant and child nutrition, the emotional needs and behavioral management of hospitalized children, child abuse and neglect, and other topics according to the needs of the pediatric patients.

#### **R432-100-~~19~~20. Respiratory Care Services.**

(1) Administrative direction of respiratory care services shall be provided by a person authorized by the hospital administrator.

(2) The respiratory care service shall be under the medical direction of a member of the medical staff who has the responsibility and authority for the overall direction of respiratory care services.

(a) When the scope of services warrants, respiratory care services shall be supervised by a technical director who is registered or certified by the National Board For Respiratory Therapy, Inc., or has the equivalent education, training, and experience.

(b) The technical director shall inform physicians about the use and potential hazards in the use of any respiratory care equipment.

(3) Respiratory care services shall be provided to patients in accordance with a written prescription of the responsible licensed practitioner which specifies the type, frequency, and duration of the treatment; and when appropriate, the type and dose of medication, the type of diluent, and the oxygen concentration.

(a) The hospital must have equipment to perform any pulmonary function study or blood-gas analysis provided by the hospital.

(b) Resuscitation, ventilatory, and oxygenation support equipment shall be available in accordance with the needs of the patient population served.

#### **R432-100-2[~~0~~]1. Rehabilitation Therapy Services.**

(1) If rehabilitation therapy services are provided by the hospital, the services may include physical therapy, speech therapy, and occupational therapy.

(a) Rehabilitation therapy services shall be directed by a qualified, licensed provider who shall have clinical responsibility for the specific therapy service.

(b) Patient services performed by support personnel, shall be commensurate with each person's documented training and experience.

(c) Rehabilitation therapy services may be initiated by a member of the medical staff or by a licensed rehabilitation therapist.

(i) A physician's written request for services must include reference to the diagnosis or problems for which treatment is planned, and any contraindications.

(ii) The patient's physician shall retain responsibility for the specific medical problem or condition for which the referral was made.

(2) Rehabilitation therapy services provided to the patient shall include evaluation of the patient, establishment of goals, development of a plan of treatment, regular and frequent assessment, maintenance of treatment and progress records, and periodic assessment of the quality and appropriateness of the care provided.

#### **R432-100-2[~~1~~]2. Radiology Services.**

(1) Each hospital shall provide an organized radiology department offering services that are in accordance with the needs and size of the institution.

(a) Administrative direction of radiology services shall be provided by a person appointed and authorized by the hospital administrator.

(b) Medical direction of the department shall be provided by a member of the medical staff.

(i) If a radiologist is not the medical director of the radiology services, the services of a radiologist shall be retained on a part-time basis.

(ii) If a radiologist provides services on less than a full-time basis, the time commitment shall allow the radiologist to complete the necessary functions to meet the radiological needs of the patients and the medical staff.

(c) The radiologist is responsible to:

(i) maintain a quality control program that minimizes unnecessary duplication of radiographic studies and maximizes the quality of diagnostic information available;

(ii) develop technique charts that include part, thickness, exposure factors, focal film distances and whether a grid or screen technique; and

(iii) assure the availability of information regarding the purpose and yield of radiological procedures and the risks of radiation.

(d) At least one licensed radiologic technologist shall be on duty or available when needed.

(e) Diagnostic radiology services shall be performed only at the request of a member of the medical staff or other persons authorized by the hospital.

(f) If radiation oncology services are provided, the following applies:

(i) Physicians and staff who provide radiation oncology services have delineated privileges;

(ii) The medical director of the radiation oncology services is a physician member of the medical staff who is qualified by education and experience in radiation oncology.

(2) Radiologic patient records shall be integrated with the hospital patient record.

(a) All requests for radiologic services shall contain the reasons for the examinations.

(b) Authenticated reports of these examinations shall be filed in the patient's medical record as soon as possible. Radiological film shall be retained in accordance with hospital policy.

(c) If requested by the attending physician and if the quality of the radiograph permits, the radiology department may officially enter the interpretations of the radiologic examinations performed outside of the hospital in the patient's medical record.

(d) Radiotherapy summaries shall be filed in the patient's medical record. A copy may be filed in the radiotherapy department. The radiotherapy summary shall be forwarded to the referring physician. Unless otherwise justified, the medical record of the patient receiving radiotherapy for treatment or palliation of a malignancy shall reflect the histologically substantiated diagnosis.

**R432-100-2[2]3. Laboratory and Pathology Services.**

(1) Each hospital shall provide laboratory and pathology services that are in accordance with the needs and size of the institution.

(a) Administrative direction of laboratory and pathology services shall be provided by a person appointed and authorized by the hospital administrator.

(b) Medical direction of laboratory and pathology services shall be provided by a member of the medical staff.

(2) Laboratory and pathology services shall comply with the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). CLIA inspection reports shall be available for Department review.

(3) Laboratories certified by a Health Care Financing Administration (HCFA) approved accrediting agency are determined to be in compliance with this section. Accrediting agency inspection reports shall be available for Department review.

**R432-100-2[3]4. Blood Services.**

(1) Hospital blood services are defined as follows:

(a) A "donor center" means a facility that procures, prepares, processes, stores and transports blood and blood components.

(b) A "transfusion service" means a facility that stores, determines compatibility, transfuses blood and blood components, and monitors transfused patients for any ill effect.

(c) A "blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility.

(2) The hospital blood service shall establish and maintain an appropriate blood inventory in the hospital at all times, have immediate access to community blood services or other institutions, or have an up-to-date list of donors, equipment and trained personnel to draw and process blood.

(a) Blood or blood components must be collected, stored, and handled in such manner that they retain potency and safety.

(b) Blood or blood components must be properly processed, tested, and labeled.

(3) If the hospital operates a donor center, transfusion service or a blood bank the donor center, transfusion service, or blood bank must be accredited.

(a) Hospital blood banks and donor centers must be accredited by the Food and Drug Administration (FDA).

(b) Hospital transfusion services must be certified by the Health Care Financing Administration to meet Clinical Laboratory Improvement Amendments of 1988 (CLIA), or any accrediting organization approved by the Health Care Financing Administration.

(4) Results of the accrediting organization survey, or current CLIA certification must be available for Department review.

**R432-100-2[4]5. Pharmacy Services.**

(1) The pharmacy of a hospital currently accredited and conforming to the standards of JCAHO shall be determined to be in compliance with these rules.

(a) If a hospital is not accredited by JCAHO, then the pharmacy of such hospital shall comply with rules in this section.

(b) The pharmacy department and service shall be directed by a licensed pharmacist.

(i) Competent personnel shall be employed in keeping with the size and activity of the department and service. If the hospital uses only a drug room and the size of the hospital does not warrant a full-time pharmacist, a consultant pharmacist may be employed.

(ii) The pharmacist shall be responsible for developing, supervising, and coordinating all the activities of the pharmacy.

(iii) Provision shall be made for access to emergency pharmaceutical services.

(iv) The pharmacist shall be trained in the specific functions and scope of the hospital pharmacy.

(2) Facilities shall be provided for the safe storage, preparation, safeguarding, and dispensing of drugs.

(a) All floor-stocks shall be kept in secure areas in the patient care units.

(b) Double-locked storage shall be provided for controlled substances. Electronically controlled storage of narcotics may be permitted if automated dispensing technology is utilized by the hospital.

(c) Medications stored at room temperatures shall be maintained within 59 and 80 degrees F.

(d) Refrigerated medications shall be maintained within 36 and 46 degrees F.

(e) A current toxicology reference, and other references as needed for effective pharmacy operation and professional information shall be available.

(3) Records shall be kept of the transactions of the pharmacy and medication storage unit and coordinated with other hospital records.

(a) There shall be a recorded and signed floor-stock controlled substance count once per shift or the facility must use automated dispensing technology in accordance with R156-17b-619.

(b) Hospitals that utilize automated dispensing technology must implement a system for accounting of controlled substances dispensed by the automated dispensing system.

(c) The record shall list the name of the patient receiving the controlled substance, the date, type of substance, dosage, and signature of the person administering the substance.

(4) Written policies and procedures that pertain to the intra-hospital drug distribution system and the safe administration of drugs shall be developed by the director of the pharmaceutical department or service in concert with the medical staff.

(a) Drugs that are provided to floor units shall be administered in accordance with hospital policies and procedures.

(b) The medical staff in conjunction with the pharmacist shall establish standard stop orders for all medications not specifically prescribed as to time or number of doses.

(c) The pharmacist shall have full responsibility for dispensing of all drugs.

(d) There shall be a policy stating who may have access to the pharmacy or drug room when the pharmacist is not available.

(e) There shall be a documentation system for the accounting and replacement of drugs, including narcotics, to the emergency department.

(f) Medication errors and adverse drug reactions shall be reported immediately in accordance with written procedures including notification of the practitioner who ordered the drug.

**R432-100-2[5]6. Social Services.**

(1) In a hospital with an organized social services department, a qualified social worker shall direct the provision of social work services. If a hospital does not have a full or part-time qualified social worker, the administrator shall designate an employee to coordinate and assure the provision of social work services. The social worker, or designee shall be knowledgeable about community agencies, institutions, and other resources.

(2) In a hospital without an organized social services department, the hospital shall obtain consultation from a qualified social worker to provide social work services.

(3) The staff shall be oriented to help the patient make the best use of available inpatient, outpatient, extended care, home health, and hospice services.

(4) Social Services shall be integrated with other departments and services of the hospital.

**R432-100-2[6]7. Psychiatric Services.**

(1) If provided by the hospital, psychiatric services shall be integrated with other departments or services of the hospital according to the nature, extent, and scope of service provided.

(a) If the hospital does not provide psychiatric services, the hospital must have procedures to transfer patients to a facility that can provide the necessary psychiatric services.

(b) Administrative direction of psychiatric services shall be provided by a person appointed and authorized by the hospital administrator.

(c) Medical direction of psychiatric services shall be defined in writing and provided by a qualified physician who is a member of the medical staff.

(d) Psychiatric services shall comply with the following sections of R432-101, Specialty Hospitals, Psychiatric:

- (i) R432-101-13 Patient Security;
- (ii) R432-101-14 Special Treatment Procedures;
- (iii) R432-101-17 Admission and Discharge;
- (iv) R432-101-20 Inpatient Services;
- (v) R432-101-21 Adolescent or Child Treatment Programs;
- (vi) R432-101-22 Residential Treatment Services;
- (vii) R432-101-23 Physical Restraints, Seclusion, and Behavior Management;
- (viii) R432-101-24 Involuntary Medication Administration; and
- (ix) R432-101-35 Partial Hospitalization Services.

(2) If outreach services are ordered by a physician as part of the plan of care or hospital discharge plan, the outreach services may be provided in a clinic, physician's office, or the patient's home.

**R432-100-2[7]8. Substance Abuse Rehabilitation Services.**

(1) A hospital may provide inpatient or outpatient substance abuse rehabilitation services. A hospital that provides substance abuse rehabilitation services shall be staffed to meet the needs of the patients or clients.

(a) Administrative direction shall be provided by an individual appointed and authorized by the hospital administrator.

(b) Medical direction shall be defined in writing and provided by a qualified physician who is a member of the medical staff.

(c) Nursing services shall be under the direction of a full-time registered nurse.

(d) Substance abuse counseling shall be under the direction of a licensed mental health therapist.

(e) A licensed substance abuse counselor may serve as the primary therapist under the direction of an individual licensed under the Mental Health Practice Act.

(f) An interdisciplinary team including the physician, registered nurse, licensed mental health therapist, and substance abuse counselor shall be responsible for program and treatment services. The patient or client may be included as a member of the interdisciplinary team.

(2) Substance abuse rehabilitation services shall include at least the following:

(a) Detoxification care shall be available for the systematic reduction or elimination of a toxic agent in the body by use of rest, fluids, medication, counseling, or nursing care.

(b) Counseling shall be available in at least one of the following areas: individual, group, or family counseling. In addition, there shall be provisions for educational, employment, or other counseling as needed.

(c) Treatment services shall be coordinated with other hospital and community services to assure continuity of care through discharge planning and aftercare referrals. Counselors may refer patients or clients to public or private agencies for substance abuse rehabilitation, and employment and educational counseling.

(d) A comprehensive assessment shall be documented that includes at least a physical examination, a psychiatric and psychosocial assessment, and a social assessment.

(3) The confidentiality of medical records of substance abuse patients and clients shall be maintained according to the federal guidelines in 42 CFR, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."

(4) Residential treatment services may be provided under the direction of the medical director or his designee. Residential treatment services shall comply with R432-101-22.

**R432-100-2[8]9. Outpatient Services.**

(1) Outpatient care services provided by the hospital shall be integrated with other departments or services of the hospital according to the nature, extent, and scope of services provided.

(2) Outpatient care shall meet the same standards of care that apply to inpatient care.

(3) Outpatient care includes hospital owned outpatient services, and hospital satellite services.

**R432-100-[29]30. Respite Services.**

(1) A remote-rural general acute hospital with a federal swing bed designation may provide respite services to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for an individual.

(a) The hospital may provide respite care services and need comply only with the requirements of this section.



(b) If, however, the hospital provides respite care to an individual for longer than 14 consecutive days, the hospital must admit the individual as an inpatient subject to the requirements of this rule applicable to non-respite inpatient admissions.

(2) Respite services may be provided at an hourly rate or daily rate.

(3) The hospital shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(4) The hospital shall document the individual's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.

(5) The hospital must complete the following:

(a) a Level 1 Pre-admission Screening upon the person's admission for respite services; and

(b) a service agreement which will serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.

(6) The hospital shall have written policies and procedures available to staff regarding the respite care patients which include:

(a) medication administration;

(b) notification of a responsible party in the case of an emergency;

(c) service agreement and admission criteria;

(d) behavior management interventions;

(e) philosophy of respite services;

(f) post-service summary;

(g) training and in-service requirement for employees; and

(h) handling patient funds.

(7) The facility shall provide a copy of the Resident Rights to the patient upon admission.

(8) The facility shall maintain a record for each patient who receives respite services which includes:

(a) a service agreement;

(b) demographic information and patient identification data;

(c) nursing notes;

(d) physician treatment orders;

(e) records made by staff regarding daily care of the patient in service;

(f) accident and injury reports; and

(g) a post-service summary.

(9) If a patient has an advanced directive, the facility shall file a copy of the directive in the record and inform staff.

(10) Retention and storage of records shall comply with R432-100-33.

(11) The hospital shall provide for confidentiality and release of information in accordance with R432-100-33.

#### **R432-100-3[0]1. Pet Therapy.**

(1) If a hospital utilizes pet therapy, household pets such as dogs, cats, birds, fish, and hamsters may be permitted.

(a) Pets must be clean and disease free.

(b) The immediate environment of the pets must be clean.

(c) Small pets shall be kept in appropriate enclosures.

(d) Pets that are not confined shall be kept under leash control or voice control.

(e) Pets that are kept at the hospital, or are frequent visitors shall have current vaccinations, including rabies, as recommended by a licensed veterinarian.

(f) Hospitals with birds shall have procedures in place which protect patients, staff, and visitors from psittacosis.

(2) Hospitals that permit pets to remain overnight shall have policies and procedures for the care, housing and feeding of such pets; and for the proper storage of pet food and supplies.

(3) Pets shall not be permitted in any area where their presence would create a significant health or safety hazard or nuisance to others.

(4) Pets shall not be permitted in food preparation and storage areas.

(5) Persons caring for pets shall not have patient care or food handling responsibilities.

#### **R432-100-3[4]2. Dietary Service.**

(1) There shall be an organized dietary department under the supervision of a certified dietitian or a qualified individual who, by education or specialized training and experience, is knowledgeable in food service management. If the latter is head of the department, there must be a registered dietitian on a full-time, regular part-time, or consulting basis.

(a) Direction of the dietary service shall be provided by a person whose qualifications, authority, responsibilities and duties are approved by the administrator. The director shall have the administrative responsibility for the dietary service.

(b) If the services of a certified dietitian are used on less than a full-time basis, the time commitment shall permit performance of all necessary functions to meet the dietary needs of the patients.

(c) There shall be food service personnel to perform all necessary functions.

(2) If dietetic services are provided by an outside provider, the outside provider shall comply with the standards of this section.

(3) A current diet manual approved by the dietary department and the medical staff shall be available to dietary, medical, and nursing personnel.

(a) The food and nutritional needs of patients shall be met in accordance with the physician's orders.

(b) Regular menus and modifications for basic therapeutic diets shall be written at least one week in advance and posted in the kitchen.

(c) The menus shall provide for a variety of foods served in adequate amounts at each meal.

(d) At least three meals shall be served daily with not more than a 14-hour span between the evening meal and breakfast. If a substantial evening snack is offered, a 16-hour time span is permitted.

(e) A source of non-neutral exchanged water shall be provided for use in preparation of no sodium meals, snacks, and beverages.

(4) The dietary department shall comply with the Utah Department of Health Food Service Sanitation Rule R392-100.

(a) The dietary facilities and equipment shall be in compliance with federal, state, and local sanitation and safety laws and rules.

(b) Traffic of unauthorized individuals through food preparation areas shall be controlled.

(5) Written reports of inspections by state or local health departments shall be on file at the hospital and available for Department review.

