UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed December 16, 2015, 12:00 a.m. through December 31, 2015, 11:59 p.m.

Number 2016-2
January 15, 2016

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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.

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: 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

Utah state bulletin.
Semimonthly.
1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
I. Utah. Division of Administrative Rules.

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348.792'025--DDC 85-643197

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SPECIAL NOTICES

Environmental Quality
Air Quality

Notice of Public Hearing for the Sulfur Dioxide Milestone Report

Utah's State Implementation Plan for Regional Haze (the Plan) adopted by the Air Quality Board on April 6, 2011, requires that Utah cooperate with New Mexico, Wyoming, and Albuquerque-Bernalillo County in producing an annual report to determine if the average emissions of sulfur dioxide (SO2) from large industrial sources for the most current three-year period are less than the emissions milestone set in the Plan. The average emissions inventory for 2012-2014 is calculated by totaling all emissions from participating entities for each year, then averaging the three years of data. This number is then compared to the 2014 milestone set in the Plan. The draft report for calendar year 2014 is now available for public comment at http://www.deq.utah.gov/NewsNotices/notices/air/Pubrule.htm.

The report shows that adjusted total emissions of SO2 in 2014 from large sources in the participating entities -- Utah, New Mexico, Wyoming, and Albuquerque-Bernalillo County -- were 91,381 tons; that the average SO2 emissions for 2012-2014 were 96,392 tons; and that the SO2 milestone for 2014 is 170,868 tons. The report demonstrates that emissions from the participating entities are less than the milestone and have met the requirements of the Plan for 2014. Therefore, implementation of the SO2 backstop trading program identified in the Plan is not triggered.

The Utah Division of Air Quality will hold a public hearing at 10:00 a.m. on February 10, 2016, in the DEQ Building, Four Corners Conference Room (Room No. 4100), at 195 North 1950 West, Salt Lake City, Utah. In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact the Office of Human Resources, at 801-536-4412 (TDD 536-4414).

The comment period closes at 5:00 p.m. on February 16, 2016. Comments postmarked on or before that date will be accepted.

Comments may be submitted by electronic mail to jbaker@utah.gov or may be mailed to:

ATTN: SO2 Milestone Report
Bryce Bird, Director
Utah Division of Air Quality
PO Box 144820
Salt Lake City, UT 84114-4820

Health
Health Care Financing, Coverage and Reimbursement Policy

Notice for February 2016 Medicaid Rate Changes

Effective February 1, 2016, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: http://health.utah.gov/medicaid/stplan/bcrp.htm.

End of the Special Notices Section

NOTICES OF
PROPOSED RULES

A state agency may file a **Proposed Rule** when it determines the need for a substantive change to an existing rule. With a **Notice of Proposed Rule**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 16, 2015, 12:00 a.m., and December 31, 2015, 11:59 p.m. are included in this, the January 15, 2016, 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 February 16, 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 May 14, 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.

The Proposed Rules Begin on the Following Page

Administrative Services, Finance
R25-7-10
Reimbursement for Transportation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40042
FILED: 12/31/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change is because the IRS announced a rate decrease in the rate for private vehicle use from 56 cents per mile to 54 cents per mile. The Division has determined that the reimbursement rate for private vehicles should decrease to 54 cents per mile to avoid exceeding federal mileage reimbursement rates.

SUMMARY OF THE RULE OR CHANGE: The rule decreases the reimbursement rate for mileage on private vehicles. (DAR NOTE: A corresponding 120-day (emergency) rule that is effective as of 01/01/2016 is under DAR No. 40046 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-106 and Section 63A-3-107

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will potentially be a decrease in cost to the state as mileage reimbursements are decreasing. However, the agency cannot determine exactly what the decrease will be because it is impossible to anticipate how much travel state employees will do.
♦ LOCAL GOVERNMENTS: There will not be costs to local governments because the rule only governs reimbursements by the state to individuals traveling on state business.
♦ SMALL BUSINESSES: Because this change deals only with reimbursement rates for mileage for state employees, small businesses are not affected.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Individuals eligible for reimbursement will see a decrease in their mileage reimbursement amounts for travel in private vehicles.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the amendment only changes mileage reimbursement rates and does not require any new action on the part of persons applying for reimbursements, there are not compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed these changes with the Division of Finance Director and believe these changes are warranted. Individuals may see a slight decrease in reimbursement amounts; however, the Division cannot determine exactly what the decrease will be as that depends on the amount of travel by individuals eligible for mileage reimbursement. This rule change will have no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
FINANCE
ROOM 2110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at rbeckstead@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: John Reidhead, Director

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.
R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the department director or designee.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage and because of federal security regulations, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the economy lot parking rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51B for amounts of $20 or more.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 38 cents per mile or [~~56~~]54 cents per mile if a state vehicle is not available to the employee.

(i) To determine which rate to use, the traveler must first determine if their department has an agency vehicle (long-term leased vehicle from Fleet Operations) that meets their needs and is reasonably available for the trip (does not apply to special purpose vehicles). If reasonably available, the employee should use an agency vehicle. If an agency vehicle that meets their needs is not reasonably available, the agency may approve the traveler to use either a daily pool fleet vehicle or a private vehicle. If a daily pool fleet vehicle is not reasonably available, the traveler may be reimbursed at [~~56~~]54 cents per mile.

(ii) If a trip is estimated to average 100 miles or more per day, the agency should approve the traveler to rent a daily pool fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency approves the traveler to take a private vehicle, the employee will be reimbursed at the lower rate of 38 cents per mile.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

(d) Exceptions must be approved in writing by the Director of Finance.

(e) Mileage will be computed using Mapquest or other generally accepted map/route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(f) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51B, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if preapproved by the Department Director or designee.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 38 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director or designee.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(d) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director or designee.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the State Travel Office must be approved in advance by the Department Director or designee.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director or designee that the pilot is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, the pilot must certify the existence of at least $500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least $500,000 for liability coverage.

(d) Reimbursement will be made at [~~56~~]54 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 20 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Executive Director of the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowances, state employees, transportation

Date of Enactment or Last Substantive Amendment: [~~June 22, 2015~~]2016
Notice of Continuation: April 15, 2013
Authorizing, and Implemented or Interpreted Law: 63A-3-107; 63A-3-106

Administrative Services, Purchasing and General Services
R33-6-114
Technology Acquisitions for Executive Branch Procurement Units

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40048
FILED: 12/31/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R33-6-114 is no longer needed as part of the rule. Sections R33-6-114 and R33-12-502 addressed the same issue, technology acquisitions. It was confusing to have this issue addressed in duplicate rules so the Board decided to delete Section R33-6-114. Additionally, Section R33-12-502 was rewritten to clarify recent issues pertaining to technology acquisitions. The Technology Advisory Board no longer meets or functions, as a result, the recommendation from the Division of Technology Services (DTS) was to have approvals made by the director of DTS. (DAR NOTE: The proposed amendment to Section R33-12-502 is under DAR No. 40047 in this issue, January 15, 2016, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Section R33-6-114 is being deleted from the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 6a

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings that are expected to the state budget. The changes to the rule simply removes the section on technology acquisitions for executive branch procurement units.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings that are expected to local government. Section R33-6-114 is being removed from the rule, and only applies to executive branch procurement units.
♦ SMALL BUSINESSES: There are no anticipated costs or savings that are expected to small businesses. Small businesses are not affected by the amendment, as Section R33-6-114 only applies to executive branch procurement units, and said section is being removed from the rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings that are expected to persons other than small businesses, businesses, or local government entities. Such persons are not affected by the amendment, as Section R33-6-114 only applies to executive branch procurement units, and said section is being removed from the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for the affected persons. The change to the rule is to delete the section on technology acquisitions for executive branch procurement units.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that the rule may have on businesses. Businesses are not affected by the removal of Section R33-6-114 as it only applies to executive branch procurement units ability to determine whether a new technology exists.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
PURCHASING AND GENERAL SERVICES
ROOM 3150 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Kent Beers by phone at 801-538-3143, by FAX at 801-538-3882, or by Internet E-mail at kbeers@utah.gov
♦ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services.
R33-6. Bidding.
[**~~R33-6-114. Technology Acquisitions for Executive Branch Procurement Units.~~**

~~(1) For executive branch procurement units, the Invitation for Bids may state that at any time during the term of a contract, the acquiring agency may undertake a review in consultation with the Utah Technology Advisory Board and the Department of Technology Services to determine whether a new technology exists that is in the best interest of the acquiring agency, taking into consideration cost,~~

~~life-cycle, references, current customers, and other factors and that the acquiring agency reserves the right to:~~

~~(a) negotiate with the contractor for the new technology, provided the new technology is substantially within the original scope of work;~~

~~(b) terminate the contract in accordance with the existing contract terms and conditions; or~~

~~(c) conduct a new procurement for an additional or supplemental contract as needed to take into account new technology.~~

~~(2) Subject to the provisions of Section 63G-6a-802, the trial use or testing of new technology may be permitted for a duration not to exceed the maximum time necessary to evaluate the technology.~~]

KEY: government purchasing, sealed bidding, multiple stage bidding, reverse auction
Date of Enactment or Last Substantive Amendment: [~~July 9, 2015~~]2016
Notice of Continuation: July 8, 2014
Authorizing, and Implemented or Interpreted Law: 63G-6a

Administrative Services, Purchasing and General Services
R33-12-502
Technology Modifications

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40047
FILED: 12/31/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R33-12-502 has been amended to incorporate contract modifications for new technology and technological upgrades. Technology modifications are no longer needed as part of the rule. Sections R33-6-114 and R33-12-502 addressed the same issue, technology acquisitions. It was confusing to have this issue addressed in duplicate rules so the Board decided to rewrite Section R33-12-502 to clarify some recent issues pertaining to technology acquisitions. The Technology Advisory Board no longer meets or functions. As a result, the recommendation from the Department of Technology Services (DTS) was to have approvals made by the director of DTS. (DAR NOTE: The proposed amendment to Section R33-6-114 is under DAR No. 40048 in this issue, January 15, 2016, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Section R33-12-502 has been rewritten to comply with the Board's decision to clarify some recent issues pertaining to technology acquisitions, including that the Technology Advisory Board no longer meets or functions, and as a result, the recommendation from DTS was to have approvals made by the director of DTS. Additionally, Section R33-12-502 will now address contract modifications for new technology and technological upgrades, which will require obtaining the approval of the executive director of DTS.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 6a

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings that are expected to the state budget. The changes to the rule simply rewrite Section R33-12-502 to provide clarification on recent issues pertaining to technology acquisitions, which includes addressing contract modifications for new technology and technological upgrades.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings that are expected for local government. The changes to the rule simply rewrite Section R33-12-502 to provide clarification on recent issues pertaining to technology acquisitions, which includes addressing contract modifications for new technology and technological upgrades.
♦ SMALL BUSINESSES: There are no anticipated costs or savings that are expected for small businesses. Small businesses are not affected by the amendment as the rule only applies to contract modifications for new technology and technological upgrades, and requires executive branch procurement units to obtain the approval of the executive director of DTS.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings that are expected for persons other than small businesses, businesses, or local government. Said persons are not affected by the amendment as the rule only applies to contract modifications for new technology and technological upgrades, and requires executive branch procurement units to obtain the approval of the executive director of DTS.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons. The changes to the rule simply rewrite Section R33-12-502 to provide clarification on recent issues pertaining to technology acquisitions, which now addresses contract modifications for new technology and technological upgrades. Additionally, the rule only applies to contract modifications for new technology and technological upgrades, and requires executive branch procurement units to obtain the approval of the executive director of DTS.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that the rule may have on businesses. The changes only address that a contract for a procurement item may be modified to include new technology or technological upgrades associated with the procurement item. Additionally, the change only provides clarification on recent issues pertaining to technology acquisitions, which includes addressing contract modifications for new technology and technological upgrades.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
PURCHASING AND GENERAL SERVICES
ROOM 3150 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Kent Beers by phone at 801-538-3143, by FAX at 801-538-3882, or by Internet E-mail at kbeers@utah.gov
♦ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Division of Purchasing and General Services.
R33-12. Terms and Conditions, Contracts, Change Orders and Costs.
R33-12-502. Contract Modifications for New Technology and Technological Upgrades.[~~Technology Modifications.~~
~~(1) Any contract subject to a modification for technological upgrades shall have had a provision to that effect included in the solicitation. Any modification to a contract for upgraded technology must be substantially within the scope of the original procurement or contract, and if both parties agree to the modification, then the contract may be modified.~~
~~(2) Any contract subject to a modification for technological upgrades shall have had a provision to that effect included in the solicitation. No contract modification for new technology requested by an acquiring agency shall be exercised without the approval required under Section 63F-1-205, the new technology modification has been subject to the review as described in Rule R33-6-113 and the contracting parties agree to the modification.~~
~~(3) No contract may be extended beyond the term of the contract included in the solicitation except as provided in the Utah Procurement Code.~~]
A contract for a procurement item may be modified to include new technology or technological upgrades associated with the procurement item, provided:
(1) The solicitation contains a statement indicating that:
(a) the awarded contract may be modified to incorporate new technology or technological upgrades associated with the procurement item being solicited, including new or upgraded:
(i) systems;
(ii) apparatuses;
(iii) modules;
(iv) components; and
(v) other supplementary items;
(b) a maintenance or service agreement associated with the procurement item under contract may be modified to include any new technology or technological upgrades; and
(c) Any contract modification incorporating new technology or technological upgrades is specific to the procurement item being solicited and substantially within the scope of the original procurement or contract.
(2) Any contract modification incorporating new technology or technological upgrades is agreed upon by all parties and is executed using the process set forth in the contract for other contract modifications.
(3) Prior to executing a contract modification incorporating new technology or technological upgrades, executive branch procurement units shall obtain the approval of the Executive Director of the Department of Technology Services.
(4) A contract modification for new technology or technology upgrades may not extend the term of the contract except as provided in the Utah Procurement Code.