(6) The dietitian or authorized designee is responsible for documenting nutritional information in the patient's medical record.

(7) Diets shall be ordered by a member of the medical staff and transmitted in writing to the dietary department.

**R432-100-3[2]3. Telemedicine Services.**

If a hospital participates in telemedicine, it shall develop and implement policies governing the practice of telemedicine in accordance with the scope and practice of the hospital.

(1) The policies shall address security, access and retention of telemetric data.

(2) The policies shall define the privileging of physicians and allied health professionals who participate in telemedicine.

**R432-100-3[3]4. Medical Records.**

(1) The hospital shall establish a medical records department or service that is responsible for the administration, custody and maintenance of medical records.

(a) The administrative direction of the department shall be established by the hospital administrator and correspond to the organizational structure and policies of the hospital.

(b) The medical records department shall retain the technical services of either a Registered Health Information Administrator or a Registered Health Information Technician through employment or consultation. If retained by consultation, visits shall be at least quarterly and documented through written reports to the hospital administrator.

(2) The medical records department shall provide secure storage, controlled access, prompt retrieval, and equipment and facilities to review medical records.

(a) Medical records shall be available for use or review by members of the medical and professional staff; authorized hospital personnel and agents; persons authorized by the patient through a consent form; and Department representatives to determine compliance with licensing rules.

(b) Medical records may be stored in multiple locations providing the record is able to be retrieved or accessed in a reasonable time period.

(c) If computer terminals are utilized for patient charting, the hospital shall have policies governing access and identification codes, security, and information retention.

(d) The hospital medical record shall be indexed according to diagnosis, procedure, demographic information and physician or licensed health practitioner. The indexes shall be current within six months following discharge of the patient.

(e) Original medical records are the property of the hospital and shall not be removed from the control of the hospital or the hospital's agent as defined by policy except by court order or subpoena.

(f) Medical records for persons who have received or requested admission to alcohol or drug programs shall comply with 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."

(3) All medical record entries shall be legible, complete, authenticated, and dated by the person responsible for ordering the service, providing or evaluating the service, or making the entry.

Prepared transcriptions of dictated reports, evaluations and consultations must be reviewed by the author before authentication.

(a) The authentication may include written signatures, computer key, or other methods approved by the governing body and medical staff to identify the name and discipline of the person making the entry.

(b) Use of computer key or other methods to identify the author of a medical record entry is not assignable or to be delegated to another person.

(c) There shall be a current list of persons approved to use these methods of authentication. Hospital policies shall include appropriate sanctions for the unauthorized or improper use of computer codes.

(d) Verbal orders for the care and treatment of the patient shall be accepted and transcribed by qualified personnel and authenticated within 30 days of the patient's discharge.

(4) Patient records shall be organized according to hospital policy.

(a) Medical records shall be reviewed at least quarterly for completeness, accuracy, and adherence to hospital policy.

(b) Records of discharged patients shall be collected, assembled, reviewed for completeness, and authenticated within 30 days of the patient's discharge.

(c) Medical records shall be retained for at least seven years. Medical records of minors shall be kept until the age of eighteen plus four years, but in no case less than seven years.

(d) The Hospital may destroy medical records after retaining them for the minimum time period. Prior to destroying medical records, the hospital must notify the public by publishing a notice in a newspaper of statewide distribution a minimum of once a week for three consecutive weeks to allow a former patient to access the patient's records.

(e) The hospital shall permanently retain a master patient/person index that shall include:

- (i) the patient name;
- (ii) the medical record number;
- (iii) the date of birth;
- (iv) the admission and discharge dates; and
- (v) the name of each attending physician.

(f) If a hospital ceases operation, the hospital shall make provision for secure, safe storage and prompt retrieval of all medical records, patient indexes and discharges for the period specified in R432-100-33(4)(c). The hospital may arrange for storage of medical records with another hospital, or an approved medical record storage facility, or may return patient medical records to the attending physician if the physician is still in the community.

(5) A complete medical record shall be established and maintained for each patient admitted to, or who receives hospital services. Emergency and outpatient records shall document the service rendered, and shall contain other pertinent information in accordance with hospital policy.

(a) Each medical record shall contain patient identification and demographic information to include at least the patient's name, address, date of birth, sex, and emergency contact information.

(b) Each medical record shall contain initial or admitting medical history, physical and other examinations or evaluations. Recent histories and examinations may be substituted if updated to include changes that reflect the patient's current status.

(c) Each medical record shall contain admitting, secondary and principal diagnoses.

(d) Each medical record shall contain results of consultive evaluations and findings by persons involved in the care of the patient.

(e) Each medical record shall contain documentation of complications, hospital acquired infections, and unfavorable reactions to medications, treatments, and anesthesia.

(f) Each medical record shall contain properly executed informed consent documents for all procedures and treatments ordered for, and received by, the patient.

(g) Each medical record shall document that the facility requested of each admitted person whether the person has initiated an advanced directive as defined in the Advance Health Care Directive Act, UCA 75-2a.

(h) Each medical record shall contain all practitioner orders, nursing notes, reports of treatment, medication records, laboratory and radiological reports, vital signs and other information that documents the patient condition and status.

(i) Each medical record shall contain a discharge summary including outcome of hospitalization, disposition of case with an autopsy report when indicated, or provisions for follow-up.

(j) Medical records of deceased patients shall contain a completed Inquiry of Anatomical Gift form or a modified hospital death form which has been approved by the Utah Department of Health as required by Section 26-28-6, UCA.

(k) Medical records of surgical patients shall contain a pre-operative history and physical examination; surgeon's diagnosis; an operative report describing a description of findings; an anesthesia report including dosage and duration of all anesthetic agents and all pertinent events during the induction, maintenance, and emergence from anesthesia; the technical procedures used; the specimen removed; the post-operative diagnosis; and the name of the primary surgeon and any assistants written or dictated by the surgeon within 24 hours after the operation.

(l) Medical records of obstetrical patients shall contain a relevant family history, a pre-natal examination, the length of labor and type of delivery with related notes, the anesthesia or analgesia record, the Rh status and immune globulin administration when indicated, a serological test for syphilis, and a discharge summary for complicated deliveries or final progress note for uncomplicated deliveries.

(m) Medical records of newborn infants shall contain the following documentation in addition to the requirements for obstetrical medical records:

(i) Documentation must include a copy of the mother's delivery room record. In adoption cases where the identity of the mother is confidential, inclusion and access to the mother's delivery room record shall be according to hospital policy.

(ii) Documentation must include the date and hour of birth, period of gestation, sex, reactions after birth, delivery room care, temperature, weight, time of first urination, and number, character, and consistency of stools.

(iii) Documentation must include a record of the physical examination completed at birth and discharge, record of ophthalmic prophylaxis, and the identification number of the newborn screening kit, referred to in R398-1.

(iv) If the infant is discharged to any person other than the infant's parents, the hospital shall record the authorization by the parents, state agency, or court authority.

(v) Documentation of the record and results of the newborn hearing screening according to Section 26-10-6, UCA and R398-2-6.

(n) Emergency department patient medical records shall be integrated into the hospital medical record and include time and means of arrival, emergency care given to the patient prior to arrival, history and physical findings, lab and x-ray reports, diagnosis, record of treatment, and disposition and discharge instructions.

(o) Patient medical social services records shall include a medical-social or psycho-social study of referred inpatients and outpatients; the financial status of the patient, social therapy and rehabilitation of patients, environmental investigations for attending physicians, and cooperative activities with community agencies.

(p) Medical records of patients receiving rehabilitation therapy shall include a written plan of care appropriate to the diagnosis and condition, a problem list, and short and long term goals.

(6) The medical records department shall maintain records, reports and documentation of admissions, discharges, and the number of autopsies performed.

(7) The medical records department shall maintain vital statistic registries for births, deaths, and the number of operations performed. The medical records department shall report vital statistics data in accordance with the Vital Statistics Act, Utah Health Code, (26-2, UCA).

#### **R432-100-3[4]5. Central Supply Services.**

(1) The central supply service supervisor shall be qualified for the position by education, training, and experience.

(2) The hospital shall provide space and equipment for the cleaning, disinfecting, packaging, sterilizing, storing, and distributing of medical and surgical patient care supplies.

(a) A hospital central service area shall provide for the following:

(i) A decontamination area which shall be separated by a barrier or divider to allow the receiving, cleaning, and disinfection functions to be performed separately from all other central service functions;

(ii) A linen assembly or pack-making area which shall have ventilation to control lint. The linen assembly or pack-making area shall be separated from the general sterilization and processing area.

(iii) The sterilization area shall contain hospital sterilizers with approved controls and safety features.

(b) The accuracy of the sterilizers' performance shall be checked by a method that includes a permanent record of each run.

(c) Sterilizers shall be tested by biological monitors at least weekly.

(d) If gas sterilizers are used, they shall be inspected, maintained, and operated in accordance with the manufacturer's recommendations.

(3) The storage area shall be separated into sterile and non-sterile areas. The storage area shall have temperature and humidity controls, and shall be free of excessive moisture and dust. Outside shipping cartons shall not be stored in this area.

(4) During each shift that the central service area is staffed, counter tops and tables shall be wiped with a broad spectrum disinfectant.

(5) All apparel worn in central supply shall be issued and laundered according to hospital policy.

**R432-100-3[5]6. Laundry Service.**

(1) Direction of the laundry service shall be provided by a person whose qualifications, authority, responsibilities and duties are approved by the administrator.

(2) Hospitals using commercial linen services shall require written assurance from the commercial service that standards in this subsection are maintained.

(a) Clean linen shall be completely packaged and protected from contamination until received by the hospital.

(b) The use of a commercial linen service does not relieve the hospital from its quality improvement responsibilities.

(3) Hospitals that maintain an in-house laundry service must have equipment, supplies and staff available to meet the needs of the patients.

(a) Soiled linen shall be collected in a manner to minimize cross-contamination. Containers shall be properly closed as filled and before further transport.

(i) Soiled linen shall be sorted only in a sorting area.

(ii) Handwashing is required after handling soiled linen and prior to handling clean items.

(iii) Employees handling soiled linen shall wear protective clothing which must be removed before leaving the soiled work area.

(iv) Soiled linen shall be transported separately from clean linen.

(b) The hospital shall maintain a supply of clean linen.

(i) Clean linen shall be handled and stored in a manner to minimize contamination from surface contact or airborne deposition.

(ii) Clean linen shall be stored in enclosed closet areas or carts.

(iii) Clean linen shall be covered during transport.

(4) The hospital is responsible to launder employee scrubs that are worn in the following areas:

(a) surgical areas;

(b) other areas as required by the Occupational Health and Safety Act.

(5) If hospital employee scrubs are designated as uniforms that may be worn to and from work, policies and procedures shall be developed and implemented defining the scope and usage of scrubs as uniforms including hospital storage of employee scrubs, and provisions for hospital-provided scrubs in case of contamination.

**R432-100-3[6]7. Housekeeping Services.**

(1) There shall be housekeeping services to maintain a clean, safe, sanitary, and healthful environment in the hospital.

(2) If the hospital contracts for housekeeping services with an outside service, there shall be a signed and dated agreement that details the services provided.

(3) The hospital shall provide safe, secure storage of cleaners and chemicals. Cleaners and chemicals stored in areas that may be accessible to patients shall be kept secure in accordance with hospital policy.

(4) Storage and supplies in all areas of the hospital shall be stored at least four inches off the floor, and at least 18 inches below the lowest portion of the sprinkler system.

(5) Personnel engaged in housekeeping or laundry services may not be engaged simultaneously in food service or patient care.

(6) If personnel work in food or direct patient care services, hospital policy shall be established and followed to govern the transition from housekeeping services to patient care.

**R432-100-3[7]8. Maintenance Services.**

(1) There shall be maintenance services to ensure that hospital equipment and grounds are maintained in a clean and sanitary condition and in good repair at all times for the safety and well-being of patients, staff, and visitors.

(a) The administrator shall employ a person qualified by experience and training to be in charge of hospital maintenance.

(b) If the hospital contracts for maintenance services, there shall be a signed and dated agreement that details the services provided.

(c) A pest-control program shall be conducted to ensure the hospital is free from vermin and rodents.

(d) Entrances, exits, steps, ramps, and outside walkways shall be maintained in a safe condition with regard to snow, ice and other hazards.

(2) All patient care equipment shall be tested, calibrated and maintained in accordance with the specifications from the manufacturer.

(a) Testing frequency and calibration documentation shall be available for Department review.

(b) Testing or calibration procedures conducted by an outside agency or service shall be documented and available for Department review.

(3) Hot water at public and patient faucets shall be delivered between 105 to 120 degrees Fahrenheit.

**R432-100-3[8]9. Emergency Operations Plan.**

(1) There must be provisions for the maintenance of a safe environment in the event of an emergency or disaster which overwhelms the facility.

(2) The administrator or designee is responsible for the development of a plan, coordinated with applicable state and local emergency response partners and agencies. This plan shall be in writing and made available to all hospital staff.

(a) The plan shall be reviewed and updated as necessary and shall be available for review by the Department.

(b) The hospitals' emergency operations plan must delineate individuals who will be in charge during any significant emergency.

(c) Lists of emergency partners shall be readily available, including multiple contact options. Emergency contact lists will be updated and maintained regularly by the hospital.

(3) The hospital's emergency operations plan shall address the following:

(a) an evacuation plan;

(b) delivery of essential care and services when additional persons are present at the hospital during an emergency;

(c) delivery of essential care and services to hospital occupants utilizing crisis standards of care when staff is reduced by an emergency; and

(d) must address planning, mitigation, response and recovery for each of the following six areas:

(i) emergency communications;

(ii) resources and assets;

(iii) safety and security;

(iv) staff responsibilities;

(v) utility management; and

(vi) patient clinical and supportive activities.

(4) The emergency operations plan shall be approved by the board and the hospital administrator.

(a) The hospital's emergency operations plan shall delineate the person or persons with decision-making authority to activate the emergency operations plan;

(b) The hospital's emergency response plan shall address those risks and threats identified in the facility's annual hazard vulnerability analysis.

(c) The hospital shall document all emergency incidents and responses.

(d) Disaster drills/exercises shall be held twice yearly according to threats identified in the facility's annual hazard vulnerability analysis.

(5) There shall be a fire emergency evacuation plan written in consultation with qualified fire safety personnel. This plan may or may not be included in the facility's emergency operations plan. The evacuation routes shall be posted in prominent locations throughout the hospital. Fire drills and fire drill documentation shall be in accordance with R710-4, State of Utah Fire Prevention Board.

(6) A hospital may exceed its licensed capacity by up to 20% in response to any incident that overwhelms the facility.

(a) A hospital which exceeds its licensed capacity under this provision shall notify the Department within 72 hours of exceeding its licensed capacity.

(b) Approval must be obtained from the Department to exceed 20% above licensed capacity.

(c) The Department may direct that the hospital reduce its patient census to its licensed capacity at any time.

**R432-100-~~39~~40. Penalties.**

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.

**KEY: health care facilities**

**Date of Enactment or Last Substantive Amendment:** ~~February 21, 2012~~ 2016

**Notice of Continuation:** December 13, 2010

**Authorizing, and Implemented or Interpreted Law:** 26-21-5; 26-21-2.1; 26-21-20

Health, Family Health and Preparedness, Licensing  
**R432-270**  
 Assisted Living Facilities

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE NO.: 39966

FILED: 12/01/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule amendment is to update areas that due to age of the rule no longer apply to assisted living facilities. Also amending rules that need clarification so

they can be easily understood and consistently applied by providers and the Department of Health. The Health Facility Committee reviewed and approved these rule amendments on 11/18/2015.

**SUMMARY OF THE RULE OR CHANGE:** The changes in Section R432-270-10 are to increase the level of assistance allowed for admittance in both Assisted Living type I and Assisted Living type II provider. The change in Section R432-270-12 is to add the requirement that a resident assessment must accurately reflect the resident's status at the time of assessment. The change to Section R432-270-19 defines the requirements for the resident to administer their own insulin injections in conjunction with the facility medication delegated staff to be able to administer the resident's oral medications. The change to Section R432-270-21 include the requirement for the facility to complete and keep on file incident and injury reports. The changes to Section R432-270-24 include removing the specific facility requirement on the number of linens and having an ironing board and iron for the residents to use.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 21

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no impact to the state budget because there will be no change in current practice.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because there will be no change in current practice.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because there will be no change in current practice.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to businesses, individuals, local governments, and persons that are not small businesses because there will be no change in current practice.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact to single persons because there will be no change in current practice.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment is consistent with current practices of businesses governed by this rule and therefore there is no fiscal impact to business.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 LICENSING  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov  
 ♦ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R432. Health, Family Health and Preparedness, Licensing.****R432-270. Assisted Living Facilities.****R432-270-10. Admissions.**

(1) The facility shall have written admission, retention, and transfer policies that are available to the public upon request.

(2) Before accepting a resident, the facility must obtain sufficient information about the person's ability to function in the facility through the following:

(a) an interview with the resident and the resident's responsible person; and

(b) the completion of the resident assessment.

(3) If the Department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the Department may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.

(4) A Type I facility:

(a) shall accept and retain residents who meet the following criteria:

(i) are ambulatory or mobile and are capable of taking life saving action in an emergency without the assistance of another person;

(ii) have stable health;

(iii) require no assistance or only limited assistance in the activities of daily living (ADL); and

(iv) do not require total assistance from staff or others with more than ~~two~~ three ADLs.

(b) may accept and retain residents who meet the following criteria:

(i) are cognitively impaired or physically disabled but able to evacuate from the facility without the assistance of another person; and

(ii) require and receive intermittent care or treatment in the facility from a licensed health care professional either through contract or by the facility, if permitted by facility policy.

(5) A Type II facility may accept and retain residents who meet the following criteria:

(a) require total assistance from staff or others in more than ~~two~~ three ADLs, provided that:

(i) the staffing level and coordinated supportive health and social services meet the needs of the resident; and

(ii) the resident is capable of evacuating the facility with the limited assistance of one person.

(b) are physically disabled but able to direct their own care; or

(c) are cognitively impaired or physically disabled but able to evacuate from the facility with the limited assistance of one person.

(6) Type I and Type II assisted living facilities shall not admit or retain a person who:

(a) manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others;

(b) has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis; or may be transmitted to other residents or guests through the normal course of activities; or

(c) requires inpatient hospital, long-term nursing care or 24-hour continual nursing care that will last longer than 15 calendar days after the day on which the nursing care begins.

(7) The prospective resident or the prospective resident's responsible person must sign a written admission agreement prior to admission. The admission agreement shall be kept on file by the facility and shall specify at least the following:

(a) room and board charges and charges for basic and optional services;

(b) provision for a 30-day notice prior to any change in established charges;

(c) admission, retention, transfer, discharge, and eviction policies;

(d) conditions under which the agreement may be terminated;

(e) the name of the responsible party;

(f) notice that the Department has the authority to examine resident records to determine compliance with licensing requirements; and

(g) refund provisions that address the following:

(i) thirty-day notices for transfer or discharge given by the facility or by the resident,

(ii) emergency transfers or discharges,

(iii) transfers or discharges without notice, and

(iv) the death of a resident.

(8) A type I assisted living facility may accept and retain residents who have been admitted to a hospice program, under the following conditions:

(a) the facility keeps a copy of the physician's diagnosis and orders for care;

(b) the facility makes the hospice services part of the resident's service plan which shall explain who is responsible to meet the resident's needs; and

(c) a facility may retain hospice patient residents who are not capable of exiting the facility without assistance with the following conditions:

(i) the facility must assure that a worker or an individual is assigned solely to each specific hospice patient and is on-site to assist the resident in emergency evacuation 24 hours a day, seven days a week;

(ii) the facility must train the assigned worker or individual to specifically assist in the emergency evacuation of the assigned hospice patient resident;

(iii) the worker or individual must be physically capable of providing emergency evacuation assistance to the particular hospice patient resident; and

(iv) hospice residents who are not capable of exiting the facility without assistance comprise no more than 25 percent of the facility's resident census.

(9) A type II assisted living facility may accept and retain hospice patient residents under the following conditions:

(a) the facility keeps a copy of the physician's diagnosis and orders for care;

(b) the facility makes the hospice services part of the resident's service plan which shall explain who is responsible to meet the resident's needs; and

(c) if the hospice patient resident cannot evacuate the facility without significant assistance, the facility must:

(i) develop an emergency plan to evacuate the hospice resident in the event of an emergency; and

(ii) integrate the emergency plan into the resident's service plan.

#### **R432-270-12. Resident Assessment.**

(1) A signed and dated resident assessment shall be completed on each resident prior to admission and at least every six months thereafter.

(2) In Type I and Type II facilities, the initial and six-month resident assessment must be completed and signed by a licensed health care professional.

(3) The resident assessment must accurately reflect the resident's status at the time of assessment.

(4) The resident assessment must include a statement signed by the licensed health care professional completing the resident assessment that the resident meets the admission and level of assistance criteria for the facility.

(4) 5 The facility shall use a resident assessment form that is approved and reviewed by the Department to document the resident assessments.

(5) 6 The facility shall revise and update each resident's assessment when there is a significant change in the resident's cognitive, medical, physical, or social condition and update the resident's service plan to reflect the change in condition.

#### **R432-270-19. Medication Administration.**

(1) A licensed health care professional must assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided shall be documented on each resident's assessment.

(2) Each resident's medication program must be administered by means of one of the methods described in (a) through (e) f in this section:

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility must assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit.

(b) The resident is able to self-direct medication administration. Facility staff may assist residents who self-direct medication administration by:

(i) reminding the resident to take the medication;

(ii) opening medication containers; and

(iii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a designated responsible person may administer medications. If a family member or designated responsible person assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. Facility staff may not serve as the designated responsible person.

(d) For residents who are unable to self-administer or self-direct medications, facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.

(i) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the delegation shall be in accordance with the Nurse Practice Act and R156-31B-701.

(ii) The medications must be administered according to the prescribing order.

(iii) The delegating authority must provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(iv) The delegating authority or another registered nurse shall be readily available either in person or by telecommunication.

(e) Residents may independently administer their own personal insulin injections if they have been assessed to be independent in that process. This may be done in conjunction with the administration of medication in methods (a) through (d) of this section.

(f) home health or hospice agency staff may provide medication administration to facility residents exclusively, or in conjunction with (a) through (e) of this section.

(3) The facility must have a licensed health care professional or licensed pharmacist review all resident medications at least every six months.

(4) Medication records shall include the following:

(a) the resident's name;

(b) the name of the prescribing practitioner;

(c) medication name including prescribed dosage;

(d) the time, dose and dates administered;

(e) the method of administration;

(f) signatures of personnel administering the medication;

and

(g) the review date.

(5) The licensed health care professional or licensed pharmacist should document any change in the dosage or schedule of medication in the medication record. When changes in the medication are documented by the facility staff the licensed health care professional must co-sign within 72 hours. The licensed health care professional must notify all unlicensed assistive personnel who administer medications of the medication change.

(6) Each resident's medication record must contain a list of possible reactions and precautions for prescribed medications.

(7) The facility must notify the licensed health care professional when medication errors occur.

(8) Medication error incident reports shall be completed when a medication error occurs or is identified.

(9) Medication errors must be incorporated into the facility quality improvement process.

(10) Medications shall be stored in a locked central storage area to prevent unauthorized access.

(a) If medication is stored in a central location, the resident shall have timely access to the medication.

(b) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.

(c) The facility must develop and implement policies for the security and disposal of narcotics. Any disposal of controlled substances by a licensee or facility staff shall be consistent with the provisions of 21 CFR 1307.21.

(11) The facility shall develop and implement a policy for disposing of unused, outdated, or recalled medications.

(a) The facility shall return a resident's medication to the resident or to the resident's responsible person upon discharge.

(b) The administrator shall document the return to the resident or the resident's responsible person of medication stored in a central storage.

#### **R432-270-21. Facility Records.**

(1) The facility must maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff and the Department.

(2) Records shall be protected against access by unauthorized individuals.

(3) The facility shall maintain personnel records for each employee and shall retain such records for at least three years following termination of employment. Personnel records must include the following:

- (a) employee application;
- (b) date of employment;
- (c) termination date;
- (d) reason for leaving;
- (e) documentation of CPR and first aid training;
- (f) health inventory;
- (g) food handlers permits;
- (h) TB skin test documentation; and
- (i) documentation of criminal background screening.

(4) The facility must maintain in the facility a separate record for each resident that includes the following:

(a) the resident's name, date of birth, and last address;

(b) the name, address, and telephone number of the person who administers and obtains medications, if this person is not facility staff;

(c) the name, address, and telephone number of the individual to be notified in case of accident or death;

(d) the name, address, and telephone number of a physician and dentist to be called in an emergency;

- (e) the admission agreement;
- (f) the resident assessment; and
- (g) the resident service plan.

(5) Resident records must be retained for at least three years following discharge.

(6) There shall be written incident and injury reports to document consumer death, injuries, elopement, fights or physical confrontations, situations which require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of residents. The reports shall be kept on file for at least three years.

#### **R432-270-24. Laundry Services.**

(1) The facility shall provide laundry services to meet the needs of the residents, including a sufficient supply of linens ~~to permit a change in bed linens for the total number of licensed beds, plus an additional fifty percent of the licensed bed capacity~~.

(2) The facility shall inform the resident or the resident's responsible person in writing of the facility's laundry policy for residents' personal clothing.

(3) Food may not be stored, prepared, or served in any laundry area.

(4) The facility shall make available for resident use at least one washing machine and one clothes dryer ~~the following:~~

- ~~(a) at least one washing machine and one clothes dryer; and~~
- ~~(b) at least one iron and ironing board].~~

**KEY: health care facilities**

**Date of Enactment or Last Substantive Amendment:** ~~May 20, 2014~~ **2016**

**Notice of Continuation:** April 10, 2014

**Authorizing, and Implemented or Interpreted Law:** 26-21-5; 26-21-1

## Human Services, Child and Family Services

### **R512-305**

## Out-of-Home Services, Transition to Adult Living Services

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39955

FILED: 11/23/2015

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule modification is to bring the rule in line with current statute and practice.

**SUMMARY OF THE RULE OR CHANGE:** This rule change is intended to make the rule technically correct with current practice.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-4a-102 and Section 62A-4a-105

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.

♦ **LOCAL GOVERNMENTS:** Local governments have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.



♦ **SMALL BUSINESSES:** Small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no expected fiscal impact for "persons other than small businesses, businesses, or local government entities" because funding requests for services offered by Child and Family Services come out of already-existing budgets.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have no fiscal impact on businesses.

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov  
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonessrobbins@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016**

**AUTHORIZED BY:** Brent Platt, Director

## **R512. Human Services, Child and Family Services.**

### **R512-305. Out-of-Home Services, Transition to Adult Living Services.**

#### **R512-305-1. Purpose and Authority.**

(1) The purpose of Transition to Adult Living (TAL) services is to help prepare a youth who is receiving out-of-home services in accordance with Rule R512-300 to gain skills to transition to adulthood and to provide support to youth upon leaving the Division of Child and Family Services (Child and Family Services) custody. TAL is a continuum of services that begins while youth are in care and continues through post-discharge with the Young Adult Resource Network (YARN). Youth receiving In-Home Services may also receive some TAL services.

(2) TAL services, which includes the Education and Training Voucher Program, are authorized by the John H. Chafee

Foster Care Independence Program, 42 USC 677 [~~January 3, 2007~~] (September 2, 2015), incorporated by reference.

(3) This rule is authorized by Section 62A-4a-102.

#### **R512-305-2. Scope of Services.**

(1) Qualification for and duration of services:

(a) TAL services are required for all youth receiving out-of-home services, age 14 years or older, until Child and Family Services custody is terminated regardless of permanency goal, as specified in Rule R512-300.

(b) The YARN provides services for youth if they are no longer in Child and Family Services custody and are not yet 21 years of age, and the youth:

(i) Ages out of out-of-home care, or

(ii) While in out-of-home care, after the age of 14 years, received at least 12 consecutive months of TAL services and the court terminated reunification.

(2) Service description:

(a) TAL services build on the youth's individual strengths and develop personal assets in order to help young people acquire the motivation and the means to be successful throughout their lives. The strategies are aimed at helping youth achieve five fundamental aspects of adult life, including ~~[safe and affordable housing, educational attainment and stable employment, health care access, positive sense of self, and supportive and enduring relationships.]~~ work, career planning, and education; housing and money management; home life and daily living; self-care and health education; and communication, social relationships, family, and marriage.

(b) YARN consists of time-limited support to youth. This assistance can be provided through support, financial aid, or Basic Life Skills training. It may include housing, counseling, employment education, and other appropriate support and services to complement a youth's efforts to achieve self-sufficiency.

(3) Availability:

(a) TAL services and YARN are available in all geographic regions of the state.

(b) TAL services and YARN are available on the same basis to Native American youth who are or were formerly in Tribal custody within the boundaries of the state.

#### **R512-305-3. Transition to Adult Living Services for a Youth in Child and Family Services Custody.**

(1) The caseworker, with the assistance of the youth and Child and Family Team, ensures completion of the empirically validated life skills assessment to identify the strengths and needs of the youth.

(2) Based upon the empirically validated life skills assessment, a TAL plan is developed that identifies the youth's strengths, needs, and specific services.

(3) The ~~[Child and Family Team determines the TAL plan]~~ youth, with the assistance of the Child and Family Team, determines the TAL plan. Youth aged 14 years or older are required to have a TAL plan, with youth ~~[aged 16 years or older]~~ taking the lead in setting goals and facilitating the Child and Family Team with staff guidance. Youth 14 years and older must be given the opportunity to have at least two individuals of their own choosing as members of the Child and Family Team.

(4) The TAL plan includes a continuum of training and services to be completed by the youth and designated team members in

such settings as at the foster home, with a therapist, at school, or through other community-based resources and programs.

(5) Basic Life Skills training shall be offered to each youth who attains age [~~16~~]17 years. The training may include training in daily living skills, budgeting, career development and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention).

(6) Each youth who completes Basic Life Skills training may receive a completion payment.

**R512-305-4. Transition to Adult Living Placement for a Youth in Child and Family Services Custody.**

(1) A TAL placement may be used as an alternative to out-of-home care when it is determined that such a placement is in the best interest of the youth. The appropriate types of living arrangements for youth in this situation include living with kin; living with former out-of-home caregivers while paying rent; living in the community with roommates [~~of the same sex~~]; living alone; living in a group facility, YWCA, boarding house, or dorm; or living with an adult who has passed a background check or the placement was assessed and approved by the region director or designee. This recommendation will be presented to the Child and Family Team, who will work to ensure that this type of placement is appropriate and that the following Practice Guidelines are met:

(a) A TAL placement may be used as an out-of-home care placement.

(b) A youth must be at least 16 years of age to be in a TAL placement.

(c) The Child and Family Team is responsible to determine if a recommendation for a TAL placement for a youth is appropriate.

(d) The region director or designee is authorized to approve a TAL placement.

(e) The caseworker and youth shall complete a contract outlining responsibilities and expectations while in the TAL placement.

(f) The caseworker shall visit with and monitor progress of the youth at [~~an interval determined by the Child and Family Team, but no less frequently than once per month~~] least twice monthly or at an interval determined by the Child and Family Team.

(g) The youth may receive a TAL stipend while in the TAL placement.

(h) If the TAL placement is not successful, the Child and Family Team shall meet to determine, with the youth, a more appropriate living arrangement in accordance with R512-305-4.

**R512-305-5. Child and Family Services Responsibility to a Youth Leaving Out-of-Home Care.**

(1) The YARN provides support to youth who leave out-of-home care, as specified in R512-305-2.

(2) A youth may access services by contacting a Child and Family Services office and being referred to a regional TAL coordinator.

(3) Services may include additional Basic Life Skills training, information and referral, mentoring, computer access for resources, and follow-up support. Funds may also assist eligible youth in the four areas listed below:

(a) Education, Training, and Career Exploration.

(b) Physical, Mental Health, and Emotional Support.

(c) Transportation.

(d) Housing Support.

(4) Funds used for room and board are subject to federal limits.

**KEY: social services, child welfare, out-of-home care, Transition to Adult Living**

**Date of Enactment or Last Substantive Amendment: [~~December 22, 2010~~]2016**

**Notice of Continuation: May 16, 2013**

**Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105**

**Human Services, Child and Family  
Services  
R512-309  
Out-of-Home Services, Foster Parent  
Reimbursement of Motor Vehicle  
Insurance Coverage for Youth in Foster  
Care**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39956

FILED: 11/23/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule modification is to bring the rule in line with current statute and practice.

**SUMMARY OF THE RULE OR CHANGE:** This rule change is intended to make the rule technically correct with current practice.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-22-302 and Section 31A-22-304 and Section 41-12a-301 and Section 53-3-211 and Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-121 and Section 78A-6-105

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.

◆ **LOCAL GOVERNMENTS:** Local governments have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

◆ **SMALL BUSINESSES:** Small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no expected fiscal impact for "persons other than small businesses, businesses, or local government entities" because funding requests for services offered by Child and Family Services come out of already-existing budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 CHILD AND FAMILY SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov  
 ◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016

AUTHORIZED BY: Brent Platt, Director

## **R512. Human Services, Child and Family Services.**

### **R512-309. Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care.**

#### **R512-309-1. Purpose and Authority.**

(1) The purpose of this rule is to establish parameters and a process in which Child and Family Services may, within amounts appropriated for this specific purpose, reimburse a foster parent for providing owner's or operator's security covering a youth in foster care's operation of a vehicle if the youth is in the legal custody of Child and Family Services.

(2) Section 62A-4a-121 provides Child and Family Services the authority to provide reimbursement to a foster parent who is willing to provide motor vehicle insurance for a youth in their care to operate a motor vehicle.

(3) This rule is authorized by Section 62A-4a-102.

#### **R512-309-2. Definitions.**

(1) The following terms are defined for the purposes of this rule:

(a) "Child and Family Services" means the Division of Child and Family Services.