KEY: terms and conditions, contracts, change orders, costs
Date of Enactment or Last Substantive Amendment: [~~January 28, 2015~~]2016
Notice of Continuation: July 8, 2014
Authorizing, and Implemented or Interpreted Law: 63G-6a

Commerce, Occupational and Professional Licensing
R156-47b
Massage Therapy Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40000
FILED: 12/22/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Board of Massage Therapy determined an amendment is needed to address applicants who meet the required 600 education hours but are deficient in one or more of the required curriculum categories. Additional amendments are needed: 1) to reflect current exam requirements; and 2) to standardize the length of licensed experience for applicants who: a) complete education in the United States but not in Utah; b) complete foreign education; and c) complete an apprenticeship in the United States but not in Utah. An amendment is needed for a more consistent method to substantiate licensed experience. Massage therapists typically do not work regular hours or have the same service charges; therefore, it is difficult to determine hours worked based on income. Experience is changed from number of hours to years of experience, be it part-time or full-time.

SUMMARY OF THE RULE OR CHANGE: The existing Subsection R156-47b-302(3) is deleted as obsolete language per the change made to Subsection R156-47b-302b(1). A new Subsection R156-47b-302(3) is added to allow supplemental coursework to be considered when an applicant has completed the required 600 total education hours but has incidental deficiencies in one or more of the required curriculum. Subsection R156-47b-302a(1)(a)(iii) amends the minimum experience requirement for an applicant who completed education in the United states but not in Utah from 2,000 hours to 3 years of licensed experience. Subsection R156-47b-302a(1)(b)(ii) amends the minimum experience requirement for an applicant who completed foreign education from 2,000 hours to 3 years of licensed experience. Subsection R156-47b-302a(1)(c)(i) amends the out of state apprenticeship program "equivalent" requirement to "substantially equivalent" requirement, as determined by the Division in collaboration with the Board of Massage Therapy. Subsection R156-47b-302a(1)(c)(iii) amends the minimum experience requirement for an applicant who completes an apprenticeship in the Unites States but not in Utah from 4,000 hours to 3 years of licensed experience. Subsection R156-47b-302b(1) amends the examination requirement to require the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination (MBlex) as the sole examination meeting the examination requirement. The deleted examinations are no longer in existence. Subsection R156-47b-302b(2) is deleted as redundant language. Subsection R156-47b-302b(2) is added to grandfather predecessor exams if the exam was passed during the time the exam was accepted by the Division.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-47b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ♦ Removes National Certification Examination for Therapeutic Massage and Bodywork (NCBTMB) Content Outline, published by National Certification Board for Therapeutic Massage and Bodywork, January 2010
- ♦ Removes National Certification Examination for Therapeutic Massage (NCETM) Content Outline, published by National Certification Board of Therapeutic Massage and Bodywork, January 2010

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

♦ LOCAL GOVERNMENTS: The proposed amendments apply only to licensed massage therapists, massage apprentices, and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

♦ SMALL BUSINESSES: The proposed amendments will potentially affect licensed massage therapists who are generally self-employed, leasing space, or employed by a company. The proposed amendment to Subsection R156-47b-302(3) should result in a cost savings to applicants who are allowed to complete supplemental coursework rather than retake the entire 600 hours of coursework. It would not be typical for 2,000 hours to be acquired in less than 3 years; therefore, the proposed amendments to Subsection R156-47b-302a(1)(a)(iii) and Subsection R156-47b-302a(1)(b)(ii) will have no significant impact. The proposed amendment to Subsection R156-47b-302a(1)(c)(iii) will establish consistency of the experience requirements and will have no significant impact. The Division is not able to estimate the aggregate cost savings to small businesses or the public.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments will potentially affect licensed massage therapists who are generally self-employed, leasing space, or employed by a company. The proposed amendment to Subsection R156-47b-302(3) should result in a cost savings to applicants who are allowed to complete supplemental coursework rather than retaking the entire 600 hours of coursework. It would not be typical for 2,000 hours to be acquired in less than 3 years; therefore, the proposed amendments to Subsection R156-47b-302a(1)(a)(iii) and Subsection R156-47b-302a(1)(b)(ii) will have no significant impact. The proposed amendment to Subsection R156-47b-302a(1)(c)(iii) will establish consistency of the experience requirements and will have no significant impact. The Division is not able to estimate the aggregate cost savings to other businesses or the public.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment to Subsection R156-47b-302(3) should result in a cost savings to applicants who are allowed to complete supplemental coursework rather than retaking the entire 600 hours of coursework. It would not be typical for 2,000 hours to be acquired in less than 3 years; therefore, the proposed amendments to Subsection R156-47b-302a(1)(a)(iii) and Subsection R156-47b-302a(1)(b)(ii) will have no significant impact. The proposed amendment to Subsection R156-47b-302a(1)(c)(iii) will establish consistency of the experience requirements and will have no significant impact. The individual impact of such savings cannot be estimated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing makes changes to: give the Division and Board discretion to license applicants who have completed the required 600 education hours, but are deficient in one or more of the required curriculum categories; reflect current exam requirements; and determine experience based on years of experience instead of number of hours. No costs are anticipated for small businesses due to these proposed amendments.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/19/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-47b. Massage Therapy Practice Act Rule.
R156-47b-302. Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards.

In accordance with Subsection 58-47b-302(2)(e)(i)(A), an applicant must graduate from a school of massage with a curriculum, which at the time of graduation, meets the [~~following~~] standards set forth in this section.[~~:~~]

(1) Curricula shall:

(a) be registered with the Utah Department of Commerce, Division of Consumer Protection; or

(b) be registered with an accrediting agency recognized by the United States Department of Education.

(2) Curricula shall be a minimum of 600 hours and shall include the following:

(a) anatomy, physiology and kinesiology - 125 hours;

(b) pathology - 40 hours;

(c) massage theory, massage techniques including the five basic Swedish massage strokes, and hands on instruction - 285 hours;

(d) professional standards, ethics and business practices - 35 hours;

(e) sanitation and universal precautions including CPR and first aid - 15 hours;

(f) clinic - 100 hours; and

(g) other related massage subjects as approved by the Division in collaboration with the Board.

(3) [~~In addition to the curriculum requirements of Subsection R156-47b-302a(2), new curricula shall include the major content areas, but are not required to meet the percentage weights of the National Certification Examination for Therapeutic Massage and Bodywork (NCBTMB) Content Outline, published January 2010, and the National Certification Examination for Therapeutic Massage (NCETM) Content Outline, published January 2010 which are adopted and incorporated by reference.~~]The Division, in collaboration with the Board, may consider supplemental coursework of an applicant who has completed the minimum 600 curricula hours, but has incidental deficiencies in one or more of the categories specified in R156-47b-302(2)(a) through (f).

R156-47b-302a. Qualifications for Licensure - Equivalent Education and Training.

(1) In accordance with Subsection 58-47b-302(2)(e)(i)(B), an applicant who completes equivalent education and training must provide documentation of:

(a)(i) graduation from a licensed or recognized school outside the state of Utah with a minimum of 500 hours;

(ii) completion of the examination requirements; and

(iii) practice as a licensed massage therapist for a minimum of [~~2,000 hours~~]three years; or

(b)(i) foreign education and training approval by:

(A) Josef Silny [~~and~~]& Associates, Inc.;

(B) International Education Consultants; or

(C) Educational Credential Evaluators, Inc.; and

(ii) practice as a licensed massage therapist for a minimum of [~~2,000 hours~~]three years; or

(c)(i) completion of an [~~equivalent~~]apprenticeship program outside the state of Utah, deemed substantially equivalent as determined by the Division, in collaboration with the Board of Massage Therapy;

(ii) completion of the examination requirements; and

(iii) practice as a licensed massage therapist for a minimum of [~~4,000 hours~~]three years.

(2) Hours of supervised training while licensed as a massage therapy apprentice trained in accordance with Subsection R156-47b-302c(5) may not be used to satisfy any of the required minimum of 600 hours of school instruction specified in Section R156-47b-302(2).

(3) Hours of instruction or training obtained while enrolled in a school of massage having a curriculum meeting the standards in accordance with Section R156-47b-302(2) may not be used to satisfy the required minimum of 1,000 hours of supervised apprenticeship training specified in Subsection R156-47b-302c(5).

R156-47b-302b. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-47b-302(2)(f) and 58-47b-302(3)(f), the examination requirements for licensure are defined, clarified, or established as follows:

(1) Applicants for licensure as a massage therapist shall pass [~~one of the following examinations:~~

~~(a) the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);~~

~~(b) the National Certification Examination for Therapeutic Massage (NCETM);~~

~~(c) the National Examination for State Licensure (NESL);~~ ~~or~~

~~(d)~~]the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination (MBLEx).

(2) [~~Applicants for licensure as a massage therapist who have completed a "Utah Massage Apprenticeship" shall pass the FSMTB MBLEx.~~]Predecessor exams shall be accepted if the exam was passed during the time the exam was accepted by the Division.

KEY: licensing, massage therapy, massage therapist, massage apprentice
Date of Enactment or Last Substantive Amendment: [~~May 28, 2015~~]2016
Notice of Continuation: May 1, 2012
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101

Commerce, Real Estate
R162-2f
Real Estate Licensing and Practices Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40041
FILED: 12/30/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed rule is to define closing and inducement gifts, amend the real estate auction rules, and clarify the rules relating to closing and inducement gifts.

SUMMARY OF THE RULE OR CHANGE: Section R162-2f-102 is proposed to be amended to define the terms "closing gift" and "inducement gift." Section R162-2f-401a is proposed to be amended to delete the current rule regarding inducement gifts. Section R162-2f-401i is proposed to be amended to require the following: 1) that the auctioneer be a licensed principal broker or affiliated with a licensed principal broker; and 2) that the auctioneer/auction company shall not advertise directly to an owner of real property who is already subject to an agency agreement. Section R162-2f-401l is proposed to be added to the rule to clarify that an inducement gift and/or a closing gift are not prohibited as an illegal sharing of a commission by a licensee.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2f-103

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The division has the staff and budget in place to administer this proposed amendment. It is not expected that the proposed amendment will affect those resources or result in any cost or savings to the state budget.
♦ LOCAL GOVERNMENTS: Local governments are not required to comply with or enforce the real estate licensing and practices rules. No fiscal impact to local government is expected from the proposed amendment.
♦ SMALL BUSINESSES: The proposed amendment requires real estate auction companies to hire or affiliate with a licensed real estate broker. To the extent that an auctioneer has not previously been licensed as or affiliated with a real estate broker, there could be some fiscal impact on these small businesses. Some auction companies have been affiliated with real estate brokers. The fiscal impact to small business will vary and cannot be anticipated.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: With the exception of affected persons noted in section 8 of this notice, no fiscal impact to persons other than small businesses, businesses, or local government entities is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment requires real estate auction companies to hire or affiliate with a licensed real estate broker. To the extent that an auctioneer or auction company has not previously been licensed as or affiliated with a real estate broker, there could be some fiscal impact on these persons and companies. Some auction companies have been affiliated with real estate brokers and will be unaffected by the proposed rule amendment. The fiscal impact to affected persons will vary and cannot be anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this rule defines and clarifies rules relating to closing and inducement gifts, and amends the real estate auction rules to require auction companies and auctioneers to either be licensed as a principal broker or be affiliated with a principal broker when performing real estate auctions. This proposed rule amendment will fiscally impact real estate auction companies and auctioneers, whether they choose to become licensed or to affiliate with a principal broker. Obtaining and maintaining a principal broker license would certainly impact auction companies or auctioneers. And the alternative, to affiliate with a licensed principal broker rather than become licensed, requires the principal broker to supervise all aspects of the auction, including attending the auction. This supervision and attendance will likely incur fees and also fiscally impact auction companies and auctioneers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Jonathan Stewart, Director

R162. Commerce, Real Estate.
R162-2f. Real Estate Licensing and Practices Rules.
R162-2f-102. Definitions.