(b) "Foster parent" means a licensed resource family, also known as a licensed foster family, and may also include a [~~licensed~~] kinship provider or proctor provider. Foster parent does not include a group home or residential facility that provides Out-of-Home Services under contract with Child and Family Services.

(c) "Guardianship" has the same meaning as defined in Section 78A-6-105.

(d) "Minor" has the same meaning as defined in Section 53-3-211.

(e) "Owner's or operator's security" is described in Section 41-12a-301.

#### **R512-309-3. Eligibility Requirements.**

(1) The child has been placed in the home of a foster parent who is receiving a foster care maintenance payment from Child and Family Services.

(2) Obtaining a driver[~~s~~] license is an objective of the Child and Family Plan that has been developed for the youth with Transition to Adult Living Services.

(3) The foster parent is willing to assume the responsibility for signing as the responsible adult for a youth in foster care to receive a driver[~~s~~] license under Section 53-3-211.

(a) The foster parent is willing to provide the minimum insurance coverage for the youth as described in Section 31A-22-304.

(b) The foster parent will sign a liability waiver in case they do not sustain the automobile insurance.

(c) The foster parent will ensure that the vehicle in which they have insured the youth is in good operating condition.

(4) The foster parent has full knowledge that by signing to be that responsible adult, the foster parent is jointly and severally liable with the minor for civil compensatory damages caused by the minor when operating a motor vehicle upon the highway as provided under [~~Subs~~]Section[s] 53-3-211[~~(2)~~ and ~~(4)~~].

(a) The foster parent's liability may not exceed the greater of the minimum liability insurance policy limits established under Section 31A-22-304 or the policy limits of the foster parent's liability insurance policy issued in accordance with Section 31A-22-302 that were in effect at the time damages were caused by the minor's operation of a motor vehicle.

(5) The foster parent who signs the application of a minor for a provisional license must certify that the minor applicant, under the authority of a permit issued, has completed at least 40 hours driving in a motor vehicle, of which at least 10 hours shall be during night hours after sunset.

#### **R512-309-4. Method for Determining Amount of Reimbursement for a Foster Parent.**

(1) In accordance with Section 62A-4a-121, Child and Family Services may reimburse a foster parent for providing owner's or operator's security covering a youth's operation of a motor vehicle in amounts required under Section 31A-22-304 if the youth is in the legal custody of Child and Family Services. Reimbursement will be limited to the minimum liability insurance policy limits established under Section 31A-22-304.

(a) As allowed within the amounts appropriated to Child and Family Services for this purpose, Child and Family Services will

reimburse the additional cost of the insurance premium for a youth when the foster parent has met the eligibility requirements.

(i) The foster parent will submit to Child and Family Services a current and valid statement from the insurance company that will identify the actual cost of providing insurance coverage for the youth in foster care.

**R512-309-5. Child and Family Services Responsibility to Foster Parent.**

(1) Child and Family Services will notify the Driver License Division of a request that the permit or license of the youth be cancelled when a person who has signed the application makes a written request to Child and Family Services that the permit or license of a youth in foster care be cancelled.

(2) Child and Family Services will verify to the foster parent upon cancellation of the permit or license for the youth that they are relieved from liability for that youth operating a motor vehicle subsequent to the cancellation.

**KEY: child welfare, foster care**

**Date of Enactment or Last Substantive Amendment:** [~~January 21, 2009~~]**2016**

**Notice of Continuation:** August 15, 2013

**Authorizing, and Implemented or Interpreted Law:** 31A-22-302; 31A-22-304; 41-12a-301; ~~53-3-211;~~[~~62A-4a-121;~~] 62A-4a-102; ~~62A-4a-105;~~ ~~62A-4a-121;~~[~~53-3-211;~~] 78A-6-105

**School and Institutional Trust Lands,  
Administration  
R850-1  
Definition of Terms**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39962

FILED: 11/25/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The amendments to this rule update definitions for agency terms resulting from the amendments to Rule R850-50, the agency's grazing management rules.

**SUMMARY OF THE RULE OR CHANGE:** Amendments to this rule include: 1) the addition of a definition for "Assignment"; 2) a slight modification to the definition for "Beneficiaries"; 3) a modification to the definition of "Carrying capacity"; 4) the addition of a definition for "Sublease"; and 5) the renumbering of the terms being defined to accommodate the two new definitions.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53C-1-302(1)(a)(ii)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There will not be any anticipated cost or savings to the state budget as a result of the amendments to the definitions.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government as a result of the amendments to the agency definitions.

♦ **SMALL BUSINESSES:** There should not be any cost or savings to small businesses resulting from the amendments to agency definitions of terms.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There should not be any cost or savings to persons other than small businesses, businesses, or local government entities resulting from the amendments to the agency's definitions of terms.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons resulting from the amendments to the definitions of agency terms.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will not be any fiscal impact on businesses resulting from the amendments being made to the definitions of agency terms.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016

AUTHORIZED BY: Kevin Carter, Director

**R850. School and Institutional Trust Lands, Administration.**

**R850-1. Definition of Terms.**

**R850-1-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X, XVII and XX of the Utah Constitution, and Section 53C-1-302(1)(a)(ii) which authorize the Director of the School and Institutional Trust Lands Administration to provide definitions which apply to all rules promulgated by the director and agency unless otherwise provided.

**R850-1-200. Definitions.**

1. Animal unit (AU): is equal to one cow and calf or their equivalent.

2. Assignment: the transfer or sale of a lease, permit, contract, certificate, easement, or any other interest or privilege in trust land or its resources by the holder of such interest, including lessees, permittees, and grantees. The transfer of any interest in a grazing association, either between shareholders or with an outside party, is deemed to be an assignment.

[2]3. Beneficiaries:

~~\_\_\_\_\_ (a) as to school and institutional trust lands: ]Beneficiary as to school and institutional trust lands: [The]the public school system and other institutions granted properties by the United States under the Enabling Act to the state of Utah in trust.~~

[3]4. Board: School and Institutional Trust Lands Board of Trustees.

[4]5. Board policy: [~~Actions]actions taken by the School and Institutional Trust Lands Board of Trustees which comply with the definition of Policies found in Section 53C-1-103(5).~~

[5]6. Carrying capacity: [~~the acreage required to adequately provide forage for an animal unit (AU) for a specified period without inducing range deterioration.]the maximum stocking rate possible which is consistent with maintaining or improving vegetation or related resources.~~

[6]7. Commercial gain: compensation, in money, in services, or other valuable consideration rendered for products provided.

[7]8. Cultural Resources: prehistoric and historic materials, features, artifacts.

[8]9. Cultural Resource Survey:

(a) Class I: literature and site files search.

(b) Class II: sample field surface survey or inspection.

(c) Class III: intensive field surface survey.

[9]10. Director: the director of the School and Institutional Trust Lands Administration.

[10]11. Agency: School and Institutional Trust Lands Administration.

[11]12. Easements: a right to use or restrict use of land or a portion of a real property interest in the land for a particular purpose granted by the agency to a qualified applicant including but not limited to transmission lines, canals and ditches, pipelines, tunnels, fences, roads and trails.

[12]13. General Management Plans: plans prepared for school and institutional trust lands which guide the implementation of the school and institutional trust land management objectives.

[13]14. High Value Grazing Lands: Trust lands used for grazing which are not located within the boundaries of a federal allotment and which are not managed by a federal agency, or trust lands which are located such that they can be managed independent of the influence of a federal agency, or trust lands for which management agreements with a federal agency are in place, or any other trust lands which the director has designated as High Value Grazing Land.

[14]15. In-kind use: occupancy or use by a beneficiary of its institutional trust land for authorized purposes as a direct economic benefit to the institution.

[15]16. Management Plans: General Management Plans, Resource Plans and Site-Specific Plans.

[16]17. Multiple-use: the management of various surface and sub-surface resources so that they are utilized in the combination that will best meet the present and future needs of the beneficiaries.

[17]18. Paleontological Resources (fossils): the remains or traces of organisms, plant or animal, that have been preserved by various means in the earth's crust.

[18]19. Paleontological Resource Survey: an evaluation of the scientific literature or previous paleontological survey reports to assess the potential for discovery or impact to fossils by a proposed development, followed by a pedestrian examination of the exposed geological formations suspected of containing fossils of significance.

[19]20. Paleontological Site: an exposure of a geologic formation having fossil evidence of scientific value as determined by professional consensus.

[20]21. Planning Unit: the geographical basis of a general management plan; a consolidated block of state land, or a group of isolated state land sections or parts thereof, or a combination of blocks and isolated sections which provide common management opportunities or which have common commercial gain, natural or cultural resource concerns.

[21]22. Preliminary Development Plan: the submittal, both of maps and written material, which shall identify and determine the extent and scope on a proposed unit development of the entire acreage under application. It shall illustrate, in phases, the development of the entire acreage and include a time table of the estimated schedule of development. The preliminary development plan shall identify density, open space, environmental reserves, site features, services and utilities, land ownerships, local master planning, zoning compliance and basic engineering feasibility.

[22]23. Preliminary Development Plat: a plat which shall outline and specify the number of dwelling units, the type of dwelling units, the anticipated location of the transportation systems and description of water and sewage systems for the developed area on a Unit Development Lease.

[23]24. Private Exchange: An exchange of trust lands, for land or other assets of equal or greater value, with a political subdivision of the state or agency of the federal government. Lands involved in a private exchange are not required to be advertised as open for competing exchange, lease, and sale applications.

[24]25. Range condition: the relation between current and potential condition of the range site.

[25]26. Record of Decision: a written finding describing an agency action, relevant facts, and the basis upon which the decision for action was made.

[26]27. Resource Plans: a plan prepared for a specific resource, such as mining, timber, grazing or real estate.

[27]28. Rights-of-Entry: a right to a specific, non-depleting land use granted by the agency to a qualified applicant that is temporary in nature, generally not to exceed one year in duration, including but not limited to seismic and land surveys, research sites, access across trust lands, and other temporary types of land uses.

[28]29. School and institutional trust lands: those properties granted by the United States in the Utah Enabling Act to the state of Utah in trust, or other properties transferred to the trust, to be managed for the benefit of the public school system and the various institutions of the state in whose behalf the lands were granted.

[29]30. Significant site: any site which is designated by the Division of State History as scientifically worthy of specific management.

[30]31. Site: archaeological and cultural sites are places of prehistoric and historic human activity including aboriginal mounds, forts, buildings, earth works, village locations, burial grounds, ruins, caves, petroglyphs, pictographs, or other locations which are the source of prehistoric cultural features and specimens.

[31]32. Site Specific Plans: plans prepared for trust lands which provide direction for specific actions. Site-specific plans shall include, but not be limited to:

(a) Records of Decision in either narrative or summary form.

(b) Board action that designates specific parcels of land for specific uses(s) or disposition.

[32]33. Specimen: includes all man-made relics, artifacts, remains of a prehistorical, archaeological, or anthropological nature found on or below the surface of the earth, and any remains of prehistoric life.

34. Sublease: a situation where a permittee or lessee has granted or allowed the use of part or all of the permitted or leased premises to another person, but with the original permittee or lessee retaining some right or interest under the original permit or lease.

[33]35. Trust lands: school and institutional trust lands and all other lands administered under the authority of the School and Institutional Trust Lands Board of Trustees.

[34]36. Survey Report: report of the various site files and field surveys or inspections.

[35]37. Sustained-yield: the achievement and maintenance of maximum non-depleting level of annual or periodic production of the various renewable resources of land without impairment of the productivity of the land.

[36]38. Trust land use(s): any use of school and institutional trust lands based on multiple-use, sustained-yield principles or practices designed to maximize support of the beneficiaries.

**KEY: administrative procedure, definitions**

**Date of Enactment or Last Substantive Amendment:** [~~August 11, 2015~~]**January 21, 2016**

**Notice of Continuation:** May 23, 2012

**Authorizing, and Implemented or Interpreted Law:** 53C-1-302(1)(a)(ii)

**School and Institutional Trust Lands,  
Administration  
R850-11  
Procurement**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 39961  
FILED: 11/25/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes to this rule accommodate the account coding of legal services, which differs from other professional services, as required by the Division of Finance; and to increase the dollar thresholds to remain efficient and consistent with the State of Utah revised procurement rules regarding goods and services.

**SUMMARY OF THE RULE OR CHANGE:** A definition for legal services has been added to the rule to allow for the account coding of legal services required by the Division of Finance, and which differs from other professional services. In addition, the agency is increasing the dollar thresholds from \$20,000 to \$50,000 in an effort to remain efficient and consistent with the State of Utah revised procurement rules regarding goods and services.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53C-1-201(3)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** It is not anticipated that there will be any additional cost or savings to the state budget as a result of these changes as the agency will continue using the already established methods for procuring professional and legal services. Only the threshold amounts will be increased which will also make the agency rule consistent with the procurement rule for the State of Utah.

◆ **LOCAL GOVERNMENTS:** The changes being made to the agency's procurement rule should not bring about any additional cost or savings to local government beyond what may already exist.

◆ **SMALL BUSINESSES:** The changes being made to the agency's procurement rule should not bring about any additional cost or savings to small businesses beyond what may already exist.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The changes being made to the agency's procurement rule should not bring about any additional cost or savings to persons other than small businesses, businesses, or local government entities beyond what may already exist.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There shouldn't be any additional compliance costs for affected persons beyond what may already exist.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** It is not anticipated that this rule will have any significant impact on business. The modification brings Administration rules into sync with existing state procurement rules.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION

ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Ron Carlson by phone at 801-538-5131, by FAX at 801-538-5118, or by Internet E-mail at rcarlson@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016**

**AUTHORIZED BY: Kevin Carter, Director**

**R850. School and Institutional Trust Lands, Administration.**

**R850-11. Procurement.**

**R850-11-100. Authorities.**

This rule is authorized by Sections 6, 8, 10, and 12 of the Utah Enabling Act; Articles X and XX of the Utah Constitution, and Subsection 53C-1-201(3)(e).

**R850-11-150. Purposes.**

Subsection 53C-1-201(3)(e) permits the agency to be exempted from the Utah Procurement Code upon board approval and adoption of alternative procurement procedures. This rule provides alternative procurement procedures that the agency may follow when procuring any goods and services related to the administration of the agency or the management, development, leasing or sale of trust lands. Nothing in this rule shall be deemed to prevent the agency from procuring goods and services pursuant to the Utah Procurement Code or other applicable law whenever deemed advisable by the agency, or in circumstances where this rule is not applicable.

**R850-11-200. Definitions.**

For the purposes of this rule:

1. Provider: means an individual or firm engaged in the business of providing goods or services deemed necessary by the agency.

2. Professional Services: any professional services related to the administration of the agency or the management, development, leasing or sale of trust lands, including management consulting, accounting, auditing, [legal-]engineering, land planning, marketing, environmental, geological, mining engineering, architectural, surveying, appraisal, archaeological, real estate brokerage, planning, or such other services as needed.

3. Legal Services: a licensed professional service provided by attorneys or law firms to address issues of law, whether litigation or otherwise.

**R850-11-300. Professional or Legal Services.**

1. The agency may from time to time request providers of professional or legal services to submit a statement of qualifications containing information that the agency deems relevant to the provider's ability to provide quality services and the provider's hourly rates. At

least once annually, the agency will advertise statewide its intent to accept statements of qualifications, and will maintain a list of qualified providers with approved rates.

2. The purpose of prequalification is to provide the agency with basic information regarding providers for the agency's convenience. The agency is not required to solicit each or any prequalified provider for a particular service when it undertakes a procurement.

3. When the procurement of professional or legal services is estimated to cost less than [~~\$20,000~~]\$50,000, the agency may select the provider directly from either the list of providers who have submitted annual statements of qualifications, or from other qualified providers if necessary.

4. When the procurement is estimated to exceed [~~\$20,000~~]\$50,000, a written request for proposal (RFP) shall be prepared which describes the agency's requirements and sets forth the evaluation criteria for the procurement. Consideration shall be given to publishing the RFP in a newspaper of general circulation or otherwise advertising the RFP to elicit additional responses from potential providers. The agency shall select the provider offering, as determined in the discretion of the director, the best combination of price, expertise, and other relevant factors. The director shall make a written determination, supported by the following reasons, that the selected provider is best qualified to provide the particular services being procured by the agency:

(a) competence to perform the services as reflected by technical training and education, general experience, experience in providing the required services and the qualifications and competence of persons who would be assigned to perform the services;

(b) ability to perform the services as reflected by workload and the availability of adequate personnel, equipment, and facilities to perform the services expeditiously;

(c) past performance as reflected by the services of the firm with respect to factors such as responsiveness, control of costs, quality of work, and an ability to meet deadlines; and

(d) a determination that the provider's fees are reasonable.

5. The agency may in its discretion issue contracts for professional or legal services by competitive bid pursuant to R850-11-400 or R850-11-500 instead of utilizing the procedures in this section.

**R850-11-400. Bidding Procedures - Other Procurements.**

1. Competitive bids are not required for procurements under \$3,000 unless the responsible agency staff member believes that the potential financial benefit to the trust beneficiaries from obtaining bids outweighs the staff time and costs associated with soliciting bids.

2. For procurements over \$3,000 and less than [~~\$20,000~~]\$50,000, except for procurements of professional or legal services undertaken pursuant to R850-11-300, the responsible agency staff member shall seek to obtain no less than two competitive bids. Bids may be solicited and received by telephone or other means, but shall be noted in writing by the responsible agency staff member.

3. The provider offering the lowest bid shall be selected unless the director makes a written determination that a provider submitting a higher bid is better qualified to provide the particular services being procured by the agency.

4. Nothing in this rule shall prevent the agency from using existing statewide contracts for supplies, services and construction as set forth in R33-3-301(2).

**R850-11-450. Bidding Procedures - Large Contracts.**

1. For procurements anticipated to exceed ~~[\$20,000]~~\$50,000, except for procurements of professional or legal services undertaken pursuant to R850-11-300, the agency shall prepare a written request for proposals (RFP) or invitation to bid describing information required by the agency in evaluating the proposal, which may include a description of the services required, a statement of the provider's experience and qualifications, any performance schedule or deadlines, billing rates, bid specifications, and other information relevant to the particular project.

2. The responsible agency staff member shall seek to obtain at least three written responses to the RFP. Consideration shall be given to publishing the RFP in a newspaper of general circulation or otherwise advertising the RFP to elicit additional responses from potential providers.

3. The provider offering the lowest bid shall be selected unless the director makes a written determination, supported by detailed reasons, that a provider submitting a higher bid is better qualified to provide the particular services being procured by the agency.

**R850-11-500. Sole Source Procurements.**

Where the agency has identified a provider that has special familiarity or qualifications with respect to a project, or that has previously worked on a related project, the agency may hire the provider without soliciting bids from other providers if the director finds in writing that hiring the particular provider is in the best interests of the trust beneficiaries, and that the provider's fee is reasonable.

**R850-11-600. Real Estate Brokerage Services.**

1. The agency is not required to solicit bids for real estate brokerage services, and may list trust lands with a licensed Utah broker as it sees fit.

2. Where the agency has not listed a property with a broker, but has undertaken internal marketing efforts, the agency is authorized but not obligated to pay a commission or finder's fee no greater than the prevailing market rates in the area to real estate brokers who have previously registered their client as directed by the agency, and who are the procuring cause of:

(a) the sale of trust lands; or

(b) a development transaction entered into by the agency pursuant to R850-140.

3. Commission amounts will be determined in the discretion of the agency based on type of transaction, prevailing market conditions, and any other relevant factors.

**R850-11-700. Debt and Equity Investments.**

Debt and equity investments made by the agency shall be exempt from the Utah Procurement Code, provided that such investments are part of a development transaction reviewed by the board and entered into by the agency pursuant to R850-140.

**R850-11-800. Documentation.**

The agency will determine, based on the type of service requested and complexity of the project, the level of contractual documentation necessary in order to adequately protect the best interests of the trust. Formal contract documentation shall be subject to approval as to form by a representative of the attorney general's office.

**R850-11-900. Bonding for Construction Services.**

1. For construction services costing \$50,000 or higher, the agency shall require the chosen provider to deliver to the agency a performance bond and a payment bond in amounts equal to 100% of the price specified in the contract and executed by a surety company authorized to do business in this state or in any other form satisfactory to the agency;

2. For construction services costing less than \$50,000, the agency may require a performance bond and a payment bond as described in R850-11-700(1) if it determines that requiring such bonds is in the best interests of the trust.

**R850-11-1000. Conflicts of Interest.**

The agency shall not enter into any contract with a provider which violates or, on account of the factual circumstances or person involved, gives the appearance of a conflict of interest or a potential violation of the Utah Public Officer's and Employee's Ethics Act.

**R850-11-1100. Appeals.**

Appeals of agency procurement decisions shall be governed by 63G-6. All initial appeals shall be directed to the director of the agency, with a copy to the Director of the Division of Purchasing. The disposition of any appeal shall take into account the intended purpose of Subsection 53C-1-201(3)(a)(iv), which is to provide the agency with broad discretion and flexibility in procurement to facilitate businesslike management of trust lands.

**KEY: government purchasing**

**Date of Enactment or Last Substantive Amendment:** ~~[October 18, 2005]~~ **January 21, 2016**

**Notice of Continuation:** April 24, 2012

**Authorizing, and Implemented or Interpreted Law:** 53C-1-201(3)

**School and Institutional Trust Lands,  
Administration  
R850-50  
Range Management**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39960

FILED: 11/25/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes to this rule will provide the agency with the tools to better administer the grazing program.

**SUMMARY OF THE RULE OR CHANGE:** Changes to this rule address: 1) establishing a fee of \$10 per animal unit month (AUM) when grazing permits are assigned; 2) amendments to give the agency the tools needed to better manage grazing on trust lands and to deal with permittees found in violation of the rules; and 3) make minor cosmetic



changes in order to better conform to standards outlined in the Rulewriting Manual for Utah (12th Edition), published by the Division of Administrative Rules.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53C-5-102 and Subsection 53C-1-302(1)(a)(ii) and Subsection 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There are no anticipated additional costs or savings to the state budget as a result of these changes. The agency will receive an increase in revenue as a result of setting the \$10 per AUM fee when grazing permits are assigned, but cost to the agency for administering the program will remain the same. The only state entity which holds grazing permits is the Division of Wildlife Resources (DWR) and they don't assign their permits so the \$10 per AUM fee will not affect them.

◆ LOCAL GOVERNMENTS: Local government entities do not hold any grazing permits, so there would not be any cost or savings to them.

◆ SMALL BUSINESSES: No grazing permits are held by small businesses so there are no anticipated costs or savings to them.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be an increase in costs to persons other than small businesses, businesses, or local government entities, if they choose to assign their grazing permit to another entity. In the past, there was a set \$30 fee to assign a permit; where with this rule change, a permittee will pay \$10 per AUM to assign the permit. The additional cost to the permittee will depend on the number of AUMs they assign.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost for affected persons to comply with these rule changes will vary depending on the number of AUMs they assign. If they are assigning 100 AUMs at \$10 per AUM, the cost would be \$1,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have a business impact on the livestock industry. Because of this impact, administration staff worked with the industry over the course of the year to find ways to implement the rule in a way that would cause the least harm. Ultimately, the rule allows the administration to capture market value for the sale of trust resources, consistent with its constitutional and statutory mandates.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016

AUTHORIZED BY: Kevin Carter, Director

**R850. School and Institutional Trust Lands, Administration.**

**R850-50. Range Management.**

**R850-50-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Sections 53C-1-302(1)(a)(ii) and 53C-5-102 which authorize the Director of the School and Institutional Trust Lands Administration to establish rules prescribing standards and conditions for the utilization of forage, the qualifications of a grazing permittee, and related [development]improvement of range resources on trust lands.

**R850-50-150. Planning.**

1. Pursuant to Section 53C-2-201(1)(a), the issuance of grazing permits ~~[within this category of activity]~~ carries no planning obligations by the agency beyond existing rule-based analysis and approval processes.

2. Range improvement projects authorized pursuant to this section carry the following planning obligations beyond existing rule-based analysis and approval processes:

(a) ~~[To]~~to the extent required by the Memorandum of Understanding ~~[between]with~~ the State Planning Coordinator ~~[and the School and Institutional Trust Lands Administration]~~, the agency shall submit the proposal for review by the Resource Development Coordinating Committee (RDCC); and

(b) ~~[Evaluation of]~~evaluate and ~~[response]~~respond to comments received through the RDCC process.

3. Applications for modified grazing permits which do not involve surface disturbing activities are governed by paragraph 1, above. Applications for modified grazing permits which involve surface disturbing activities are subject to the planning obligations set forth in paragraph 2, above.

**R850-50-200. Grazing Management.**

1. Management of trust lands used for grazing purposes is based upon ~~[grazing]~~carrying capacity which permits optimum forage utilization and seeks to maintain or improve range conditions.

2. ~~[Grazing]~~Carrying capacity shall be established after consideration of historical stocking rates, forage utilization, range condition, trend, and climatic conditions.

3. In order to fulfil its constitutional mandate to its beneficiaries, the agency may set, and change, at its discretion, season of use, duration (time) of use, and intensity of use, as well as numbers, distribution, and kind of livestock which are allowed by a grazing permit.

**R850-50-300. Applications.**

1. ~~Unless land has been withdrawn from grazing or has been determined to be unsuitable for grazing,~~ Grazing permit applications ~~shall~~ may be accepted ~~for grazing rights upon~~ on all trust lands not otherwise subject to a grazing permit ~~unless the land has been withdrawn from grazing or has been determined to be unsuitable for grazing.~~

2. ~~School and institutional trust~~ Trust lands may be ~~declared~~ deemed unsuitable for grazing if it is determined that:

(a) range conditions ~~are~~ render it incapable of supporting economic grazing practices;

(b) ~~or if~~ grazing would substantially interfere with another ~~trust land~~ use that is better able to provide for the support of the beneficiaries~~[-];~~ or

(c) the agency's management costs would be excessive.

3. The determination to accept grazing permit applications is at the sole discretion of the director.

**R850-50-400. Permit Approval Process.**

~~Applications shall be accepted on lands available for permitting under R850-50-300 or upon termination of an existing permit as follows:]~~

1. On trust lands that are ~~open and~~ unpermitted and which are available for grazing, applications may be solicited through ~~advertising or~~ any ~~other~~ method the agency determines ~~is~~ appropriate, including notification of adjacent landowners and other permittees in an allotment.

2. On trust lands subject to an expiring grazing permit, competing applications shall be accepted from April 1 to April 30, or the next working day if either of these days is a weekend or holiday, of the year in which the permit terminates.

(a)~~[-]~~ All expiring and canceled grazing permits shall be posted on the agency's website by January 1 of the year in which the permit expires or the year after the permit was canceled. The website notice shall include any reimbursable investment made by ~~the~~ an existing permittee on a range improvement. Notice that expiring grazing permits may be found on the agency's website may also be published.

(b)~~[-]~~ Grazing permits issued on trust lands acquired through an exchange with the federal government (after the expiration of the federal permit) shall not be subject to the provisions of this rule for two successive 15-year terms unless the permit has been sold or otherwise terminated.

3. ~~The~~ A person holding an expiring grazing permit shall have the right to renew the permit, provided that no competing applications are received, by submitting a completed application along with the first year's rent and other applicable fees.

4. Persons desiring to submit a competing application must do so on forms acceptable to the agency. Forms are available at the offices listed in R850-6-200(2)(b) or from the agency's website. Applications ~~shall~~ must include:

(a) a non-refundable application fee~~[-];~~

(b) a one-time bonus bid~~[-];~~ and

(c) an amount determined by the agency pursuant to R850-50-1100(7), which will be required to reimburse the holder of an authorized range improvement project should the competing application be accepted.

5. Bonus bids and range improvement reimbursements shall be refunded to unsuccessful applicants. Upon establishment of the yearly rental rate, the successful applicant shall be required to submit the first year's rental and other required fees.

~~5~~6. Applications shall be evaluated by the agency and may be accepted only if the agency determines that the applicant's grazing activity will not create unmanageable problems of trespass, range and resource management, or access.

(a) For purposes of this evaluation, adjoining permittees and lessees, adjoining property owners, and adjoining federal permittees may be considered acceptable as competing applicants unless specific problems are ~~easily~~ demonstrated.

(b) Applicants not meeting the requirements in (a) above, whose uses would not unreasonably conflict with the uses of other permittees in the area, may nevertheless be accepted if the size of the grazing area, the access to the grazing area, and other factors demonstrate that the applicant is able to utilize the area without adverse impact on the range resources, adjoining lands, or beneficiaries of affected trust lands.

(c) For purposes of evaluating an applicant's acceptability ~~for~~ as a grazing ~~permit~~ permittee, the agency may consider:

(i) the applicant's ability to maintain any water rights appurtenant to the lands described in the application~~[-];~~

(ii) the applicant's ownership of private land in the area;

(iii) the applicant's ownership of grazing privileges in the BLM or Forest Service allotment where the trust land is located;

(iv) the type and number of livestock owned by the applicant; and

(v) management costs to the agency should the application be approved.

~~6~~7. The holder of a permit which is expiring, on which a competing application has been received, shall have a preference right to permit the property provided he agrees to pay an amount equal to the highest bonus bid submitted by a competing applicant.

(a) In the event that the existing permittee fails to match the highest bonus bid, the permittee may be refunded the value of the amount the permittee contributed to the cost of any approved range improvement project at the expense of the successful bonus bid applicant.

(b) In the event that all, or a portion of, the property on which a bonus bid was submitted is sold, exchanged, or otherwise made unavailable, the permittee shall receive the refund of a prorated amount of the bonus bid based on the AUMs lost to the use of the permittee.

**R850-50-500. AUM Assessments and Annual Adjustments.**

1. An annual assessment shall be charged for each AUM ~~used by livestock on trust lands~~ authorized by the agency. This assessment shall be established by the board and shall be reviewed annually and adjusted if appropriate.

2. ~~Grazing fees~~ The annual assessment for lands designated as "High Value Grazing Lands" will be ~~assessed~~ at a higher ~~rate~~ amount than trust lands not so designated. High Value Grazing Lands are typically, but not necessarily, contained in a named land block. Blocked or scattered lands may be designated as High Value Grazing Land through a Director's Finding.

3. In the event that the agency acquires High Value Grazing Lands through an exchange with the federal government, the application of the agency's ~~[grazing fees]~~annual assessment to the holders of grazing privileges on the acquired land shall be phased in over a five-year period in equal increments after the term of the federal permit has expired.

4. The application of the agency's ~~[grazing fees]~~annual assessment on lands acquired through an exchange with the federal government, and not designated as High Value Grazing Lands, shall be phased~~[-]~~ in over a three-year period in equal increments after the term of the federal permit has expired.

~~5. Failure to pay the annual assessment within the time prescribed shall automatically work a forfeiture and cancellation of the permit and all rights thereunder.~~

#### **R850-50-600. Grazing Permit Terms.**

1. Grazing permits shall be issued for a maximum of 15 years and shall contain the following:~~[- Every grazing permit issued under these rules shall include the following terms and conditions:]~~

~~[1-]~~(a) [Terms] terms, conditions, and provisions that shall protect the interests of the trust beneficiaries with reference to securing the payment to the agency of all amounts owed[-];

~~[2-]~~(b) [Terms] terms, conditions, and provisions that shall protect the range resources from improper and unauthorized grazing uses[-]; and

~~[3-]~~(c) [Other] other terms, conditions, and provisions that may be deemed necessary by the agency or board in effecting the purpose of these rules and not inconsistent with any of its provisions.

~~[4]2.~~ The agency may cancel or suspend grazing permits, in whole or in part, after 30 days' notice by certified mail to the permittee when:

~~(a) [for-] a violation of the terms of the permit, or of these rules, including trespass as defined in R850-50-1400, has occurred;~~

~~(b) [or upon the issuance of-] a lease or permit has been issued for the permitted property, the purpose of which the agency has determined to be a higher and better use[-];~~

~~(c) [or disposal of the trust land- Failure to pay the required rental within the time prescribed shall automatically work a forfeiture and cancellation of the permits and all rights thereunder] the agency has disposed of the permitted property; or~~

~~(d) any management problems arise as defined in R850-50-400(6).~~

~~[5- Locked gates on trust land without written approval are prohibited. If such approval is granted, keys shall be supplied to the agency and other appropriate parties requiring access to the area as approved by the agency, including those with fire and regulatory responsibilities.~~

~~6. Supplemental livestock feeding on trust grazing lease-lands may be permitted subject to written authorization by the agency with the designation of a specific area, length of time, number and class of livestock, and subject to a determination that this shall not inflict long term damage upon the land. The agency may assess an additional fee for authorized supplemental feeding. Emergency supplemental feeding shall be allowed for ten days prior to notification.]~~

#### **R850-50-700. Reinstatements.**

Trust land on which a grazing permit has been cancelled and which is ineligible for reinstatement pursuant to R850-5-500(1)(c) may be advertised as available pursuant to R850-50-400(2). ~~If [the advertisement does not bring forth any competing applications, or if-] the agency does not advertise the property, the person previously holding the permit may apply for a new permit by submitting an application and all applicable fees,[- including a fee equal to the reinstatement fee.]~~

#### **R850-50-800. Grazing Permits--Legal Effect.**

1. ~~[Grazing permits transfer no-] A grazing permit transfers neither right, title, or interest in any lands or resources[- held by the agency], nor any exclusive right of possession and grants only the authorized utilization of forage.~~

~~2. Locked gates on trust land, without written approval, are prohibited. If such approval is granted, keys shall be supplied to the agency and other appropriate parties requiring access to the area as approved by the agency, including those with fire and regulatory responsibilities.~~

#### **R850-50-900. Non-Use Provisions.**

1. The granting of non-use ~~[for trust lands-] shall be at the discretion of the agency.[- The following criteria shall apply to all non-use requests:]~~

~~[1]2.~~ ~~[The permittee shall submit an application]~~ Applications for non-use must be submitted in advance or, if the trust land is within a federal grazing allotment, as soon as notification of non-use is received from the applicable federal agency.