(1) "Active license" means a license granted to an applicant who:

(a) qualifies for licensure under Section 61-2f-203 and these rules;

(b) pays all applicable nonrefundable license fees; and

(c) affiliates with a principal brokerage.

(2) "Advertising" means solicitation through:

(a) newspaper;

(b) magazine;

(c) Internet;

(d) e-mail;

(e) radio;

(f) television;

(g) direct mail promotions;

(h) business cards;

(i) door hangers;

(j) signs; or

(k) any other medium.

(3) "Affiliate":

(a) when used in reference to licensure, means to form, for the purpose of providing a real estate service, an employment or non-employment association with another individual or entity licensed or registered under Title 61, Chapter 2f et seq. and these rules; and

(b) when used in reference to an undivided fractionalize long-term estate, means an individual or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified individual or entity.

(4) "Branch broker" means an associate broker who manages a branch office under the supervision of the principal broker.

(5) "Branch office" means a principal broker's real estate brokerage office other than the principal broker's main office.

(6) "Brokerage" means a real estate sales or a property management company.

(7) "Brokerage record" means any record related to the business of a principal broker, including:

(a) record of an offer to purchase real estate;

(b) record of a real estate transaction, regardless of whether the transaction closed;

(c) licensing records;

(d) banking and other financial records;

(e) independent contractor agreements;

(f) trust account records, including:

(i) deposit records in the form of a duplicate deposit slip, deposit advice, or equivalent document; and

(ii) conveyance records in the form of a check image, wire transfer verification, or equivalent document; and

(g) records of the brokerage's contractual obligations.

(8) "Business day" is defined in Subsection 61-2f-102(3).

(9) "Certification" means authorization from the division to:

(a) establish and operate a school that provides courses approved for prelicensing education or continuing education; or

(b) function as an instructor for courses approved for prelicensing education or continuing education.

(10) "Closing gift" means any gift given by a principal broker, or a licensee affiliated with the principal broker, to a buyer or seller, lessor or lessee, in appreciation for having used the services of a real estate brokerage.

[~~(10)~~](11) "Commission" means the Utah Real Estate Commission.

[~~(11)~~](12) "Continuing education" means professional education required as a condition of renewal in accordance with Section R162-2f-204 and may be either:

(a) core: topics identified in Subsection R162-2f-206c(5)(c); or

(b) elective: topics identified in Subsection R162-2f-206c(5)(e).

[~~(12)~~](13) "Correspondence course" means a self-paced real estate course that:

(a) is not distance or traditional education; and

(b) fails to meet real estate educational course certification standards because:

(i) it is primarily student initiated; and

(ii) the interaction between the instructor and student lacks substance and/or is irregular.

[~~(13)~~](14) "Day" means calendar day unless specified as "business day."

[~~(14)~~](15)(a) "Distance education" means education in which the instruction does not take place in a traditional classroom setting, but occurs through other interactive instructional methods where teacher and student are separated by distance and sometimes by time, including the following:

(i) computer conferencing;

(ii) satellite teleconferencing;

(iii) interactive audio;

(iv) interactive computer software;

(v) Internet-based instruction; and

(vi) other interactive online courses.

(b) "Distance education" does not include home study and correspondence courses.

[~~(15)~~](16) "Division" means the Utah Division of Real Estate.

[~~(16)~~](17) "Double contract" means executing two or more purchase agreements, one of which is not made known to the prospective lender or loan funding entity.

[~~(17)~~](18) "Expired license" means a license that is not renewed pursuant to Section 61-2f-204 and Section R162-2f-204 by:

(a) the close of business on the expiration date, if the expiration date falls on a day when the division is open for business; or

(b) the next business day following the expiration date, if the expiration date falls on a day when the division is closed.

[~~(18)~~](19) "Guaranteed sales plan" means:

(a) a plan in which a seller's real estate is guaranteed to be sold; or

(b) a plan whereby a licensee or anyone affiliated with a licensee agrees to purchase a seller's real estate if it is not purchased by a third party:

(i) in the specified period of a listing; or

(ii) within some other specified period of time.

[~~(19)~~](20) "Inactive license" means a license that has been issued pursuant to Sections R162-2f-202a through 202c or renewed pursuant to Section R162-2f-204, but that may not be used to conduct the business of real estate because the license holder is not affiliated with a principal broker. Pursuant to Section R162-2f-203, a license may be inactivated:

(a) voluntarily, with the assent of the license holder; or

(b) involuntarily, without the assent of the license holder.

(21) "Inducement gift" means any gift given by a principal broker, or a licensee affiliated with the principal broker, to a buyer or seller, lessor or lessee, in a real estate transaction as an incentive to use the services of a real estate brokerage.

[~~(20)~~](22) "Informed consent" means written authorization, obtained from both principals to a single transaction, to allow a licensee to act as a limited agent.

[~~(21)~~](23) "Limited agency" means the representation of all principals in the same transaction to negotiate a mutually acceptable agreement:

(a) subject to the terms of a limited agency agreement; and

(b) with the informed consent of all principals to the transaction.

[~~(22)~~](24) "Net listing" means a listing agreement under which the real estate commission is the difference between the actual selling price of the property and a minimum selling price as set by the seller.

[~~(23)~~](25)(a) "Non-certified education" means a continuing education course offered outside of Utah, but for which a licensee may apply for credit pursuant to Subsection R162-2f-206c(1)(b).

(b) "Non-certified education" does not include:

(i) home study courses; or

(ii) correspondence courses.

[~~(24)~~](26) "Nonresident applicant" means a person:

(a) whose primary residence is not in Utah; and

(b) who qualifies under Title 61, Chapter 2f et seq. and these rules for licensure as a principal broker, associate broker, or sales agent.

[~~(25)~~](27) "Principal brokerage" means the main real estate or property management office of a principal broker.

[~~(26)~~](28) "Principal" in a transaction means an individual who is represented by a licensee and may be:

(a) the buyer or lessee;

(b) an individual having an ownership interest in the property;

(c) an individual having an ownership interest in the entity that is the buyer, seller, lessor, or lessee; or

(d) an individual who is an officer, director, partner, member, or employee of the entity that is the buyer, seller, lessor, or lessee.

[~~(27)~~](29) "Provider" means an individual or business that is approved by the division to offer continuing education.

[~~(28)~~](30) "Property management" is defined in Subsection 61-2f-102(19).

[~~(29)~~](31) "Registration" means authorization from the division to engage in the business of real estate as:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) an association;

(e) a dba;

(f) a professional corporation;

(g) a sole proprietorship; or

(h) another legal entity of a real estate brokerage.

[~~(30)~~](32) "Reinstatement" is defined in Subsection 61-2f-102(22).

[~~(31)~~](33) "Reissuance" is defined in Subsection 61-2f-102(23).

[~~(32)~~](34) The acronym RELMS means "real estate licensing and management system," which is the online database through which licensees shall submit licensing information to the division.

[~~(33)~~](35) "Renewal" is defined in Subsection 61-2f-102(24).

[~~(34)~~](36) "Residential property" means real property consisting of, or improved by, a single-family one- to four-unit dwelling.

[~~(35)~~](37) "School" means:

(a) any college or university accredited by a regional accrediting agency that is recognized by the United States Department of Education;

(b) any community college or vocational-technical school;

(c) any local real estate organization that has been approved by the division as a school; or

(d) any proprietary real estate school.

[~~(36)~~](38) "Sponsor" means the party that is the seller of an undivided fractionalized long-term estate.

[~~(37)~~](39) "Third party service provider" means an individual or entity that provides a service necessary to the closing of a specific transaction and includes:

(a) mortgage brokers;

(b) mortgage lenders;

(c) loan originators;

(d) title service providers;

(e) attorneys;

(f) appraisers;

(g) providers of document preparation services;

(h) providers of credit reports;

(i) property condition inspectors;

(j) settlement agents;

(k) real estate brokers;

(l) marketing agents;

(m) insurance providers; and

(n) providers of any other services for which a principal or investor will be charged.

[~~(38)~~](40) "Traditional education" means education in which instruction takes place between an instructor and students where all are physically present in the same classroom.

[~~(39)~~](41) "Undivided fractionalized long-term estate" is defined in Subsection 61-2f-102(26).

R162-2f-401a. Affirmative Duties Required of All Licensed Individuals.

An individual licensee shall:

(1) uphold the following fiduciary duties in the course of representing a principal:

(a) loyalty, which obligates the agent to place the best interests of the principal above all other interests, including the agent's own;

(b) obedience, which obligates the agent to obey all lawful instructions from the principal;

(c) full disclosure, which obligates the agent to inform the principal of any material fact the agent learns about:

(i) the other party; or

(ii) the transaction;

(d) confidentiality, which prohibits the agent from disclosing, without permission, any information given to the agent by the principal that would likely weaken the principal's bargaining position if it were known, but excepting any known material fact concerning:

(i) a defect in the property; or

(ii) the client's ability to perform on the contract;

(e) reasonable care and diligence;

(f) holding safe and accounting for all money or property entrusted to the agent; and

(g) any additional duties created by the agency agreement;

(2) for the purpose of defining the scope of the individual's agency, execute a written agency agreement between the individual and the individual's principal, including:

(a) seller(s) the individual represents;

(b) buyer(s) the individual represents;

(c) buyer(s) and seller(s) the individual represents as a limited agent in the same transaction pursuant to this Subsection (4);

(d) the owner of a property for which the individual will provide property management services; and

(e) a tenant whom the individual represents;

(3) in order to represent both principals in a transaction as a limited agent, obtain informed consent by:

(a) clearly explaining in writing to both parties:

(i) that each is entitled to be represented by a separate agent;

(ii) the type(s) of information that will be held confidential;

(iii) the type(s) of information that will be disclosed; and

(iv) the circumstances under which the withholding of information would constitute a material misrepresentation regarding the property or regarding the abilities of the parties to fulfill their obligations;

(b) obtaining a written acknowledgment from each party affirming that the party waives the right to:

(i) undivided loyalty;

(ii) absolute confidentiality; and

(iii) full disclosure from the licensee; and

(c) obtaining a written acknowledgment from each party affirming that the party understands that the licensee will act in a neutral capacity to advance the interests of each party;

(4) when acting under a limited agency agreement:

(a) act as a neutral third party; and

(b) uphold the following fiduciary duties to both parties:

(i) obedience, which obligates the limited agent to obey all lawful instructions from the parties, consistent with the agent's duty of neutrality;

(ii) reasonable care and diligence;

(iii) holding safe all money or property entrusted to the limited agent; and

(iv) any additional duties created by the agency agreement;

(5) prior to executing a binding agreement, disclose in writing to clients, agents for other parties, and unrepresented parties:

(a) the licensee's position as a principal in any transaction where the licensee operates either directly or indirectly to buy, sell, lease, or rent real property;

(b) the fact that the licensee holds a license with the division, whether the license status is active or inactive, in any circumstance where the licensee is a principal in an agreement to buy, sell, lease, or rent real property;

(c) the licensee's agency relationship(s);

(d)(i) the existence or possible existence of a due-on-sale clause in an underlying encumbrance on real property; and

(ii) the potential consequences of selling or purchasing a property without obtaining the authorization of the holder of an underlying encumbrance;

(6) in order to offer any property for sale or lease, make reasonable efforts to verify the accuracy and content of the information and data to be used in the marketing of the property;

(7) in order to offer a residential property for sale, disclose the source on which the licensee relies for any square footage data that will be used in the marketing of the property:

(a) in the written agreement, executed with the seller, through which the licensee acquires the right to offer the property for sale; and

(b) in a written disclosure provided to the buyer, at the licensee's direction, at or before the deadline for the seller's disclosure per the contract for sale;