~~3. [The request-] Applications for non-use must [shall-] be accompanied by the [applicable-] application fee and by any [appropriate-] documentation which is the basis for the request. In the event [of] the non-use application is approved, [grazing non-use, fees-] any annual assessment paid for the year [shall not be waived or refunded but-] shall be applied to the permittee's next year's annual assessment.~~

~~[2]4.~~ Non-use shall not be approved for periods of time exceeding one year except when the director finds that a longer period of time would be in the best interests of the beneficiaries.

~~[3- Non-use may be approved in times of emergency conditions.]~~

~~[4]5.~~ Non-use for personal convenience with no payment of ~~[fees-] the annual assessment shall not be approved.~~

#### **R850-50-1000. Assignment and Subleasing of Grazing Permits.**

1. Permittee shall not assign, ~~[partially assign,] or~~ sublease, in whole or in part, [mortgage, pledge,] or otherwise transfer, dispose of, or encumber any interest in [the-] a permit without the written consent of the agency. To do so shall automatically, and without notice, work the forfeiture and cancellation of the permit.

~~2. The approval of a sublease shall be subject to the following restrictions:~~

~~[2-]~~(a) An annual assessment equal to 50% of the difference between the base AUM assessment established under R850-50-500, and the AUM payment received by the permittee through the sublease,

multiplied by the number of AUMs subleased, or a \$1.00 per AUM minimum assessment, whichever is greater, shall be charged for the approval of any sublease. ~~—The approval of any sublease shall be subject to the following restrictions:~~

~~[(a)](b) [Consent for subleasing shall only be given if the sublease is compatible with the best interests of the beneficiaries and long-term management of the land and will not unreasonably conflict with the interests of other permittees in the area.]~~ Applications to sublease a grazing permit shall only be approved after a determination that the sub-lessee meets the requirements of R850-50-400(6).

~~[(b) Subleases in-lieu of a collateral assignment shall not be approved.]~~

~~(c) [No sublease shall be effective.]~~ Sublease approvals are valid for a maximum period of [for more than] five years.

3. The approval of an assignment shall be subject to the following restrictions:

~~(a) [An additional fee based upon either the fair market value of the permit or a flat fee per AUM may be charged for the approval of any assignment or partial assignment.]~~ A determination that the assignee meets the requirements of R850-50-400(6).

~~(b) A payment, based on the number of AUMs transferred multiplied by \$1.00, shall be paid to the agency prior to the approval of any assignment or partial assignment. Assignments made for no consideration in money, services, or goods, to include inter vivos or testamentary assignments made to immediate family members (parents, spouse, children, grandchildren, and full siblings) and assignments from and to business entities wholly owned by an immediate family member or members, may be exempt from this additional payment. In such cases, a minimum assignment fee as listed on the Master Fee Schedule shall be assessed.~~

~~(c) For purposes of this rule, a shareholder or member of a grazing association or cooperative shall be deemed a permittee and subject to the requirements of R850-50-1000(3)(a). In order to facilitate the enforcement of this rule, each grazing association or cooperative shall submit a list of all members to the agency annually prior to June 30. This list shall include each member's contact information and the number of AUMs allowed.~~

~~4. [Mortgage agreements or collateral assignments are.]~~ The agency's consent to allow a mortgage agreement or collateral assignment is for the convenience of the permittee.

~~5. The [term of a] mortgage agreement or collateral assignment shall:~~

~~(a) not exceed the remaining term of the permit[-]; and~~

~~(b) contain an acknowledgment by the lender that the grazing permit is cancellable pursuant to R850-50-600(2) and R850-50-1000(1) and that the agency assumes no liability in providing such consent. [If the grazing permit is renewed, the permittee may also renew the mortgage agreement or collateral assignment of the permit pursuant to these rules.]~~

#### **R850-50-1100. Range Improvement Projects.**

~~1. [Range Improvement Projects]~~ Applications for range improvement projects shall be submitted for approval on appropriate [application] forms [— Range Improvement Projects] and shall be approved or denied by the agency based on a written finding.

~~2. [A]A range improvement [activity] project must be approved by the agency in writing before construction begins. Line cabins and similar structures will not be authorized as range~~

improvement projects. They may, however, be authorized by a special use lease pursuant to R850-30.

~~3. Agency authorization for range improvement projects shall be valid for periods of time not to exceed two years from the date the applicant is notified of the authorization. Extensions of time may be granted only [in extraordinary circumstances.]~~ when the director finds that an extension of time would be in the best interests of the beneficiaries.

~~4. Range improvements constructed or placed upon trust land [without prior approval shall] become the property of the agency.~~

~~5. Range improvements shall not be authorized if they would be:~~

~~(a) located on a parcel that the agency has determined has potential for sale, lease, or exchange and the possibility exists that improvements may encumber these actions[-];~~

~~(b) located on a parcel designated for disposal[-];~~

~~(c) [a project or structure that does not fill a critical need or enhance the value of the resource.] unnecessary or uneconomical as determined by the agency; or~~

~~(d) determined by the agency to be ordinary maintenance.~~

~~6. Range improvements which are necessary to rehabilitate lands whose forage production has been diminished by poor grazing practices or poor stewardship of the permittee shall not be considered a reimbursable improvement but rather a requirement to keep the grazing permit in effect.~~

~~7. Authorized Range Improvement Projects;~~

~~(a) shall be depreciated using schedules consistent with typical schedules published by the USDA Natural Resources Conservation Service or any other depreciation schedules approved by the board[-]; and~~

~~(b) do not grant any vested property interest to the permittee.~~

~~8. In the event that the property, on which an approved range improvement [project] is located is sold, exchanged, or withdrawn from use, the permittee shall receive no more than the amount the permittee contributed towards the original cost of the range improvement project, minus the indicated depreciation amount; or in the alternative, [shall] may be allowed 90 days to remove improvements pursuant to [section] Section 53C-4-202(6).~~

~~[8]9. If the range improvement project is designed to increase carrying capacity, the permittee shall agree to pay for the increase in AUMs annually starting no later than two years after project completion. The agency may allow any increase in fees to be phased[-] in at 20% per year.~~

~~[9]10. The agency may participate in [cost sharing] the cost of designated range improvement projects, or maintenance of existing range improvement projects, by providing funding in amounts and at rates determined by the agency.~~

~~[40]11. The agency's cost/share portion of the project may be in the form of project materials. In these instances, the permittee shall be required to provide all necessary equipment and manpower to complete the project to specifications required by the agency.~~

#### **R850-50-1200. Additional Leases.**

If the agency determines that there is unused forage available on a parcel of trust land resulting from temporary conditions, it may issue an additional permit or permits. These permit(s) shall be issued in accordance to R850-50-400. Existing permittees shall have a first right of refusal to unused forage.

**R850-50-1300. Rights Reserved to the Agency.**

In all grazing permits, the agency shall expressly reserve the right to:

1. issue mineral leases, special use leases, timber sales, materials permits, easements, rights-of-entry, and any other interest in the trust land[-];
2. issue permits for the harvesting of seed from plants on the trust land. If loss of use occurs from harvesting activities, a credit for the amount of loss shall be made to the following year's assessment[-];
3. enter upon and inspect the trust land or to allow scientific studies upon trust land at any reasonable time[-];
4. allow the public the right to use the trust land for purposes and periods of time permitted by policy and rules. However, nothing in these rules purports to authorize trespass on private land to reach trust land[-];
5. require that all water rights on trust land be filed in the name of the ~~[trust-]agency~~ and to require express written approval prior to the conveyance of water off trust land[-];
6. require a permittee, when an agency-owned water right is associated with the grazing permit, to ensure that the water right, to the extent allowed under the permit, is maintained in compliance with state law[-];
7. close roads for the purpose of range or road protection, or other administrative purposes[-];
8. dispose of the property without compensation to the permittee, subject to R850-50-1100(7)[-]; and
9. terminate a grazing permit in order to facilitate management pursuant to R850-50-200 or for higher and better uses of trust lands.

**R850-50-1400. Trespass.**

1. Unauthorized activities which occur on trust land shall be considered trespass and damages shall be assessed pursuant to 53C-2-301. These activities include: ~~[-but are not limited to-]~~

- (a) ~~[The]the~~ use of forage at times and at places not authorized ~~[in]by~~ the permit[-];
- (b) ~~[The placement of numbers of livestock on the trust land which, if left on the trust land for the length of time allowed in the permit, would result in]The use of forage [being used-]in~~ excess of that authorized by the permit[-];
- (c) ~~[Grazing]grazing~~ or trailing livestock on or across trust land without a valid permit or right-of-entry[-];
- (d) ~~[The]the~~ dumping of garbage or any other material on the trust land[-]; and
- (e) allowing another person to graze or trail livestock on the permitted property without the express written consent of the agency.

2. The permittee shall cooperate with the agency in taking civil action against the owners of trespass livestock ~~[on trust lands-]to~~ recover damages for lost forage ~~[or]and~~ other ~~[values]damages~~.

**R850-50-1500. Trailing Livestock Across Trust Land.**

1. The trailing of livestock across trust land by a person not holding a grazing permit may be authorized if no other reasonable means of access is available.
2. Written approval in the form of a right-of-entry shall be obtained in advance from the agency.
3. The authorization to trail livestock across trust land shall restrict and limit the route, the number and type of animals, and the

time and duration, which shall not [to-]exceed two consecutive days, of the trailing.

**R850-50-1600. Modified Grazing Permit.**

1. At the discretion of the director, the agency may issue modified grazing permits in instances where the proposed use is grazing related but is more intensive than livestock grazing alone and when improvements, if any, are primarily temporary in nature. Such uses may include ~~[-but are not limited to, uses authorized under R850-30-300(1)(d);]~~ camps, corrals, feed yards, irrigated livestock pastures, or other related uses.

~~[2- Modified grazing permits may be approved pursuant to the following process:~~

~~(a) Applications for modified grazing permits shall be submitted pursuant to R850-3-~~

~~(b) Applications, if accepted, shall be accompanied with an application fee equal to the application fee for special use leases.~~

~~(c) Applications shall be evaluated pursuant to R850-3-400 and R850-50-400.]~~

~~[3]2.~~ Modified grazing permits shall be subject to the following terms and conditions:

(a) The term of a modified grazing permit shall be no longer than 15 years and contain terms, conditions, and provisions the agency, in its discretion, deems necessary to protect the interest of the trust beneficiaries.

(b) A modified grazing permit is subject to cancellation pursuant to R850-50-600~~[(4)](2)~~.

(c) ~~[Annual]The annual~~ rental for a modified grazing permit shall be based on the fair market value of the permitted property. Fair market value of the permitted property and annual rental rates shall be determined by the agency pursuant to R850-30-400. Periodic rental reviews may be completed pursuant to R850-30-400~~[(4)](5)~~.

(d) Upon cancellation of the modified grazing permit, ~~[-~~

~~i-] the permittee shall be allowed 90 days to remove [approved temporary range improvements;]any personal property.[- and~~

~~ii-] at the discretion of the director, the agency may reimburse the permittee for approved permanent range improvements pursuant to R850-50-1100; or~~

~~iii-] the permittee shall be allowed 90 days to remove approved permanent range improvements.]~~

(e) Prior to the issuance of a modified grazing permit, or for good cause shown at any time during the term of the modified grazing permit, the applicant or permittee ~~[-as the case may be,] may be required to post [with the agency-]a bond with the agency in the form and amount as may be determined by the agency to assure compliance with all terms and conditions of the permit. Any bond posted pursuant to this rule is subject to R850-30-800(2) through (4).~~

**R850-50-1700. Supplemental Feeding.**

1. Supplemental livestock feeding may be permitted subject to:

~~(a) written authorization by the agency;~~

~~(b) the designation of a specific area, length of time, number, and class of livestock; and~~

~~(c) a determination that this shall not inflict long term damage upon the property.~~

2. The agency may assess an additional fee for authorized supplemental feeding or may require the permittee to obtain a modified grazing permit.

3. Emergency supplemental feeding shall be allowed for ten days prior to notification.

4. The forage used for supplemental feeding shall be certified weed free.

**KEY: administrative procedures, range management**

**Date of Enactment or Last Substantive Amendment:** [~~August 11, 2015~~]**January 21, 2016**

**Notice of Continuation:** June 27, 2012

**Authorizing, and Implemented or Interpreted Law:** 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-5-102

**Transportation, Motor Carrier**  
**R909-19**  
**Safety Regulations for Tow Truck**  
**Operations - Tow Truck Requirements**  
**for Equipment, Operation and**  
**Certification**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39953

FILED: 11/20/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The primary goal in amending Rule R909-19 is to eliminate the need to amend the rule whenever it becomes necessary to increase the ceiling for fees operators are allowed to charge for their services. This amendment requires the Motor Carriers Division to establish a fee schedule that ties the fee ceiling to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The amendment allows the ceiling to increase when the CPI-W increases, and be calculated and applied on January 1 of each year, but does not provide for corresponding fee decreases. The amendment requires the Division to post fee schedule on its Internet website.

**SUMMARY OF THE RULE OR CHANGE:** This amendment requires the Motor Carriers Division to establish a fee schedule that ties the fee ceiling to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The amendment allows the fee ceiling to increase when the CPI-W increases, and be calculated and applied on January 1 of each year, thus eliminating the need to amend the rule whenever it becomes necessary to increase the ceiling for fees due to inflation. The amendment also clarifies text that addresses a number of specific and extraordinary towing situations, such as: When operators may charge an additional fee if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of and in accordance with the Hazardous Materials Transportation Act;

and when the owner, authorized operator, or authorized agent of the owner of the vehicle, is attempting to retrieve her vehicle before it is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-6a-1405 and Section 53-1-106 and Section 72-9-602 and Section 72-9-603 and Section 72-9-604

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Adds 49 CFR 390, published by Government Printing Office, 10/01/2014

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** These changes to Rule R909-19 will reduce the need for the Motor Carriers Division to go through the process of meeting with affected persons every year to negotiate increases in the fees that tow truck operators are allowed to charge for services. This process has been very labor intensive for affected persons and for the Division. The division anticipates that a significant decrease in the number of person hours needed to negotiate a new fee schedule every year will translate into a significant savings to the state budget. An exact amount of the savings cannot be estimated at this time.

◆ **LOCAL GOVERNMENTS:** Local governments have little to no direct involvement in the areas of government affected by Rule R909-19. The Division does not anticipate these changes will have any affect on the budgets of local governments.

◆ **SMALL BUSINESSES:** Most of the businesses directly affected by the requirements of Rule R909-19 are small businesses. The bulk of these changes are focused on creating a system that will allow these small businesses to increase their fees as the cost of living increases without the need to petition state government every year. The Division anticipates that these changes will translate in significant cost savings for the small businesses affected.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The consumers of the services provided by Tow Truck Operators directly affected by these changes are members of the general public who have their vehicles towed. Many of the changes to Rule R909-19 included in this amendment are clarifications that the Division hopes will result in a reduced possibility of those who have their vehicles towed being overcharged. The division does anticipate that persons other than small businesses, businesses, or local government entities will experience budgetary savings to result from these changes, but has no way of accurately estimating the savings at this time.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** These changes do not require persons directly affected by the changes to pay any additional taxes or fees. The division hopes these changes result in a decrease in the cost of complying with the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Motor Carriers Division and many of the businesses directly affected by this amendment to rule R909-19 have worked together for several months drafting these changes. The changes are being made in an effort to allow the industry to become more efficient overall so that the firms in the industry and those who consume their services will realize budgetary savings and other fiscal benefits.

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

TRANSPORTATION  
MOTOR CARRIER  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jjpalmer@utah.gov](mailto:jjpalmer@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2016

AUTHORIZED BY: Carlos Braceras, Executive Director

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**R909. Transportation, Motor Carrier.**

**R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification.**

**R909-19-1. Authority.**

This rule is enacted under the authority of Sections 72-9-601, 72-9-602, 72-9-603, 72-9-604, 53-1-106, 41-6a-1405, Utah Code.

**R909-19-2. Applicability.**

All tow truck motor carriers and employees must comply and observe all rules, including R909-1, regulations, traffic laws and guidelines as prescribed by State Law, including Sections 41-6a-401.9, 41-6a-1404, 41-6a-1405, 41-6a-1406, 72-9-301, 72-9-303, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 72-9-701, 72-9-702, and 72-9-703.

**R909-19-3. Definitions.**

(1) "Consent Tow" means any tow truck service that is done at the vehicle, vessel, or outboard motor owner's, or its legal operator, knowledge and/or approval.

(2) "Department" means the Utah Department of Transportation.

(3) "Division" means the Motor Carrier Division.

(4) "Emergency Moves" means a tow operation initiated by law enforcement to move a wrecked or disabled motor vehicle.

(5) "Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GVCR will be determined by adding

the GVWR of the power unit and the total weight of the towed unit and any load thereon.

(6) "Gross Vehicle Weight Rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(7) "Life-Essential personal property" includes those items essential to sustain life or health including: prescription medication, medical equipment, essential clothing (e.g. shoes, coat), food and water, child safety seats, and government issued photo-identification.

(8) "Non-Consent Police Generated Tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102.

(9) "Non-Consent Non Police Generated Tow" means towing services performed without the prior consent or knowledge of the owner of the vehicle or the person authorized by the owner to operate the vehicle from private property. The tow truck service must be from private property, at the request of the property landowner or agent for the landowner.