(8) upon initial contact with another agent in a transaction, disclose the agency relationship between the licensee and the client;

(9) when executing a binding agreement in a sales transaction, confirm the prior agency disclosure:

(a) in the currently approved Real Estate Purchase Contract; or

(b) in a separate provision with substantially similar language incorporated in or attached to the binding agreement;

(10) when executing a lease or rental agreement, confirm the prior agency disclosure by:

(a) incorporating it into the agreement; or

(b) attaching it as a separate document;

[~~(11) when offering an inducement to a buyer who will not pay a real estate commission in a transaction:~~

~~(a) obtain authorization from the licensee's principal broker to offer the inducement;~~

~~(b) comply with all underwriting guidelines that apply to the loan for which the borrower has applied; and~~

~~(c) provide notice of the inducement, using any method or form, to:~~

~~(i) the principal broker of the seller's agent, if the seller paying a commission is represented; or~~

~~(ii) the seller, if the seller paying a commission is not represented;~~]

(11)[~~(12)~~] if the licensee desires to act as a sub-agent for the purpose of showing property owned by a seller who is under contract with another brokerage, prior to showing the seller's property:

(a) notify the listing brokerage that sub-agency is requested; and

(b) enter into a written agreement with the listing brokerage with which the seller has contracted:

(i) consenting to the sub-agency; and

(ii) defining the scope of the agency;

(c) obtain from the listing brokerage all available information about the property; and

(d) uphold the same fiduciary duties outlined in this Subsection (1);

[~~(13)~~](12) provide copies of a lease or purchase agreement, properly signed by all parties, to the party for whom the licensee acts as an agent;

[~~(14)~~](13)(a) in identifying the seller's brokerage in paragraph 5 of the approved Real Estate Purchase Contract, use:

(i) the principal broker's individual name; or

(ii) the principal broker's brokerage name; and

(b) personally fulfill the licensee's agency relationship with the client, notwithstanding the information used to complete paragraph 5;

[~~(15)~~](14) timely inform the licensee's principal broker or branch broker of real estate transactions in which:

(a) the licensee is involved as agent or principal;

(b) the licensee has received funds on behalf of the principal broker; or

(c) an offer has been written;

[~~(16)~~](15)(a) disclose in writing to all parties to a transaction any compensation in addition to any real estate commission that will be received in connection with a real estate transaction; and

(b) ensure that any such compensation is paid to the licensee's principal broker;

[~~(17)~~](16)(a) in negotiating and closing a transaction involving a property for which a certificate of occupancy has been issued, use:

(i)(A) the standard forms approved by the commission and identified in Section R162-2f-401f;

(B) standard supplementary clauses approved by the commission; and

(C) as necessary, other standard forms including settlement statements, warranty deeds, and quit claim deeds;

(ii) forms prepared by an attorney for a party to the transaction, if:

(A) a party to the transaction requests the use of the attorney-drafted forms; and

(B) the licensee first verifies that the forms have in fact been drafted by the party's attorney; or

(iii) if no state-approved form exists to serve a specific need, any form prepared by an attorney, regardless of whether the attorney is employed for the purpose by:

(A) the principal; or

(B) an entity in the business of selling blank legal forms; and

(b) in presenting an offer on a property for which a certificate of occupancy has not been issued, use any form prepared by an attorney, regardless of whether the attorney is employed for the purpose by:

(i) the principal; or

(ii) an entity in the business of selling blank forms.

[~~(18)~~](17) use an approved addendum form to make a counteroffer or any other modification to a contract;

[~~(19)~~](18) in order to sign or initial a document on behalf of a principal:

(a) obtain prior written authorization in the form of a power of attorney duly executed by the principal;

(b) retain in the file for the transaction a copy of said power of attorney;

(c) attach said power of attorney to any document signed or initialed by the individual on behalf of the principal;

(d) sign as follows: "(Principal's Name) by (Licensee's Name), Attorney-in-Fact;" and

(e) initial as follows: "(Principal's Initials) by (Licensee's Name), Attorney-in-Fact for (Principal's Name);"

[~~(20)~~](19) if employing an unlicensed individual to provide assistance in connection with real estate transactions, adhere to the provisions of Section R162-2f-401g;

[~~(21)~~](20) strictly adhere to advertising restrictions as outlined in Section R162-2f-401h;

[~~(22)~~](21) as to a guaranteed sales agreement, provide full disclosure regarding the guarantee by executing a written contract that contains:

(a) the conditions and other terms under which the property is guaranteed to be sold or purchased;

(b) the charges or other costs for the service or plan;

(c) the price for which the property will be sold or purchased; and

(d) the approximate net proceeds the seller may reasonably expect to receive;

[~~(23)~~](22) immediately deliver money received in a real estate transaction to the principal broker for deposit; and

[~~(24)~~](23) as contemplated by Subsection 61-2f-401[~~(18)~~](19), when notified by the division that information or documents are required for investigation purposes, respond with the required information or documents in full and within ten business days.

R162-2f-401i. Standards for Real Estate Auctions.

For auctions of real property in this state:

(1) the auctioneer or auction company shall:

(a) be licensed as a principal broker under Utah Code Title 61, Chapter 2f; or

(b) affiliate with a licensed principal broker for purposes of advertising and conducting all aspects of the auction;

(2) the auctioneer or auction company shall not advertise the services of the auctioneer or auction company directly to an owner of real property who is already subject to an agency agreement;

(3) if an auctioneer or auction company affiliates with a principal broker as provided in Utah Administrative Code R162-2f-401i(1)(b), the principal broker shall:

[~~A principal broker who contracts or in any manner affiliates with an auctioneer or auction company to sell at auction real property in this state shall:~~

~~(1)~~] (a) ensure that all aspects of the auction comply with the requirements of this section and all other laws otherwise applicable to real estate licensees in real estate transactions;

(b)[~~(2)~~] ensure that advertising and promotional materials associated with an auction name the principal broker;

(c)[~~(3)~~] attend and supervise the auction;

(d)[~~(4)~~] ensure that any purchase agreement used at the auction:

(i)[~~(a)~~] meets the requirements of Utah Administrative Code [~~Subsection~~] R162-2f-401a[~~(18)~~](17); and

(ii)[~~(b)~~] is completed by an individual holding an active Utah real estate license;

(e)[~~(5)~~] ensure that any money deposited at the auction is placed in trust pursuant to Utah Administrative Code [~~Subsection~~] R162-2f-401c(1)(i); and

(f)[~~(6)~~] ensure that adequate arrangements are made for the closing of any real estate transaction arising out of the auction.

R162-2f-401l. Gifts and Inducements.

(1) An inducement gift is permissible and is not an illegal sharing of commission if the principal broker or affiliated licensee offering the inducement gift to a buyer or a seller complies with the underwriting guidelines that apply to any loan in the transaction for which the inducement has been offered.

(2) A closing gift is permissible and is not an illegal sharing of commissions.

KEY: real estate business, operational requirements, trust account records, notification requirements
Date of Enactment or Last Substantive Amendment: [~~June 22, 2015~~]2016
Notice of Continuation: August 12, 2015
Authorizing, Implementing, or Interpreted Law: 61-2f-103(1); 61-2f-105; 61-2f-203(1)(e); 61-2f-206(3); 61-2f-206(4)(a); 61-2f-306; 61-2f-307

Corrections, Administration
R251-109
Sex Offender Treatment Providers

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40039
FILED: 12/30/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment to this rule is to update the standards and qualifications required for the provision of sex offender treatment to offenders in the custody of the Utah Department of Corrections.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies treatment provider standards and requirements, i.e., years to renew treatment provider status, number of hours of direct clinical experience to be an approved treatment provider to include number of hours of evaluation experience, and number of hours of sex offender treatment. The number of continuing education is 20 hours every 2 years. Failure to reapply every two years shall result in the provider being removed from the approved provider list. An appeal process is added if the provider is removed from the approved list. The program requirements for offenders are included. The notification to offenders and Adult Probation and Parole of the offender status are included as well.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 64-13-25

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The new rule actually decreases the hours of specific training/education required.
♦ LOCAL GOVERNMENTS: The new rule actually decreases the hours of specific training/education required.
♦ SMALL BUSINESSES: The amendments to the rule modify already existing minimum standards and program requirements for therapists providing treatment to sex offenders under the jurisdiction of the Department of Corrections. To the extent that the treatment is being provided by one or more therapists from a small business, the Department of Corrections does not anticipate that the costs to such small businesses will be affected by the changes to this rule. Many of the changes serve only to clarify the rule. In addition, the amendments are not substantial changes and do not alter the already existing minimum standards and program requirements in a way that is likely to significantly increase costs to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to the rule modify already existing minimum standards and program requirements for therapists providing treatment to sex offenders under the jurisdiction of the Department of Corrections. The Department of Corrections does not anticipate that the costs to such therapists will be affected by the changes to this rule. Many of the changes serve only to clarify the rule. In addition, the amendments are not substantial changes and do not alter the already existing minimum standards and program requirements in a way that is likely to significantly increase costs to therapists.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The new requirements actually decreases the hours of specific training/education required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Corrections does not anticipate that the changes to this rule will have a fiscal impact on businesses, given the limited changes that were made.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER, UT 84020-9549
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steven Turley by phone at 801-545-5633, by FAX at 801-545-5726, or by Internet E-mail at sturley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/25/2016

AUTHORIZED BY: Rollin Cook, Executive Director

R251. Corrections, Administration.
R251-109. Sex Offender Treatment Providers.
R251-109-1. Authority and Purpose.

(1) This rule is authorized by Sections 63G-3-201, 64-13-10, 64-13-25, and 76-5-406.5, of the Utah Code.

(2) The purpose of the rule is to define the criteria and guidelines for the minimum standards, application and approval process, and program requirements for sex offender treatment providers.

R251-109-2. Definitions.

(1) "Approved provider status" means status as a provider for sex offender services through the Utah Department of Corrections.

(2) "Affiliate approval" means approval of a professional who does not meet experience requirements and is seeking to become approved as a provider.

(3) "Direct clinical experience" means face-to-face contact with patients/clients, direct supervision, training, case coordination and research.

(4) "Program" is the specific services as listed in the R251-109-6, pertaining to the program requirements each clinician is providing to UDC clientele with a sex offense charge.

([~~4~~]5) "Formal training" means education and/or supervised experience in the required field; may be provided at an accredited college or university or at seminars or conferences.

([~~5~~]6) "[~~Full disclosure~~]Disclosure" means the [~~complete~~] discussion during treatment of [~~all~~]previous adjudicated and unadjudicated sexual offenses.

([~~6~~]7) "Provider" means a therapist who has been approved by the Department to provide services to sex offenders under the jurisdiction of the Utah Department of Corrections.

([~~7~~]8) "Provider supervision" means one hour of supervision for every 40 hours of direct client contact with a minimum of one hour supervision per month.

([~~8~~]9) "Screening committee" means group of Department of Corrections employees assigned to screen and approve applications from providers to provide sex offender treatment.

([9]10) "Transition program" means program designed to help offenders move from residential to non-residential treatment; also to help them move from intensive to progressively less intensive treatment.

([~~10~~]11) "UDC" means Utah Department of Corrections.

R251-109-3. Provider Standards and Requirements.