(10) "Normal Office Hours" means hours of operation where the office or yard shall be staffed and open for public business during normal business hours Monday thru Friday, except for designated state and federal holidays.

(11) "Recovery Operation" means a towing service that may require charges in addition to the normal one-truck/one-driver towing service requirements. The additional charges may include charges for manpower, extra equipment, traffic control, and special recovery equipment and supplies.

(12) "Tow Truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, repossessed or impounded vehicles from highway or other place by means of a crane, hoist, tow bar, tow line, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.

(13) "Tow Truck Certification Program" means a program to authorize and approve tow truck motor carrier owners, operators, and vehicles is the process by which the Department, acting under Section 72-9-602, shall verify compliance with the State and Federal Motor Carriers Safety Regulations.

(14) "Tow Truck Motor Carrier" means any company that provides for-hire, private, salvage, or repossession towing services. It includes the company's agents, officers, and representatives as well as employees responsible for hiring, training, supervisory, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of equipment and/or accessories.

(15) "Tow Truck Service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(a) Tow Truck Service, with regards to authorized towing fees, is determined by the type and size of the towed vehicle, not the type and size of the tow truck performing the service.

(b) Towed Vehicle Classifications will be used when determining authorized fees. Information regarding the GVWR to determine classification category of towed vehicle can be found on the identification plate on the vehicle driver side doorframe. Towed vehicle classifications are as follows:

(i) "Light Duty" means any towed vehicle with a GVWR 10,000 pounds or less;

(ii) "Medium Duty" means any towed vehicle with a GVWR between 10,001 and 26,000 pounds;

(iii) "Heavy Duty" means any towed vehicle with a GVWR or GCWR 26,001 pounds and greater.

(16) "Tow Truck Motor Carrier Steering Committee" means a committee established by the Motor Carrier Division and will include enforcement personnel, industry representatives and other persons as deemed necessary.

#### **R909-19-4. Duties - Enforcement - Compliance Audits, Inspections and Right of Entry.**

The Department shall administer and in cooperation with the Department of Public Safety, Utah Highway Patrol Division as specified under Section 53-8-105, shall administer and enforce state and federal laws related to the operation of tow truck motor carriers within the state. In addition, a tow truck motor carrier shall submit its lands, property, buildings, equipment for inspection and examination and shall submit its accounts, books, records, or other documents for inspection and copying to verify compliance as authorized by Section 72-9-301.

#### **R909-19-5. Insurance.**

(1) ~~[Non-consent police generated tows]~~ Tow Truck Motor Carriers performing emergency moves ~~[are required to]~~ shall maintain liability insurance coverage of at least \$750,000 per occurrence. ~~[of liability insurance.]~~ Tow Truck Motor Carriers performing non-emergency moves. ~~[All other non-consent police generated tows are required to]~~ shall maintain liability insurance coverage of at least \$1,000,000 per occurrence. ~~[of liability insurance.]~~

~~[(2) Tow Truck Motor Carriers performing non-consent non-police generated tows or consent tows are required to maintain at least \$1,000,000 of liability insurance.]~~

~~[(3)]~~ 2 All Tow Truck Motor Carriers performing consent or non-consent tows are required to obtain a MCS-90 endorsement for environmental restoration as required in 49 CFR Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers.

~~[(4)]~~ 3 Evidence of required insurance ~~[with]~~ shall be maintained at the principal place of business and made available to the Department and/or Investigator upon request and prior to issuance of the Tow Truck Motor Carrier certification.

#### **R909-19-6. Penalties and Fines.**

(1) Any tow truck motor carrier that fails or neglects to comply with State or Federal Motor Carrier Safety Regulations, other statutes, any part of this rule, any term or condition of the permit or any materials that it incorporates either by reference or attachment, or a Departmental order, is subject to:

(a) a civil penalty as authorized by Section 72-9-701, and 72-9-703;

(b) suspension or revocation of a carrier or tow truck certification (suspension or revocation will be based upon the severity of violations to this rule, Sections 41-6a-1406 and 72-9-603);

(c) issuance of a cease-and-desist order as authorized by Section 72-9-303; and

(d) the revocation or suspension of registration by the Utah State Tax Commission pursuant to Section 72-9-303.

#### **R909-19-7. Towing Notice Requirements.**

(1) All non-consent police generated and non-consent non-police generated tows conducted by Tow Truck Motor Carriers must input required information in electronic form on the Division of Motor Vehicles Utah State Tax Commission's website, at "https://secure.utah.gov/ivs/ivs" as required by 41-6a-1406(11).

~~[(a) Tow Truck Motor Carriers may charge an administrative fee up to but not exceeding \$30.00 per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles.]~~

(2) Tow Truck Motor Carriers must notify the local enforcement agency having jurisdiction over the area from where the vehicle, vessel, or outboard motor was removed on all non-consent non-police generated tows immediately upon arrival at the impound or storage yard.

(a) For tows conducted on vehicles, vessels, and outboard motors and the owner information does not appear in the IVS or TLR (Title License Registration) systems, a Tow Truck Motor Carrier has met this requirement if they can provide proof that a letter has been sent to the Utah State Tax Commission Division of Motor Vehicle or the appropriate state where the vehicle, vessel, and outboard motor is registered, within two business days requesting the needed information to send the letter.

(3) If required notifications to the Division of Motor Vehicles and local law enforcement is not completed as required by Sections 41-6a-1406 and 72-9-603, the Tow Truck Motor Carrier or operator may not collect any fees associated with the removal or begin charging storage fees as authorized under Sections 41-6a-1406 and 72-9-603 until the removal has been reported to the Motor Vehicle Division and the local law enforcement agency.

(4) If notification to the last known owner and lien holder is not made as required by this rule, the Tow Truck Motor Carrier may be subject to penalties as outlined in this rule.

(5) The tow truck motor carrier or the tow truck driver must provide a copy of the Utah Consumer Bill of Rights Regarding Towing at first contact with the owner of a vehicle, vessel, or out board motor that was towed.

(a) The tow truck motor carrier must be able to verify that the consumer received their copy of the Utah Consumer Bill of Rights Regarding Towing.

(6) The Utah Consumer Bill of Rights Regarding Towing shall contain the ~~[following]~~ language and information as published at [www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396\[:\]](http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396[:]).

~~[(a) The consumer has the right to know they are being charged an appropriate fee. Towing fees are established by the Utah Department of Transportation under Utah Code Annotated Section 72-9-603 and Utah Administrative Code R909-19. http://www.rules.utah.gov/publicat/code/r909/r909-019.htm~~

~~————— (i) Non-Consent Police-Generated Tow:~~

~~————— (A) Light duty vehicle: Tow fee – up to \$145.00 per hour, per unit; Storage fee – up to \$40.00 per day for outside storage or \$45.00 per day for inside storage; Administrative fee – up to \$30.00; Fuel Surcharge – percentage of tow fee. See R909-19-14 for specific fuel surcharge rate.~~

~~————— (B) Medium duty vehicle: Tow fee – up to \$240.00 per hour, per unit; Storage fee – up to \$60.00 per day for outside storage or~~



~~\$85.00 per day for inside storage; Administrative fee – up to \$30.00; Fuel Surcharge – percentage of tow fee. See R909-19-14 for specific fuel surcharge rate.~~

~~(C) Heavy duty vehicle: Tow fee – up to \$300.00 per hour, per unit; Storage fee – up to \$60.00 per day for outside storage or \$85.00 per day for inside storage; Administrative fee – up to \$30.00; Fuel Surcharge – percentage of tow fee. See R909-19-14 for specific fuel surcharge rate.~~

~~(D) Light, medium and heavy duty vehicles: An additional 15% per hour may be charged for the tow fee if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.~~

~~(ii) Non-Consent Non-Police Generated Tow:~~

~~(A) Light duty vehicle: Tow fee – up to \$145.00 per tow; Storage fee – up to \$25.00 per day for outside storage or \$30.00 per day for inside storage; Administrative fee – up to \$30.00; Fuel Surcharge – percentage of tow fee. See R909-19-14 for specific fuel surcharge rate.~~

~~(B) Medium duty vehicle: Tow fee – up to \$240.00 per tow; Storage fee – up to \$45.00 per day for outside storage or \$70.00 per day for inside storage or \$100.00 per day for outside storage of vehicles used in the transportation of materials found to be hazardous; Administrative fee – up to \$30.00; Fuel Surcharge – percentage of tow fee. See R909-19-14 for specific fuel surcharge rate.~~

~~(C) Heavy duty vehicle: Tow fee – up to \$300.00 per tow; Storage fee – up to \$45.00 per day for outside storage or \$70.00 per day for inside storage or \$100.00 per day for outside storage of vehicles used in the transportation of materials found to be hazardous; Administrative fee – up to \$30.00; Fuel Surcharge – percentage of tow fee. See R909-19-14 for specific fuel surcharge rate.~~

~~(D) Light, medium and heavy duty vehicles: An additional 15% per hour may be charged for the tow fee if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.~~

~~(b) All non-consent tows must be reported to the Utah Motor Vehicle Division via the Impound Vehicle System (IVS) before payment can be collected as per Utah Code annotated Sections 41-6a-1406 and 72-9-603. To verify that the required IVS reporting was completed by the tow truck company visit <http://www.tow.utah.gov>.~~

~~(i)b The consumer has a right to receive documentation from the tow truck motor carrier showing the date and time the storage began.~~

~~(c) The tow truck motor carrier, driver(s) and vehicle(s) [must]shall comply with 49 CFR Section 390, of the Federal Motor Carrier Safety Regulations, which are incorporated and made a part of this Rule by this reference. [at <http://www.udot.utah.gov> by clicking on the Motor Carrier link and then the safety and compliance link.]~~

~~(d) A consumer has the right to file a complaint alleging:~~

~~(i) Overcharges[?];~~

~~(ii) Inadequate certification for the driver, truck or company,~~

~~and;~~

~~(iii) Violations of the Federal Motor Carrier Safety Regulations, Utah Code Annotated or Utah Administrative Code.~~

(e) Complaints may be filed online with the Utah Department of Transportation at <http://www.udot.utah.gov>. Click on the Motor Carrier Division tab, [~~Comments or Complaints tab~~]Motor Carrier Contacts, and click on the Tow Truck Complaint form; or by contacting the Motor Carrier Division at (801) 965-5892.

#### **R909-19-8. Certification.**

There are three (3) certifications required by the Department.

(1) Tow Truck Driver Certification.

(a) Effective July 1, 2004 all tow truck drivers will be tested and certified in accordance with National Driver Certification Procedure (NDCP) standards and carry evidence of certification for the appropriate level of vehicle they are operating. These standards of conduct and proficiency may be tested and certified through an accepted program approved by the Department.

(i) Towing and Recovery Association of America (TRAA) Testing Program;

(ii) Wreckmaster Certification Program;

(iii) AAA Certification Program;

(iv) Utah Safety Council;

(v) North American Towing Academy; or

(vi) Other driver testing certification programs approved by the Department to meet certification requirements, however, the Tow Truck Motor Carrier must obtain prior approval in writing from the Motor Carrier Division Administrator or Division representative by calling (801) 965-4892.

(b) Information on qualified certification programs may be obtained by contacting the Motor Carrier Division at (801) 965-4892.

(c) Tow Truck Motor Carriers shall ensure that all drivers are:

(i) properly trained to operate tow truck equipment;

(ii) licensed, as required under Sections 53-3-101, through 53-3-909 Uniform Driver License Act; and

(iii) properly certified.

(2) Tow Truck Vehicle Certification.

(a) All tow trucks shall be inspected and certified biannually.

(b) All tow trucks must be equipped with required safety equipment. Safety Equipment List can be found at <http://www.udot.utah.gov/index.php/m=c/tid=396> or by calling 801-965-4892.

(c) Upon vehicle certification, a UDOT certification sticker will be issued and shall be affixed on the driver's side rear window.

(d) Documentation of UDOT tow truck vehicle inspection certification shall be kept in the vehicle files and be available upon request by Department personnel.

(3) Tow Truck Motor Carrier Certification.

(a) Tow Truck Motor Carriers shall be certified biannually to ensure compliance as required by the Federal Motor Carrier Safety Regulations, Utah Code Annotated, and local laws where applicable.

#### **R909-19-9. Certification Fees.**

The Department may charge Tow Truck Motor Carriers a fee biannually as authorized by Section 72-9-603 to cover costs associated with driver, vehicle, and carrier certifications.

**R909-19-10. Information Required on Towing Receipt.**

Charges for services provided must be clearly reflected on a company receipt and a copy shall be provided to the customer. The receipt must include the following information:

- (a) company name;
- (b) address;
- (c) phone number;
- (d) transportation, administration, fuel surcharge, and storage fees charged;
- (e) name of company driver;
- (f) unit number;
- (g) license plate of the towed vehicle;
- (h) make, model, Vehicle Identification Number, and year of the towed vehicle; ~~and~~
- (i) start and end time with total hours for services provided~~;~~ ~~and~~
- (j) the date vehicle was retrieved from tow yard or other storage area.

**~~R909-19-11. Maximum Towing Rates. Non-Consent Police Generated Tows.~~**

~~(1) \$145 per hour, per unit, when towing a "Light Duty" vehicle.~~

~~(a) An additional 15% per hour may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.~~

~~(2) \$240 per hour, per unit, when towing a "Medium Duty" vehicle.~~

~~(a) An additional 15% per hour may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.~~

~~(3) \$300 per hour, per unit, when towing a "Heavy Duty" vehicle.~~

~~(a) An additional 15% per hour may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.~~

~~(4) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck will be considered in possession of the vehicle.~~

~~(a) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle, is attempting to retrieve said vehicle before the tow truck is mechanically connected, no fee(s) will be charged to the vehicle owner.~~

~~(b) If the owner, authorized operator, or authorized agent of the owner of the vehicle, is attempting to retrieve said vehicle before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.~~

~~(5) Charges for recovery operations, as defined by R909-19-3, shall be coordinated with the towed vehicle owner prior to initiating the additional charges relating to the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the tow vehicle owner and Tow Truck Motor Carrier.~~

~~(6) Pursuant to Section 72-9-603 it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to~~

~~pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-703.~~

~~(7) Tow Truck Motor Carriers shall obey all local city and county laws, when applicable, pertaining to placement of signs, notification, and other towing related ordinances. Strobe lights are not allowed on Tow Trucks. The acceptable color for tow truck lights is amber.]~~

**~~R909-19-12. Maximum Storage Rates. Non-Consent Police Generated Tows.~~**

~~(1) \$40 Maximum per day, per unit, for outside storage of "Light Duty" vehicles.~~

~~(2) \$45 Maximum per day, per unit may be charged for inside storage of "Light Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.~~

~~(3) \$60 Maximum per day, per unit for outside storage of "Medium/Heavy Duty" vehicles.~~

~~(4) \$85 Maximum per day, per unit may be charged for inside storage of "Medium/Heavy Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.~~

~~(5) \$115 Maximum per day, per unit for outside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.~~

~~(6) \$165 Maximum per day, per unit may be charged for inside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F, only at the owner's request, or at the order of a law enforcement agency or highway authority.~~

~~(7) Pursuant to Section 72-9-603, it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-703.~~

~~(8) For the purpose of calculating storage rates, if the first six (6) hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.]~~

**~~R909-19-13. Maximum Non-Consent Non-Police Generated Towing Rate.~~**

~~(1) The maximum rate for a "Light Duty" vehicle is \$145 per tow.~~

~~(2) The maximum rate for a "Medium Duty" vehicles is \$240 per tow.~~

~~(3) The maximum rate for a "Heavy Duty" vehicle is \$300 per tow.~~

~~(4) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck will be considered in possession of the vehicle.~~

~~(a) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle, is attempting to retrieve said vehicle before the tow truck is mechanically connected, no fee(s) will be charged to the vehicle owner.~~

(b) If the owner, authorized operator, or authorized agent of the owner of the vehicle, is attempting to retrieve said vehicle before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

(5) Pursuant to Section 72-9-603, it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-703.

(6) Tow Truck Motor Carriers shall obey all local city and county laws, when applicable, pertaining to placement of signs, notification, and other towing related ordinances.]

**[R909-19-14. Maximum Storage Rates, Non-Consent Non-Police Generated Tows.**

(1) \$25 Maximum per day, per unit, for outside storage of "Light Duty" vehicles.

(2) \$30 Maximum per day, per unit may be charged for inside storage of "Light Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.

(3) \$45 Maximum per day, per unit for outside storage of "Medium/Heavy Duty" vehicles.

(4) \$70 Maximum per day, per unit may be charged for inside storage of "Medium/Heavy Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.

(5) \$100 Maximum per day, per unit for outside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(6) \$150 Maximum per day, per unit may be charged for inside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F, only at the owner's request, or at the order of a law enforcement agency or highway authority.

(7) Pursuant to Section 72-9-603, it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-703.

(8) For the purpose of calculating storage rates, if the first six (6) hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.]