It is the policy of the Department that:

(1) all potential providers of sex offender treatment shall be screened by the screening committee to ensure they meet the specific established standards and qualifications for providers of sex offender treatment, as found in R251-109-6;

(2) providers [~~shall have a basic requirement that full~~],shall require disclosure of all criminal sexual behavior by the offender [~~is~~] as a basic requirement for successful completion of therapy;

(3) approved providers must reapply to UDC every [~~three~~] two years to renew their approved provider status;

(4) providers shall have a current Utah license to practice therapy in a mental health profession, as listed in the Mental Health Practice Act,58-60-102 which shall include:

(a) psychiatry;
(b) psychology;
(c) social work; mental health counselor or
(d) marriage and family therapy;

(5) providers' education shall include:

(a) a master's or doctorate degree from a fully accredited college or university in:

(i) social work; mental health counseling
(ii) psychology; or

(b) a medical doctor if board certified/eligible psychiatrist; or

(c) a doctor of osteopathy if board certified/eligible psychiatrist;

(6) within [~~four~~]two years immediately preceding application for approval, the provider shall have at least [~~2~~]1,000 hours of direct clinical experience in sex offender treatment, which includes:

(a) at least [~~500~~]180 hours of sex offender evaluation experience; and

(b) at least 1,000 hours of sex offender treatment experience;

(7) within [~~three~~]two years immediately preceding application, the provider shall have received at least [~~40~~]20 hours of sex offender specific formal training, 26 total hours of professional training;

(8) licensed professionals and professionals in graduate training and/or post graduate residency who do not meet the experience and training requirements may apply to UDC for affiliate approval;

(9) affiliate approval shall require that the applicant arrange for ongoing provider supervision of therapy by an approved provider;

(10) affiliates may provide services as part of a degree program leading to licensure;

(11) required training may be obtained through[~~approved~~]:

(a) documented conferences;
(b) symposia;
(c) seminars; or
(d) other course work;

(12) the training shall be directly related to the treatment and evaluation of sex offenders;

(13) the training may include:

(a) behavioral/cognitive methods;
(b) reconditioning and relapse prevention;
(c) use of plethysmograph examinations;
(d) use of polygraph examinations;
(e) group therapy;
(f) individual therapy;

(g) sexual dysfunction;
(h) victimology;
(i) couples and family therapy;
(j) risk assessment;
(k) sexual addiction;
(l) sexual deviancy; and
(m) ethics and professional standards;
(14) prior to and during approval, all providers must agree to abide by reporting and other requirements established by UDC and the laws and statutes of the state of Utah;
(15) reporting requirements shall include the offender's:
(a) progress in therapy;
(b) prognosis; and
(c) risk to the community; and
(16) failure to comply with reporting requirements may result in a provider being removed from the approved list.

R251-109-4. Application Process.
(1) All individuals providing services are required to be approved.
(2) Each applicant shall provide all of the required documentation to UDC at the time of submission. If not, the packet shall be returned to the provider.
(3) Individuals or affiliates who are supervised by an approved individual or agency may begin providing services pending approval once UDC receives their application packet.
(4) Reapplication shall include:
(a) documentation demonstrating continuing education and training in sex offender specific treatment of not less than [~~forty~~]twenty hours every [~~three~~]two years;
(b) current licensure with the state of Utah;
(c) hours of therapy/supervision per year provided; and
(d) information on any changes in modality of treatment.
(5) Failure to reapply every two years shall result in the provider being removed from the approved provider list.

R251-109-5. Approval Process.
(1) It is the policy of UDC that all therapists providing services to sex offenders under the jurisdiction of UDC shall have been reviewed and approved by the screening committee.
(2) Approval may be suspended by either the provider or UDC.
(3) A provider shall be removed from the list of approved providers by written request to UDC.
(4) UDC may suspend approval for:
(a) failure to reapply;
(b) failure to comply with provider protocol;
(c) suspension of clinical licensure;
(d) failure to meet provider standards; or
(e) criminal conviction; or
(f) other legitimate penological reasons as determined by the division director.
(5) Providers who are not approved may appeal that decision to the screening committee within thirty days of denial.
(6) Appeals must contain specific documentation of why the denial was inaccurate.
(a) Providers who are not approved may appeal that decision to the SOTF administration/disciplinary (screening) committee. Should this not be viewed as acceptable, the provider or affiliate may instead appeal to the UDC director of Institutional Programming.
(b) Appeals must contain specific documentation of why the denial was inaccurate and or additional documentation to address concerns that resulted in the denial.
(c) The administration/disciplinary committee should review the appeal and respond within 30 days.

R251-109-6. Program Requirements.
(1) It is the policy of UDC that each provider meets certain accepted standards for treatment of sex offenders.
(2) Treatment programs for sexual offenders convicted of crimes against persons shall have the following intake components available:
(a) complete psycho-sexual evaluation, to include:
(i) sex offender specific testing;
(ii) assessment of personality and intelligence using research validated testing [~~instruments recognized in the treatment community as valid tools~~](ie. MMPI, WRAT-4); and
(iii) penile plethysmograph testing, with stimuli which conforms to state statute, for male offenders arousal patterns and establish baselines
(iv) and polygraph examinations for female offenders to determine accountability for sexual offense history[~~arousal patterns and establish baselines~~].
(b) screening shall include the following co-occuring issues: mental health history, physical health concerns, other criminal behaviors/legal issues, substance abuse, financial, employment, familial issues, and social support network.
(3) Polygraph examination shall be used for [~~male~~] offenders when deemed appropriate by the provider and/or UDC staff, examples includes sexual history, deception about criminal behavior.
(4) Following assessment, the provider shall submit a written report to UDC staff including:
(a) findings of testing including specifics on offender's risk to community safety;
(b) the offender's suitability for treatment;
(c) a proposed treatment plan; and
(d) the cost to the offender.
(5) The [~~standard treatment~~]level of services shall include:
(a) sex offender groups;
(b) individual therapy;
(c) psycho-educational classes;
(d) ongoing transition program; and
(e) a minimum of one monthly progress report to UDC staff.
(6) An intensive treatment program shall be available which includes:
(a) two weekly sex offender group sessions;
(b) individual weekly session;
(c) psycho-educational classes;
(d) on-going transition program; and
(e) a minimum of one monthly progress report to UDC staff.
(7) Intensive treatment shall be conducted on a minimum of three different days per week, based upon risk and clinical judgment.
(8) When treatment is terminated unsuccessfully, the provider shall:
(a) notify UDC staff prior to termination; and

(b) provide notification of discharge from treatment, as a minimum, verbally to AP&P prior to notifying the offender of his or her status.

(c) provide notification by the provider to the supervising agent within 72 hours of unsuccessful termination; a phone call is sufficient for this.

(d) provide written notification (email, fax or letter) [~~a written report~~]to the [~~UDC staff~~] supervising agent within [~~seven~~]five business days of [~~termination~~] offender's discharge, addressing:

(i) reason for termination;

(ii) progress of the offender to date;

(iii) prognosis of the offender; and

(iv) the offender's risk to community.

(9) When treatment is terminated successfully, the provider shall:

(a) notify UDC staff of the recommendation to terminate therapy; and

(b) provide a written report to UDC staff addressing:

(i) issues addressed in therapy;

(ii) the offender's compliance with the treatment plan;

(iii) progress made by the offender;

(iv) prognosis of the offender;

(v) additional services need to address factors, such as continuing care, support network, employment, mental health issues, substance use issues, etc.; and

([~~v~~]vi) results of a current (less than 90 days old), if appropriate, plethysmograph or polygraph, unless prior optimal results deem the requirement as not required.

(10) As requested, the provider shall submit written reports to UDC, courts and the Board of Pardons and Parole, as applicable.

(11) With reasonable notification, therapists shall appear in court or before the Board of Pardons and Parole as needed.

KEY: mental health, corrections, treatment providers, sex offender treatment
Date of Enactment or Last Substantive Amendment: [~~April 5, 1996~~]2016
Notice of Continuation: July 23, 2015
Authorizing, and Implemented or Interpreted Law: 64-13-10

Environmental Quality, Drinking Water
R309-105-4
General

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40031
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-105, the changes made address using certified laboratories. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring, it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000 per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.

♦ LOCAL GOVERNMENTS: For local governments, the cost will not change. Base monitoring will stay the same, and for small communities, the follow-up monitoring requirements have been slightly reduced.

♦ SMALL BUSINESSES: For small businesses that have their own public water system, there will be a cost impact. Base monitoring will switch from one sample per calendar quarter to one sample per month. For routine monitoring, the requirements will increase the samples from 4 per year to 12 per year. The increase in routine sample costs for just the laboratory analysis will be approximately $250 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule will impact USFS campgrounds and kids camps. Base monitoring will switch from one sample per calendar quarter to one sample per month of operation. Most of these

systems operate only part of the year (May through September). For routine monitoring, the requirements will increase the samples from two to three per year to one sample for each month of operation. The increase in routine sample costs for just the laboratory analysis will be approximately $100 to $150 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The relatively small cost impact on transient and non-transient system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Yee by phone at 801-536-4216, by FAX at 801-536-4211, or by Internet E-mail at jyee@utah.gov
♦ Patti Fauver by phone at 801-536-4196, by FAX at 801-536-4211, or by Internet E-mail at pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/20/2016 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-105. Administration: General Responsibilities of Public Water Systems.
R309-105-4. General.

(1) Water suppliers are responsible for the quality of water delivered to their customers. In order to give the public reasonable assurance that the water which they are consuming is satisfactory, the Board has established rules for the design, construction, water quality, water treatment, contaminant monitoring, source protection, operation and maintenance of public water supplies.

(2) For compliance monitoring required by R309-200 through 215, public water systems must use a laboratory certified by the Utah Public Health Department in accordance with R444-14-4. The Federal Safe Drinking Water Act requires each analyte to be analyzed by a specific method. These methods are described in the July 1, 1992 through 2015, editions of 40 CFR Parts 141, 142, and 143 (Safe Drinking Water Act).

KEY: drinking water, watershed management
Date of Enactment or Last Substantive Amendment: [~~October 12, 2013~~]2016
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water
R309-110-4
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40032
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-110, the changes made address updates and additions to the definitions. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring, it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000 per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.
♦ LOCAL GOVERNMENTS: For local governments, the cost will not change. Base monitoring will stay the same, and for small communities, the follow-up monitoring requirements have been slightly reduced.
♦ SMALL BUSINESSES: For small businesses that have their own public water system, there will be a cost impact. Base monitoring will switch from one sample per calendar quarter to one sample per month. For routine monitoring, the requirements will increase the samples from 4 per year to 12 per year. The increase in routine sample costs for just the laboratory analysis will be approximately $250 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule will impact USFS campgrounds and kids camps. Base monitoring will switch from one sample per calendar quarter to one sample per month of operation. Most of these systems operate only part of the year (May through September). For routine monitoring, the requirements will increase the samples from two to three per year to one sample for each month of operation. The increase in routine sample costs for just the laboratory analysis will be approximately $100 to $150 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The relatively small cost impact on transient and non-transient system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Yee by phone at 801-536-4216, by FAX at 801-536-4211, or by Internet E-mail at jyee@utah.gov
♦ Patti Fauver by phone at 801-536-4196, by FAX at 801-536-4211, or by Internet E-mail at pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/20/2016 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-110. Administration: Definitions.
R309-110-4. Definitions.

As used in R309:

"Action Level" means the concentration of lead or copper in drinking water tap samples (0.015 mg/l for lead and 1.3 mg/l for copper) which determines, in some cases, the corrosion treatment, public education and lead line replacement requirements that a water system is required to complete.

"AF" means acre foot and is the volume of water required to cover an acre to a depth of one foot (one AF is equivalent to 325,851 gallons).

"Air gap" The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, catch basin, plumbing fixture or other device and the flood level rim of the receptacle. This distance shall be two times the diameter of the effective opening for openings greater than one inch in diameter where walls or obstructions are spaced from the nearest inside edge of the pipe opening a distance greater than three times the diameter of the effective openings for a single wall, or a distance greater than four times the diameter of the effective opening for two intersecting walls. This distance shall be three times the diameter of the effective opening where walls or obstructions are closer than the distances indicated above.

"ANSI/NSF" refers to the American National Standards Institute and NSF International. NSF International has prepared at least two health effect standards dealing with treatment chemicals added to drinking water and system components that will come into contact with drinking water, these being Standard 60 and Standard 61.

The American National Standards Institute acts as a certifying agency, and determines which laboratories may certify to these standards.

"Approval" unless indicated otherwise, shall be taken to mean a written statement of acceptance from the Director.

"Approved" refers to a rating placed on a system by the Division and means that the public water system is operating in substantial compliance with all the Rules of R309.

"Average Yearly Demand" means the amount of water delivered to consumers by a public water system during a typical year, generally expressed in MG or AF.

"AWWA" refers to the American Water Works Association located at 6666 West Quincy Avenue, Denver, Colorado 80235. Reference within these rules is generally to a particular Standard prepared by AWWA and which has completed the ANSI approval process such as ANSI/AWWA Standard C651-92 (AWWA Standard for Disinfecting Water Mains).

"Backflow" means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply from any source. Also see backsiphonage, backpressure and cross-connection.

"Backpressure" means the phenomena that occurs when the customer's pressure is higher than the supply pressure, This could be caused by an unprotected cross connection between a drinking water supply and a pressurized irrigation system, a boiler, a pressurized industrial process, elevation differences, air or steam pressure, use of booster pumps or any other source of pressure. Also see backflow, backsiphonage and cross connection.

"Backsiphonage" means a form of backflow due to a reduction in system pressure which causes a subatmospheric or negative pressure to exist at a site or point in the water system. Also see backflow and cross-connection.