**[R909-19-15. Fuel Surcharge for Non-Consent Police and Non-Consent Non-Police Generated Tows.**

(1) When the daily Rocky Mountain Average, as determined by the Department of Energy, for the price of fuel raises \$0.25 from the base rate of \$3.00 to \$3.25 per gallon, a tow truck motor carrier may charge a 5% surcharge of the base tow rate. An additional 5% shall be allowed for each \$0.25 per gallon increase. Conversely, as the price of fuel drops, the fuel surcharge shall decrease by the same rate.

TABLE

Fuel Surcharge	Fuel Price					
Size of Tow	Base Rate	\$3.25	\$3.50	\$3.75	\$4.00	\$4.25
Light Duty	\$145.00	\$7.25	\$14.50	\$21.75	\$29.00	\$36.25
Medium Duty	\$240.00	\$12.00	\$24.00	\$36.00	\$48.00	\$60.00
Heavy Duty	\$300.00	\$15.00	\$30.00	\$45.00	\$60.00	\$75.00

(a) To determine the Rocky Mountain daily average per gallon diesel cost, refer to <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.sap>.

(b) The fuel surcharge may be charged on non-consent police generated tow when the vehicle is being used in the function of a tow vehicle i.e. travel to and from the scene and during the operation of equipment for recovery operation. Non-consent non-police tows may charge a one time fee.

(c) Surcharge fee shall be listed as a separate fee on the tow bill.]

**R909-19-11. Non-Consent Towing, Storage, Administrative and Fuel Surcharge Fees.**

(1) The Motor Carrier Division is required to establish the allowable maximum fees for tow truck service, storage, the tow truck carrier's administrative fee for reporting the removal, and the fuel surcharge as per Utah State Code 72-9-603. The Towing Fees Schedule is published on the Division's website at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396>.

(2) The allowable maximum fee for tow truck service and the maximum allowable administrative fee for reporting the removal ("Allowable Maximum Fees") shall be tied to the Consumer Price Index for all Urban Wage Earners and Clerical Workers (CPI-W) in the West Urban Region of the U.S. The (CPI-W) is calculated by the U.S. Department of Labor, Bureau of Labor and Statistics (BLS), which publishes CPI Detailed Report Tables every month on its web site at <http://www.bls.gov/cpi/tables.htm>.

(3) The Motor Carrier Division shall adjust the Allowable Maximum Fees once annually as follows:

(a) The base fee schedule for each calendar year after a year in which the motor Carrier Division determines the Allowable Maximum Fees pursuant to R909-19-11(1) shall be adjusted effective January 1 of each such calendar year (the "Adjustment Date").

(b) The adjustment amount of the Allowable Maximum Fees shall be equal to the change in the CPI-W for the twelve-month period prior to the October CPI-W figure reported by the BLS immediately preceding the Adjustment Date in question.

(c) The first CPI-W based adjustment to the Allowable Maximum Fees shall be equal to the cumulative change in the CPI-W for 2014 and 2015.

(d) If the twelve month change in the CPI-W from October to October is negative, the Allowable Maximum Fees shall remain unchanged until the next Adjustment Date.

(e) The Division of Motor Carriers shall round the Allowable Maximum Fees to the nearest whole number.

(4) A Tow Truck Motor Carrier may charge up to but not exceeding the approved tow rate, based upon the type of non-consent tow, as indicated in the Towing Fee Schedule published online at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396>.

(a) An additional 15% of the fee for tow truck service may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of and in accordance with the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(b) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck motor carrier shall be considered in possession of the vehicle.

(c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle is attempting to retrieve said vehicle before the tow truck motor carrier is in possession of the vehicle, no fee(s) shall be charged to the vehicle owner.

(d) If the owner, authorized operator, or authorized agent of the owner of the vehicle is attempting to retrieve the vehicle after the tow truck motor carrier is in possession of the vehicle but before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

(e) Charges for recovery operations, as defined by R909-19-3, shall be coordinated with the towed vehicle owner prior to initiating the additional charges relating to the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the towed vehicle owner and Tow Truck Motor Carrier.

(f) Tow Truck Motor Carriers shall obey all applicable local municipal and county laws, pertaining to placement of signs, notification, and other towing related ordinances.

(g) Strobe lights are not allowed on Tow Trucks. The acceptable color for tow truck lights is amber.

(5) A Tow Truck Motor Carrier may charge up to but not exceeding the amount for storage per day for the type of non-consent tow as indicated in the Towing Fee Schedule as published online at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396>.

(a) A Tow Truck Motor Carrier may charge a higher fee for inside storage per day per unit as indicated in the Towing Fees Schedule as published at on the Divisions website at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396>. Only if requested by the owner(s), or a law enforcement agency or highway authority.

(b) Vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F may be charged a higher storage fee rate based upon the Towing Fees Schedule as published online at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396>.

(c) For the purpose of calculating storage rates, if the first six (6) hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.

(6) A Tow Truck Motor Carrier may charge an administrative fee for reporting the removal of up to but not exceeding the amount indicated in the Towing Fee Schedule as published online at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396> per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles and for sending notifications to the owner and lienholder (if applicable).

(7) A Tow Truck Motor Carrier may charge a fuel surcharge When the daily Rocky Mountain Average, as determined by the

Department of Energy, for the price of fuel reaches \$3.25 per gallon, a tow truck motor carrier may charge a surcharge equal to 5% of the base tow rate. An additional 5% shall be allowed for each \$0.25 per gallon increase. Conversely, as the price of fuel drops, the fuel surcharge shall decrease by the same rate.

(a) To determine the Rocky Mountain daily average per gallon diesel cost, refer to the U.S. Energy Information Administration's website at <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.sap>.

(b) The fuel surcharge may be charged on non-consent police generated tow when the vehicle is being used in the function of a tow vehicle i.e. travel to and from the scene and during the operation of equipment for recovery operation. Non-consent non-police tows may charge a onetime fee.

(c) Surcharge fee shall be listed as a separate fee on the tow bill.

#### **R909-19-[16]12. Towing and Storage Rates. Public Consent Tows.**

Towing rates for public consent tows are the responsibility of the consumer and the tow truck motor carrier as contracted for services rendered and are not regulated by the Department.

#### **R909-19-[17]13. Rates and Storage Posting Requirements.**

Pursuant to Section 72-9-603, a tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current non-consent fees and rates for towing and storage of a vehicle.

#### **R909-19-[18]14. Federal Motor Carrier Safety Requirements.**

All tow truck motor carriers that meet the definition of a commercial motor carrier shall comply with all State and Federal Motor Carrier Safety Regulations, in addition to any other legal requirements established in statute, rule, or permit.

#### **R909-19-[19]15. Consumer Protection Information.**

Pursuant to Section 72-9-602, the Department shall make consumer protection information available to the public that may use a tow truck motor carrier. To obtain such information, the public can call the Motor Carrier Division at (801) 965-4892.

#### **R909-19-[20]16. Establishment of Tow Truck Steering Committee and Work Group.**

(1) The Administrator for the Motor Carrier Division will establish a Steering Committee to provide advisory information and input.

(2) The Motor Carrier Advisory Board, established by the Governor, will serve as the steering body for regulatory guidance and the Department's certification process.

#### **~~R909-19-21. Annual Review of Rates, Fees and Certification Process.~~**

~~(1) During the regularly scheduled Motor Carrier Advisory Board meeting in August of each year, the board will review rates, fees, tow truck motor carrier procedures, and the certification process. The board is not required to review each of these items every year.~~

~~(2) This meeting will provide a forum for interested parties to provide evidence in support of any rate or fee increase or issues related to procedures regarding the certification process.~~

~~(3) All interested parties must notify the Department of these issues by August 1 of each year to ensure placement on the agenda.]~~

**R909-19-17. Annual Review of Rates, Fees and Certification Process.**

(1) During the regularly scheduled Motor Carrier Advisory Board meeting in August of each year, the board may review rates, fees, tow truck motor carrier procedures, and the certification process. The board is not required to review each of these items every year.

(2) The purpose of this meeting is to provide an opportunity and forum for interested parties to submit evidence in support of or against proposed rate or fee adjustments, or issues related to procedures regarding the certification process.

(3) Interested parties must notify the Department of their desire to appear and be heard at the August Advisory Board meeting by August 1 of each year to ensure placement on the agenda.

**R909-19-[22]18. Ability to Petition for Review.**

Any Tow Truck Carrier who believes the Division has acted wrongfully in denying or suspending certification or in imposing a cease-and-desist order may petition the Department for review of that action pursuant to Utah Admin. Code R907-1, Administrative Procedures.

**R909-19-[23]19. Record Retention.**

Tow Truck Motor Carriers shall retain records relating to rates charged for services for a period of six months after the service has been provided. However, if the Division or the vehicle owner have notified the carrier that it disputes its ability to charge a particular fee, the carrier shall retain the record until six months after the dispute has concluded or a court rule or order requires a longer retention period.

**R909-19-[24]20. Life Essential Property.**

Property which is deemed as life essential shall be given to the vehicle owner regardless of payment for rendered services.

**KEY: safety regulations, tow trucks, towing, certifications**

**Date of Enactment or Last Substantive Amendment: ~~July 8, 2014~~2016**

**Notice of Continuation: September 19, 2011**

**Authorizing, and Implemented or Interpreted Law: 41-6a-1404; 41-6a-1405; 41-6a-1406; 53-1-106; 53-8-105; 72-9-601; 72-9-602; 72-9-603; 72-9-604; 72-9-301; 72-9-303; 72-9-701; 72-9-702; 72-9-703**

**End of the Notices of Proposed Rules Section**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <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.

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## Technology Services, Administration **R895-8** State Privacy Policy and Agency Privacy Policies

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39968  
FILED: 12/01/2015

### 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 issued by the Chief Information Officer (CIO) under the authority of Section 63F-1-206 of the Technology Governance Act, and in accordance with Section 63G-3-201 of the Utah Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during and since the last five-year review of the rule from interested persons supporting or opposing 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: The purpose of this rule is to: 1) establish a statewide policy for informing the public how personally identifiable information is collected and used by the State of Utah (State) websites; 2) describe the relationships that exist between state agency privacy policies and the Privacy Policy Statement for State of Utah Websites (the state policy); and 3) establish notification and posting requirements for state websites.

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

TECHNOLOGY SERVICES  
ADMINISTRATION  
ROOM 6000 STATE OFFICE BUILDING  
450 N STATE ST  
SALT LAKE CITY, UT 84114  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Stephanie Weteling by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at [stweiss@utah.gov](mailto:stweiss@utah.gov)

AUTHORIZED BY: Michael Hussey, Executive Director and CIO

EFFECTIVE: 12/01/2015

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End of the Five-Year Notices of Review and Statements of Continuation Section





## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the 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.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal & Reenact  
REP = Repeal

### Agriculture and Food

#### Animal Industry

No. 39775 (AMD): R58-11. Slaughter of Livestock and Poultry  
Published: 10/15/2015  
Effective: 11/23/2015

No. 39774 (AMD): R58-12. Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments  
Published: 10/15/2015  
Effective: 11/23/2015

#### Marketing and Development

No. 39762 (REP): R65-3. Utah Turkey Marketing Order  
Published: 10/15/2015  
Effective: 11/23/2015

No. 39763 (REP): R65-4. Utah Egg Marketing Order  
Published: 10/15/2015  
Effective: 11/23/2015

#### Plant Industry

No. 39773 (AMD): R68-1. Utah Bee Inspection Act Governing Inspection of Bees  
Published: 10/15/2015  
Effective: 11/23/2015

#### Regulatory Services

No. 39779 (AMD): R70-330. Raw Milk for Retail  
Published: 10/15/2015  
Effective: 11/23/2015

### Commerce

#### Occupational and Professional Licensing

No. 39780 (AMD): R156-17b. Pharmacy Practice Act Rule  
Published: 10/15/2015  
Effective: 12/01/2015

No. 39761 (AMD): R156-42a. Occupational Therapy Practice Act Rule  
Published: 10/15/2015  
Effective: 12/01/2015

No. 39461 (AMD): R156-55a. Utah Construction Trades Licensing Act Rule  
Published: 07/15/2015  
Effective: 11/23/2015

No. 39461 (CPR): R156-55a. Utah Construction Trades Licensing Act Rule  
Published: 10/15/2015  
Effective: 11/23/2015

No. 39772 (NEW): R156-61a. Behavior Analyst Licensing Act Rule  
Published: 10/15/2015  
Effective: 11/23/2015

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Effective: 11/23/2015

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Published: 10/15/2015  
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 Effective: 11/30/2015

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Published: 10/15/2015

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Published: 10/01/2015

Effective: 12/02/2015

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BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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/>).

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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
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R251-301	Employment, Educational or Vocational Training for Community Correctional Center Offenders	39540	5YR	07/23/2015	2015-16/80
R251-303	Offenders' Use of Telephones	39060	5YR	01/08/2015	2015-3/70
R251-303	Offenders' Use of Telephones	39610	5YR	08/24/2015	2015-18/134
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R277-100	Rulemaking Policy	39785	R&R	11/23/2015	2015-20/49
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R277-107	Educational Services Outside of Educator's Regular Employment	39489	AMD	08/26/2015	2015-14/41
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R277-201	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	39383	NEW	07/08/2015	2015-11/37
R277-201	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	39586	AMD	10/08/2015	2015-17/19
R277-202	UPPAC Hearing Procedures and Reports	39384	NEW	07/08/2015	2015-11/41
R277-202	UPPAC Hearing Procedures and Reports	39587	AMD	10/08/2015	2015-17/24
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R277-203	Request for Licensure Reinstatement and Reinstatement Procedures	39588	AMD	10/08/2015	2015-17/31
R277-204	Utah Professional Practices Advisory Commission Criminal Background Review	39386	NEW	07/08/2015	2015-11/50
R277-204	Utah Professional Practices Advisory Commission Criminal Background Review	39589	AMD	10/08/2015	2015-17/34
R277-205	Alcohol Related Offenses	39387	NEW	07/08/2015	2015-11/52
R277-205	Alcohol Related Offenses	39590	AMD	10/08/2015	2015-17/36
R277-206	Drug Related Offenses	39388	NEW	07/08/2015	2015-11/53
R277-206	Drug Related Offenses	39591	AMD	10/08/2015	2015-17/37
R277-206-1	Authority and Purpose	39937	NSC	11/24/2015	Not Printed
R277-404	Requirements for Assessments of Student Achievement	39340	AMD	06/23/2015	2015-10/28
R277-406	K-3 Reading Improvement Program and the State Reading Goal	39592	AMD	10/08/2015	2015-17/39
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R277-410	Accreditation of Schools	39490	AMD	08/26/2015	2015-14/43
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R277-417	Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation	39784	AMD	11/23/2015	2015-20/54
R277-418	Distance, Blended, Online, or Competency Based Learning Program	39373	NEW	07/08/2015	2015-11/57
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R277-444	Distribution of Funds to Arts and Science Organizations	39791	R&R	12/01/2015	2015-20/56
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R277-459	Classroom Supplies Appropriation	39286	AMD	06/08/2015	2015-9/12
R277-468	Parent/Guardian Review of Public Education Curriculum and Review of Complaint Process	39079	NEW	03/10/2015	2015-3/14
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R277-474	School Instruction and Human Sexuality	39287	AMD	06/08/2015	2015-9/13
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R277-487	Public School Data Confidentiality and Disclosure	39375	AMD	07/08/2015	2015-11/67
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R277-500	Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks	39491	AMD	08/26/2015	2015-14/46
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R277-516	Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees	39492	AMD	08/26/2015	2015-14/51
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R277-520	Appropriate Licensing and Assignment of Teachers	39379	AMD	07/08/2015	2015-11/80

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R277-602	Special Needs Scholarships - Funding and Procedures	39601	AMD	10/08/2015	2015-17/70
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R280-203	Certification Requirements for Interpreters/Transliterators for the Hearing Impaired	39790	AMD	11/23/2015	2015-20/73

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R307-122	General Requirements: Heavy Duty Vehicle Tax Credit	39354	NEW	09/03/2015	2015-11/89
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R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	CPR	02/04/2015	2015-1/48
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R313-15-1208	Reports of Leaking or Contaminated Sealed Sources	39082	AMD	03/17/2015	2015-3/21
R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	AMD	02/17/2015	2014-17/95
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GOVERNOR

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R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	39344	EXD	05/05/2015	2015-11/191
R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	39802	EMR	10/01/2015	2015-20/121
R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	39450	NEW	11/04/2015	2015-14/66
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R357-2	Targeted Business Tax Credit	39527	NSC	08/17/2015	Not Printed
R357-3	Refundable Economic Development Tax Credit	39094	R&R	04/13/2015	2015-4/12
R357-3	Refundable Economic Development Tax Credit	39528	NSC	08/17/2015	Not Printed



R357-4	Government Procurement Private Proposal Program	39529	NSC	08/17/2015	Not Printed
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R357-6	Technology and Life Science Economic Development and Related Tax Credits	39531	NSC	08/17/2015	Not Printed
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R357-12	Fiscal Emergency Contingent Management of Federal Lands	38945	NEW	03/20/2015	2014-23/17
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**ABBREVIATIONS**

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  
 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

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	39354	R307-122	NEW	09/03/2015	2015-11/89	
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	39396	R628-15	NEW	07/13/2015	2015-11/126	
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