"Bag Filters" are pressure-driven separation devices that remove particle matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

"Bank Filtration" is a water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

"Best Available Technology" (BAT) means the best technology, treatment techniques, or other means which the Director finds, after examination under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon for all these chemicals except vinyl chloride. Central treatment using packed tower aeration is also identified as BAT for synthetic organic chemicals.

"Board" means the Drinking Water Board.

"Body Politic" means the State or its agencies or any political subdivision of the State to include a county, city, town, improvement district, taxing district or any other governmental subdivision or public corporation fo the State.

"Breakpoint Chlorination" means addition of chlorine to water until the chlorine demand has been satisfied. At this point, further addition of chlorine will result in a free residual chlorine that is directly proportional to the amount of chlorine added beyond the breakpoint.

"C" is short for "Residual Disinfectant Concentration."

"Capacity Development" means technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards.

"Cartridge filters" are pressure-driven separation devices that remove particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

"cfs" means cubic feet per second and is one way of expressing flowrate (one cfs is equivalent to 448.8 gpm).

"Class" means the level of certification of Backflow Prevention Technician (Class I, II or III).

"Clean compliance history" means a record of no MCL violations; and no coliform treatment technique trigger exceedances or treatment technique violations.

"Coagulation" is the process of destabilization of the charge (predominantly negative) on particulates and colloids suspended in water. Destabilization lessens the repelling character of particulates and colloids and allows them to become attached to other particles so that they may be removed in subsequent processes. The particulates in raw waters (which contribute to color and turbidity) are mainly clays, silt, viruses, bacteria, fulvic and humic acids, minerals (including asbestos, silicates, silica, and radioactive particles), and organic particulate.

"Collection area" means the area surrounding a ground-water source which is underlain by collection pipes, tile, tunnels, infiltration boxes, or other ground-water collection devices.

"Combined distribution system" is the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

"Commission" means the Operator Certification Commission.

"Community Water System" (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle began January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period ran from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; and the third is from January 1, 1999 to December 31, 2001.

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"Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

"Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the State, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the State in the case of an E. coli MCL violation.

"Locational running annual average (LRAA)" is the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

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"Safe Yield" means the annual quantity of water that can be taken from a source of supply over a period of years without depleting the source beyond its ability to be replenished naturally in "wet years".

"Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

"Sanitary Seal" means a cap that prevents contaminants from entering a well through the top of the casing.

"scfm/sf" means standard cubic foot per minute per square foot and is one way of expressing flowrate of air at standard density through a filter or duct area.

"Seasonal system" means a non-community water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season. "Secondary Disinfection" means the adding of an acceptable secondary disinfectant to assure that the quality of the water is maintained throughout the distribution system. The effectiveness is measured by maintaining detectable disinfectant residuals throughout the distribution system. Acceptable secondary disinfectants are chlorine, chloramine, and chlorine dioxide.

"Secondary Maximum Contaminant Level" means the advisable maximum level of contaminant in water which is delivered to any user of a public water system.

"Secretary to the Subcommittee" means that individual appointed by the Director to conduct the business of the Subcommittee.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Semi-Developed Camp" means a campground accessible by any type of vehicular traffic. Facilities are provided for both protection of site and comfort of users. Roads, trails and campsites are defined and basic facilities (water, flush toilets and/or vault toilets, tables, fireplaces or tent pads) are provided. These camps include but are not limited to National Forest campgrounds, Bureau of Reclamation campgrounds, and youth camps.

"Service Connection" means the constructed conveyance by which a dwelling, commercial or industrial establishment, or other water user obtains water from the supplier's distribution system. Multiple dwelling units such as condominiums or apartments, shall be considered to have a single service connection, if fed by a single line, for the purpose of microbiological repeat sampling; but shall be evaluated by the supplier as multiple "equivalent residential connections" for the purpose of source and storage capacities.

"Service Factor" means a rating on a motor to indicate an increased horsepower capacity beyond nominal nameplate capacity for occasional overload conditions.

"Service line sample" means a one-liter sample of water collected in accordance with R309-210-6(3)(b)(iii), that has been standing for at least 6 hours in a service line.

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KEY: drinking water, definitions
Date of Enactment or Last Substantive Amendment: [~~May 9, 2011~~|2016
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water
R309-200-5
Primary Drinking Water Standards

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40033
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-200, the changes made address updates to the maximum contaminant level evaluation. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring, it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000 per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.
♦ LOCAL GOVERNMENTS: For local governments, the cost will not change. Base monitoring will stay the same, and for small communities, the follow-up monitoring requirements have been slightly reduced.
♦ SMALL BUSINESSES: For small businesses that have their own public water system, there will be a cost impact. Base monitoring will switch from one sample per calendar quarter to one sample per month. For routine monitoring, the requirements will increase the samples from 4 per year to 12 per year. The increase in routine sample costs for just the laboratory analysis will be approximately $250 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule will impact USFS campgrounds and kids camps. Base monitoring will switch from one sample per calendar quarter to one sample per month of operation. Most of these systems operate only part of the year (May through September). For routine monitoring, the requirements will increase the samples from two to three per year to one sample for each month of operation. The increase in routine sample costs for just the laboratory analysis will be approximately $100 to $150 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The relatively small cost impact on transient and non-transient system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Yee by phone at 801-536-4216, by FAX at 801-536-4211, or by Internet E-mail at jyee@utah.gov
♦ Patti Fauver by phone at 801-536-4196, by FAX at 801-536-4211, or by Internet E-mail at pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/20/2015 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-200. Monitoring and Water Quality: Drinking Water Standards.
R309-200-5. Primary Drinking Water Standards.

(1) Inorganic Contaminants.

(a) The maximum contaminant levels (MCLs) for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sodium, thallium and total dissolved solids are applicable to community and non-transient non-community water systems.

(b) The MCLs for nitrate, nitrite, and total nitrate, nitrite and sulfate are applicable to community, non-transient non-community, and transient non-community water systems.

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(6) MICROBIOLOGICAL QUALITY

(a) The maximum contaminant level (MCL) for microbiological contaminants for all public water systems is:

[~~(i) For a system which collects less than 40 total coliform samples per month, no more than one sample per month may be total coliform-positive.~~

~~(ii) For a system which collects 40 or more total coliform samples per month, no more than 5.0 percent of the samples collected during a month may be total coliform-positive.~~

~~(b) Any fecal coliform-positive or Escherichia coliform (E. coli)-positive repeat sample or any total coliform-positive repeat sample following a fecal coliform positive or E. coli-positive routine sample constitutes a violation of the MCL for total coliforms. For the purposes of public notification requirements in R309-220-5 this is a violation that may pose an acute risk to health.~~

~~(c) For NTNC and transient non-community systems that are required to sample at a rate of less than one per month, compliance with paragraphs (a) or (b) of this subsection shall be determined for the month in which the sample was taken.~~]

(i) For a system that collects at least 40 samples per month, if no more than 5.0 percent of the samples collected during a month are total coliform-positive, the system is in compliance with the MCL for total coliforms.

(ii) For a system that collects fewer than 40 samples per month, if no more than one sample collected during a month is total coliform-positive, the system is in compliance with the MCL for total coliforms.

(b) A system is in compliance with the MCL for E. coli for samples taken under the provisions of R309-211 unless any of the conditions identified in paragraphs (b)(i) through (b)(iv) of this section occur. For purposes of the public notification requirements in R309-220, violation of the MCL may pose an acute risk to health.

(i) The system has an E. coli-positive repeat sample following a total coliform-positive routine sample.

(ii) The system has a total coliform-positive repeat sample following an E. coli-positive routine sample.

(iii) The system fails to take all required repeat samples following an E. coli-positive routine sample.

(iv) The system fails to test for E. coli when any repeat sample tests positive for total coliform.

(c) A public water system must determine compliance with the MCL for E. coli in paragraph (b) of this section for each month in which it is required to monitor for total coliforms.

(7) DISINFECTION

Continuous disinfection is recommended for all water sources. It shall be required of all ground water sources which do not consistently meet standards of bacteriologic quality. Surface water sources or ground water sources under direct influence of surface water shall be disinfected and continuously monitored for disinfection residual during the course of required conventional complete treatment for systems serving greater than 3,300 people. Disinfection shall not be considered a substitute for inadequate collection or filtration facilities.

Successful disinfection assures 99.9 percent inactivation of Giardia lamblia cysts and 99.99 percent inactivation of enteric viruses. Both filtration and disinfection are considered treatment techniques to protect against the potential adverse health effects of exposure to Giardia lamblia, viruses, Legionella, and heterotrophic bacteria in water. Minimum disinfection levels are set by "CT" values as defined in R309-110.

(a) Each public water system that provides filtration treatment shall provide disinfection treatment as follows:

(i) The disinfection treatment shall be sufficient to ensure that the total treatment processes of the system achieve at least 99.9 percent (3-log) inactivation and/or removal of Giardia lamblia cysts and at least 99.99 percent (4-log) inactivation and/or removal of viruses, as determined by the Director.

(ii) The residual disinfectant concentration in the water entering the distribution system cannot be less than 0.2 mg/L for more than 4 hours.

(iii) The residual disinfectant concentration in the distribution system, measured as combined chlorine or chlorine dioxide, cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public. Water in the distribution system with a heterotrophic bacteria concentration less than or equal to 500/ml, measured as heterotrophic plate count (HPC) is deemed to have a detectable disinfectant residual for purposes of determining compliance with this requirement. Thus, the value "V" in the following formula cannot exceed 5 percent in one month, for any two consecutive months.

$V = ((c + d + e) / (a + b)) \times 100$ where:

a = number of instances where the residual disinfectant concentration is measured;

b = number of instances where the residual disinfectant concentration is not measured but heterotrophic bacteria plate count (HPC) is measured;

c = number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

d = number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/ml;

e = number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/ml.

(b) If the Director determines, based on site-specific considerations, that a system has no means for having a sample transported and analyzed for HPC by a certified laboratory under the requisite time and temperature conditions specified in Heterotrophic

Plate Count (Pour Plate Method) as set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, 1985, American Public Health Association et al. (Method 907A in the 16th edition) and that the system is providing adequate disinfection in the distribution system, the requirements of R309-200-5(7)(a)(iii) do not apply.

(c) If a system utilizes a combination of sources, some surface water influenced (requiring filtration and disinfection treatment) and others deemed ground water (not requiring any treatment, even disinfection), the Director may, based on site-specific considerations, allow sampling for residual disinfectant or HPC at locations other than those specified by total coliform monitoring required by [~~R309-210-5~~]R309-211.

KEY: drinking water, quality standards, regulated contaminants
Date of Enactment or Last Substantive Amendment: September 4, 2009
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water
R309-210
Monitoring and Water Quality: Distribution System Monitoring Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40034
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-210, the changes made address updates to the monitoring required by system type and population. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring, it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000 per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The relatively small cost impact on transient and non-transient

system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

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ENVIRONMENTAL QUALITY
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195 N 1950 W
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or at the Division of Administrative Rules.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/20/2016 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-210. Monitoring and Water Quality: Distribution System Monitoring Requirements.
R309-210-4. General.

(1) All public water systems are required to monitor their water to determine if they comply with the requirements for water quality stated in R309-200. In exceptional circumstances the Director may modify the monitoring requirements given herein as is deemed appropriate.

(2) The Director may determine compliance or initiate compliance actions based upon analytical results and other information compiled by authorized representatives.

(3) If the water fails to meet minimum standards, then certain public notification procedures must be carried out, as outlined in R309-220. Water suppliers must also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

(4) All samples shall be taken at representative sites as specified herein for each contaminant or group of contaminants.

(5) For the purpose of determining compliance, samples may only be considered if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory.

(6) Measurements for pH, temperature, turbidity and disinfectant residual may, under the direction of the direct responsible operator, be performed by any water supplier or their representative.

(7) All samples must be marked either: routine, repeat, check or investigative before submission of such samples to a certified laboratory. Routine, repeat, and check samples shall be considered compliance purpose samples.

(8) All sample results can be sent to the Division of Drinking Water either electronically or in hard copy form.

[~~(9) Lead and Copper data must be submitted to the Division of Drinking Water using forms provided by the Division.~~]

([~~10~~]9) Unless otherwise required by the Director, the effective dates on which required monitoring shall be initiated are identical to the dates published in 40 CFR 141 on July 1, 2001 by the Office of the Federal Register.

([~~11~~]10) Exemptions from monitoring requirements shall only be granted in accordance with R309-105-5.

[**~~R309-210-5. Microbiological Monitoring.~~**

~~(1) Routine Microbiological Monitoring Requirements Applicable to all public water systems (community, non-transient non-community and transient non-community).~~

~~(a) Community water systems shall monitor for total coliforms at a frequency based on the population served, as follows:~~

~~TABLE 210-1~~
~~TOTAL COLIFORM MONITORING FREQUENCY~~
~~FOR PUBLIC WATER SYSTEMS~~

Population served	Minimum number of samples per month
25 to 1,000	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390

2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

The 25 - 1,000 population figure includes public water systems which have at least 15 service connections, but serve fewer than 25 persons.

(b) Non-transient non-community water systems shall monitor for total coliforms as follows:

(i) A system using only ground water (except ground water under the direct influence of surface water) and serving 1,000 or fewer shall monitor each calendar quarter that the system provides water to the public.

(ii) A system using only ground water (except ground water under the direct influence of surface water) and serving more than 1,000 persons during any month shall monitor at the same frequency as a like-sized community water system, as specified in Table 210-1. The Director may reduce the monitoring frequency for any month the system serves 1,000 persons or fewer. In no case may the required monitoring be reduced to less than once per calendar quarter.

(iii) A system using surface water, in total or in part, shall monitor at the same frequency as a like-sized community water system, as specified in Table 210-1.

(iv) A system using ground water under the direct influence of surface water shall monitor at the same frequency as a like-sized community water system, as specified in Table 210-1. The system shall begin monitoring at this frequency beginning six months after the Director determines that the ground water is under the direct influence of surface water.

(c) Non-community water systems shall monitor for total coliforms as specified in R309-210-5(1)(b).

(d) The samples shall be collected at points which are representative of water throughout the distribution system according to a written sampling plan. This plan is subject to the approval of the Director.

(e) A public water system shall collect samples at regular time intervals throughout the month, except that a system which uses only ground water (except ground water under the direct influence of surface water) and serves 4,900 persons or fewer, may collect all required samples on a single day if they are taken from different sites.

(f) A public water system that uses inadequately treated surface water or inadequately treated ground water under the direct influence of surface water shall collect and analyze for total coliforms at least one sample each day the turbidity level of the source water exceeds 1 NTU. This sample shall be collected near the first service connection from the source. The system shall collect the sample within 24 hours of the time when the turbidity level was first exceeded. The sample shall be analyzed within 30 hours of collection. Sample results from this coliform monitoring shall be included in determining total coliform compliance for that month. The Director may extend the 24 hour limitation if the system has a logistical problem that is beyond the system's control. In the case of an extension the Director shall specify how much time the system has to collect the sample.

(2) Procedures if a Routine Sample is Total Coliform-Positive

(a) Repeat sampling -

The water system shall collect a set of repeat samples within 24 hours of being notified of the total coliform-positive sample result. The number of repeat samples required to be taken is specified in Table 210-2. The Director may extend the 24 hour limitation if the system has a logistical problem that is beyond its control. In the case of an extension the Director shall specify how much time the system has to collect the repeat samples.

TABLE 210-2
REPEAT AND ADDITIONAL SAMPLE MONITORING FREQUENCY

Population Served by the system	# Routine Samples per month	# Repeats for each Total-Coliform Positive sample Within 24 hours	# Samples in ADDITION to the Routine samples the following month
25-1000/See Note 1 below	1	4	4
1000-2500	2	3	3
2501-3300	3	3	2
3301-4100	4	3	1
greater than 4100	5 or more	3	No additional samples required. Refer to Table 210-1 for # of Routine samples

NOTE 1: The population category 25 - 1000 includes all non-transient non-community and non-community water systems. Non-transient non-community and non-community systems are only are required to sample once per calendar quarter on a routine basis for those quarters the system is in operation.

Repeat and Additional Routine samples are only required if a Routine Sample is Total Coliform-Positive.

(b) Repeat sampling locations -

The system shall collect the repeat samples from the following locations:

(i) One from the original sample site;

(ii) One within 5 service connections upstream;

(iii) One within 5 service connections downstream;

(iv) If required, one from any site mentioned above.

If a total coliform-positive sample is at the end of the distribution system, or next to the end of the distribution system, the Director may waive the requirement to collect at least one repeat sample upstream or downstream of the original sampling site.

(c) The system shall collect all repeat samples on the same day, except that the Director may allow a system with a single service connection to collect the required set of repeat samples on consecutive days.

(d) Additional repeat samples - If one or more repeat samples in a set is total coliform-positive, the system shall collect an additional set of repeat samples as specified in (a), (b) and (c) of this subsection. The additional repeat samples shall be collected within 24 hours of being notified of the positive result, unless the Director extends the time limit because of a logistical problem. The system shall repeat this process until either total coliforms are not detected in one complete set of repeat samples or the system determines that the total coliform MCL has been exceeded and notifies the Director and begins the required public notification.

(e) If a system collecting fewer than five routine samples per month has one or more total coliform-positive samples and the Director does not invalidate the sample under R309-210-5(4), it shall collect at least five routine samples during the next month the system provides water to the public. Refer to Table 210-2 for the number of additional samples required.

(i) The Director may waive the requirement to collect five routine samples the next month the system provides water to the public if the Director has determined why the sample was total coliform-

~~positive and establishes that the system has corrected the problem or will correct the problem before the end of the next month the system serves water to the public. In this case:~~

~~(A) The Director shall document this decision in writing; and~~

~~(B) The Director or his representative shall sign the document; and~~

~~(C) The Director will make the document available to the EPA and the public.~~

~~(ii) The Director cannot waive the additional samples in the following month solely because all repeat samples are total coliform-negative.~~

~~(iii) If the additional samples in the following month are waived, a system shall still take the minimum number of routine samples required in Table 210-1 of R309-210-5(1) before the end of the next month and use it to determine compliance with the total coliform MCL.~~

~~(f) Samples to be included in calculations - Results of all routine and repeat samples not invalidated in writing by the Director shall be included in determining compliance with the total coliform MCL.~~

~~(g) Samples not to be included in calculations - Special purpose and investigative samples, such as those taken to determine the efficiency of disinfection practices following such operations as pipe replacement or repair, may not be used to determine compliance with the MCL for total coliforms. These samples shall be identified as special purpose or investigative at the time of collection.~~

~~(3) Response to violation~~

~~(a) A public water system which has exceeded the MCL for total coliforms as specified in R309-200-5(6) shall report the violation to the Director no later than the end of the next business day after it learns of the violation, and notify the public in accordance with R309-220.~~

~~(b) A public water system which has failed to comply with a coliform monitoring requirement shall report the monitoring violation to the Director within ten days after the system discovers the violation and notify the public in accordance with R309-220.~~

~~(4) Invalidation of Total Coliform-Positive Samples~~

~~An invalidated total coliform-positive sample does not count towards meeting the minimum monitoring requirements of R309-210-5(1) and R309-210-5(2). A total coliform-positive sample may not be invalidated solely on the basis of all repeat samples being total coliform-negative.~~

~~(a) The Director may invalidate a total coliform-positive sample only if one of the following conditions are met:~~

~~(i) The laboratory establishes that improper sample analysis caused the total coliform-positive result; or~~

~~(ii) On the basis of the results of repeat samples collected as required in R309-210-5(2), the total coliform-positive sample resulted from a non-distribution system plumbing problem on the basis that all repeat samples taken at the same tap as the original total coliform-positive are total coliform-positive, but all repeat samples within five service connections are total coliform-negative; or~~

~~(iii) Substantial grounds exist to establish that the total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case:~~

~~(A) The Director shall document this decision in writing; and~~

~~(B) The Director or his representative shall sign the document; and~~

~~(C) The Director will make the document available to the EPA and the public. The system shall still collect the required repeat samples as outlined in R309-210-5(2) in order to determine compliance with the MCL.~~

~~(b) A laboratory shall invalidate a total coliform sample (unless total coliforms are detected) if the results are indeterminate because of possible interference. A system shall collect and have analyzed, another total coliform sample from the same location as the original sample within 24 hours of being notified of the indeterminate result. The system shall continue to resample within 24 hours of notification of indeterminate results and have the samples analyzed until a valid sample result is obtained. The 24-hour time limit may be waived by the Director on a case-by-case basis if the system has logistical problems beyond its control. Interference for each type of analysis is listed below.~~

~~(i) The sample produces a turbid culture in the absence of gas production when using an analytical method where gas formation is examined.~~

~~(ii) The sample produces a turbid culture in the absence of an acid reaction when using the Presence-Absence Coliform Test.~~

~~(iii) The sample exhibits confluent growth or produces colonies too numerous to count when using an analytical method using a membrane filter.~~

~~(5) Fecal coliforms/Escherichia coli (E. coli) testing~~

~~(a) If any routine sample, repeat sample or additional sample is total coliform-positive, the system shall have the total coliform-positive culture medium analyzed to determine if fecal coliforms are present. The system may test for E. coli in lieu of fecal coliforms.~~

~~(b) Notification of Director and public - If fecal coliforms or E. coli are confirmed present (as per R309-200-5(6)(b)), the system shall notify the Director by the end of the day when the system is notified of the test results. If the system is notified after the Division of Drinking Water has closed, the system shall notify the Director before the close of the next business day and begin public notification using the mandatory health effects language R309-220) within 72 hours.~~

~~(c) The Director may allow a system to forego the analysis for fecal coliforms or E. coli, if the system assumes that the total coliform positive sample is fecal coliform-positive or E. coli-positive. The system must notify the Director of this decision and begin the required public notification.~~

~~(6) Best Available Technology~~

~~The Director may require an appropriate treatment process using the best available technology (BAT) in order to bring the water into compliance with the maximum contaminant level for microbiological quality. The BAT will be determined by the Director.~~]

R309-210-8. Disinfection Byproducts - Stage 1 Requirements.

(1) General requirements. The requirements in this sub-section establish criteria under which community and non-transient non-community water systems that add a chemical disinfectant to the water in any part of the drinking water treatment process, shall modify their practices to meet MCLs and MRDLs in R309-200-5(3)(c) and meet treatment technique requirements in R309-215-12 and 13. The requirements of this sub-section also establish criteria under which

transient non-community water systems that use chlorine dioxide shall modify their practices to meet MRDLs for chlorine dioxide in R309-200-5(3)(c).

(a) Compliance dates.

(i) Community and Non-transient non-community water systems. Surface water systems serving 10,000 or more persons must comply with this section beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and systems using only ground water not under the direct influence of surface water must comply with this section beginning January 1, 2004.

(ii) Transient non-community water systems. Surface water systems serving 10,000 or more persons and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and using chlorine dioxide as a disinfectant or oxidant and systems using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2004.

(b) Systems must take all samples during normal operating conditions.

(c) Systems may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with approval from the Director.

(d) Failure to monitor in accordance with the monitoring plan required under paragraph (5) of this section is a monitoring violation.

(e) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(f) Systems may use only data collected under the provisions of this section or the federal Information Collection Rule, (40 CFR, Part 141, Subpart M) to qualify for reduced monitoring.

(2) Monitoring requirements for disinfection byproducts.

(a) TTHMs and HAA5s

(i) Routine monitoring. Systems must monitor at the frequency indicated in the following:

(A) If a system elects to sample more frequently than the minimum required, at least 25 percent of all samples collected each quarter (including those taken in excess of the required frequency) must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system.

(B) Surface water systems serving at least 10,000 persons shall take four water samples per quarter per treatment plant. At least 25 percent of all samples collected each quarter shall be at locations representing maximum residence time. The remaining samples taken at locations representative of at least average residence time in the distribution system and representing the entire distribution system, taking into account number of persons served, different sources of water, and different treatment methods.

(C) Surface water systems serving from 500 to 9,999 persons shall take one water sample per quarter per treatment plant at a locations representing maximum residence time.

(D) Surface water systems serving fewer than 500 persons shall take one sample per year per treatment plant during month of warmest water temperature at a location representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets reduced monitoring criteria in paragraph (2)(a)(v) of this section.

(E) Systems using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons shall take one water sample per quarter per treatment plant at a locations representing maximum residence time.

(F) Systems using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons shall take one sample per year per treatment plant during month of warmest water temperature at a location representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in paragraph (2)(a)(v) of this section for reduced monitoring.

(ii) Systems may reduce monitoring, except as otherwise provided, if the system has monitored for at least one year and is in accordance with the following paragraphs. Any Surface water system serving fewer than 500 persons may not reduce its monitoring to less than one sample per treatment plant per year.

(A) A surface water system serving at least 10,000 persons which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/L and has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per quarter at a distribution system location reflecting maximum residence time.

(B) A surface water system serving from 500 to 9,999 persons which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/L and has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(C) A system using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons that has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(D) A system using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons that has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L for two consecutive years or has a TTHM annual average of less than or equal to 0.020 mg/L and has a HAA5 annual average of less than or equal to 0.015mg/L for one year may reduce monitoring to one sample per treatment plant per three year

monitoring cycle at a distribution system location reflecting maximum residence time during the month of warmest water temperature, with the three-year cycle beginning on January 1 following the quarter in which the system qualifies for reduced monitoring.

(iii) Monitoring requirements for source water TOC in order to qualify for reduced monitoring for TTHM and HAA5 under paragraph (2)(a)(ii) of this section, surface water systems not monitoring under the provisions of paragraph (d) of this section must take monthly TOC samples every 30 days at a location prior to any treatment, beginning April 1, 2008 or earlier, if specified by the Director. In addition to meeting other criteria for reduced monitoring in paragraph (2)(a)(ii) of this section, the source water TOC running annual average must be equal to or less than 4.0 mg/L (based on the most recent four quarters of monitoring) on a continuing basis at each treatment plant to reduce or remain on reduced monitoring for TTHM and HAA5. Once qualified for reduced monitoring for TTHM and HAA5 under paragraph (2)(a)(ii) of this section, a system may reduce source water TOC monitoring to quarterly TOC samples taken every 90 days at a location prior to any treatment.

(iv) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems which must monitor quarterly) or the result of the sample (for systems which must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (2)(a)(i) of this section in the quarter immediately following the monitoring period in which the system exceeds 0.060 mg/L or 0.045 mg/L for TTHM or HAA5, respectively. For systems using only ground water not under the direct influence of surface water and serving fewer than 10,000 persons, if either the TTHM annual average is greater than 0.080 mg/L or the HAA5 annual average is greater than 0.060 mg/L, the system must go to the increased monitoring identified in paragraph (2)(a)(i) of this section in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHMs or HAA5 respectively.

(v) Systems on increased monitoring may return to routine monitoring if, after at least one year of monitoring their TTHM annual average is less than or equal to 0.060 mg/L and their HAA5 annual average is less than or equal to 0.045 mg/L.

(vi) The Director may return a system to routine monitoring when appropriate to protect public health.

(b) Chlorite. Community and non-transient non-community water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(i) Routine monitoring.

(A) Daily monitoring. Systems must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the locations required by paragraph (2)(b)(ii) of this section, in addition to the sample required at the entrance to the distribution system.

(B) Monthly monitoring. Systems must take a three-sample set each month in the distribution system. The system must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three-sample sets, at the specified locations). The system may use the results of additional monitoring conducted under paragraph (2)(b)(ii) of this section to meet the requirement for monitoring in this paragraph.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring.

(A) Chlorite monitoring at the entrance to the distribution system required by paragraph (2)(b)(i)(A) of this section may not be reduced.

(B) Chlorite monitoring in the distribution system required by paragraph (2)(b)(i)(B) of this section may be reduced to one three-sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under paragraph (2)(b)(i)(B) of this section has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (2)(b)(ii) of this section. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken monthly in the distribution system under paragraph (2)(b)(i)(B) of this section exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (2)(b)(ii) of this section, at which time the system must revert to routine monitoring.

(c) Bromate.

(i) Routine monitoring. Community and nontransient noncommunity systems using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. Systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(ii) Reduced monitoring.

(A) Until March 31, 2009, systems required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for one year. The system may remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L based upon representative monthly measurements. If the running annual average source water bromide concentration is greater than or equal to 0.05 mg/L, the system must resume routine monitoring required by paragraph (2)(c)(i) of this section in the following month.

(B) Beginning April 1, 2009, systems may no longer use the provisions of paragraph (2)(c)(ii)(A) of this section to qualify for reduced monitoring. A system required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's running annual average bromate concentration is equal to or less than 0.0025 mg/L based on monthly bromate measurements under paragraph (2)(c)(i) of this section for the most recent four quarters, with samples analyzed using Method 317.0 Revision 2.0, 326.0 or 321.8. If a system has qualified for reduced bromate monitoring under paragraph (2)(c)(ii)(A) of this section, that system may remain on reduced monitoring as long as the running annual average of quarterly bromate

samples is less than or equal to 0.0025 mg/L based on samples analyzed using Method 317.0 Revision 2.0, 326.0 or 321.8. If the running annual average bromate concentration is greater than 0.0025 mg/L, the system must resume routine monitoring required by (2)(c)(i) of this section.

(3) Monitoring requirements for disinfectant residuals.

(a) Chlorine and chloramines.

(i) Routine monitoring. Community and nontransient noncommunity water systems that use chlorine or chloramines must measure the residual disinfectant level in distribution system at the same point in the distribution system and at the same time as total coliforms are sampled, as specified in [~~R309-210-5~~]R309-211. The Director may allow a public water system which uses both [~~disinfected and undisinfected sources to take disinfectant residual samples at points other than the total coliform sampling points if the Director determines that such sampling points are more representative of treated (disinfected) water quality within the distribution system. Water systems shall take a minimum of three residual disinfectant level samples each week.~~]a surface water source or a ground water source under direct influence of surface water, and a ground water source, to take disinfectant residual samples at points other than the total coliform sampling points if the State determines that such points are more representative of treated (disinfected) water quality within the distribution system. Heterotrophic bacteria, measured as heterotrophic plate count (HPC) as specified in paragraph (a)(1) of this section, may be measured in lieu of residual disinfectant concentration.

(ii) In addition, ground water systems shall take the following readings at each facility a minimum of three times a week: the total volume of water treated; the type and amount of disinfectant used in treating the water (clearly indicating the weight if gas feeders are used, or the percent solution and volume fed if liquid feeders are used); and the setting of the rotometer valve or injector pump. Surface water systems may use the results of residual disinfectant concentration sampling conducted under R309-215-10(3) for systems which filter, in lieu of taking separate samples.

(iii) Reduced monitoring. Monitoring may not be reduced.

(b) Chlorine Dioxide.

(i) Routine monitoring. Community, nontransient noncommunity, and transient noncommunity water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system must take samples in the distribution system the following day at the locations required by paragraph (3)(b)(ii) of this section, in addition to the sample required at the entrance to the distribution system.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the system must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the system must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring. Chlorine dioxide monitoring may not be reduced.

(4) Bromide. Systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly measurements for one year. The system must continue bromide monitoring to remain on reduced bromate monitoring.

(5) Monitoring plans. Each system required to monitor under this section must develop and implement a monitoring plan. The system must maintain the plan and make it available for inspection by the Director and the general public no later than 30 days following the applicable compliance dates in R309-210-8(1)(a). All Surface water systems serving more than 3300 people must submit a copy of the monitoring plan to the Director no later than the date of the first report required under R309-105-16(2). The Director may also require the plan to be submitted by any other system. After review, the Director may require changes in any plan elements. The plan must include at least the following elements.

(a) Specific locations and schedules for collecting samples for any parameters included in this subpart.

(b) How the system will calculate compliance with MCLs, MRDLs, and treatment techniques.

(c) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, the Director may modify the monitoring requirements treating the systems as a single distribution system, however, the sampling plan shall reflect the entire distribution system of all interconnected systems.

(6) Compliance requirements.

(a) General requirements.

(i) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(ii) All samples taken and analyzed under the provisions of this section shall be included in determining compliance, even if that number is greater than the minimum required.

(iii) If, during the first year of monitoring under R309-210-8, any individual quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

(b) Disinfection byproducts.

(i) TTHMs and HAA5.

(A) For systems monitoring quarterly, compliance with MCLs in R309-200-5(3)(c) shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as prescribed by R309-210-8(2)(a).

(B) For systems monitoring less frequently than quarterly, systems demonstrate MCL compliance if the average of samples taken that year under the provisions of R309-210-8(2)(a) does not exceed the MCLs in R309-200-5(3)(c). If the average of these samples exceeds the MCL, the system shall increase monitoring to once per quarter per treatment plant and such a system is not in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Systems required to increase monitoring frequency to quarterly monitoring shall calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(C) If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16.

(D) If a PWS fails to complete four consecutive quarters of monitoring, compliance with the MCL for the last four-quarter compliance period shall be based on an average of the available data.

(ii) Chlorite. Compliance shall be based on an arithmetic average of each three sample set taken in the distribution system as prescribed by R309-210-8(2)(b)(i)(B) and (2)(b)(ii). If the arithmetic average of any three sample sets exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16.

(iii) Bromate. Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as prescribed by R309-210-8(2)(c). If the average of samples covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16. If a PWS fails to complete 12 consecutive months' monitoring, compliance with the MCL for the last four-quarter compliance period shall be based on an average of the available data.

(c) Disinfectant residuals.

(i) Chlorine and chloramines.

(A) Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system under R309-210-8(3)(a). If the average covering any consecutive four-quarter period exceeds the MRDL, the system is in violation of the MRDL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16.

(B) In cases where systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance shall be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted pursuant to R309-105-16 shall clearly indicate which residual disinfectant was analyzed for each sample.

(ii) Chlorine dioxide.

(A) Acute violations. Compliance shall be based on consecutive daily samples collected by the system under R309-210-8(3)(b). If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the system is in violation of the MRDL and shall take immediate corrective action to lower the level of chlorine dioxide below the MRDL and shall notify the public pursuant to the procedures for acute health risks in R309-220-5. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the system shall notify the public of the violation in accordance with the provisions for acute violations under R309-220-5 in addition to reporting the Director pursuant to R309-105-16.

(B) Nonacute violations. Compliance shall be based on consecutive daily samples collected by the system under R309-210-8(3)(b). If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the system is in violation of the MRDL and shall take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for nonacute health risks in R309-220-6 in addition to reporting to the Director pursuant to R309-105-16. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the system shall notify the public of the violation in accordance with the provisions for nonacute violations under R309-220-6 in addition to reporting to the Director pursuant to R309-105-16.

KEY: drinking water, distribution system monitoring, compliance determinations
Date of Enactment or Last Substantive Amendment: [~~September 24, 2009~~]2016
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water
R309-211
Monitoring and Water Quality: Distribution System – Total Coliform Requirements

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 40035
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary

changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-211, the changes made address updates to the monitoring required by system type and population. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring, it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000 per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.
♦ LOCAL GOVERNMENTS: For local governments, the cost will not change. Base monitoring will stay the same, and for small communities, the follow-up monitoring requirements have been slightly reduced.
♦ SMALL BUSINESSES: For small businesses that have their own public water system there will be a cost impact. Base monitoring will switch from one sample per calendar quarter to one sample per month. For routine monitoring, the requirements will increase the samples from 4 per year to 12 per year. The increase in routine sample costs for just the laboratory analysis will be approximately $250 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule will impact USFS campgrounds and kids camps. Base monitoring will switch from one sample per calendar quarter to one sample per month of operation. Most of these systems operate only part of the year (May through September). For routine monitoring, the requirements will increase the samples from two to three per year to one sample for each month of operation. The increase in routine sample costs for just the laboratory analysis will be approximately $100 to $150 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The relatively small cost impact on transient and non-transient system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Yee by phone at 801-536-4216, by FAX at 801-536-4211, or by Internet E-mail at jyee@utah.gov
♦ Patti Fauver by phone at 801-536-4196, by FAX at 801-536-4211, or by Internet E-mail at pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/20/2016 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-211. Monitoring and Water Quality: Distribution System -- Total Coliform Requirements.
R309-211-1. Purpose.

The purpose of this rule is to outline the total coliform monitoring and treatment technique requirements for public water systems. This rule applies to all public drinking water systems as specified herein.

R309-211-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-211-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-211-4. General Monitoring Requirements for All Public Water Systems.

(1) Sample siting plans.

(a) Systems must develop a written sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system. These plans are subject to Director review and revision. Systems must collect total coliform samples according to the written sample siting plan. Monitoring required by R309-211-5 may take place at a customer's premise, dedicated sampling station, or other designated compliance sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of R309-215-16 must be reflected in the sampling plan.

(b) Systems must collect samples at regular time intervals throughout the month, except that systems that use only ground water and serve 4,900 or fewer people may collect all required samples on a single day if they are taken from different sites.

(c) Systems must take at least the minimum number of required samples even if the system has had an E. coli MCL violation or has exceeded the coliform treatment technique triggers in R309-211-8(1).

(d) A system may conduct more compliance monitoring than is required by this rule to investigate potential problems in the distribution system and use monitoring as a tool to assist in uncovering problems. A system may take more than the minimum number of required routine samples and must include the results in calculating whether the coliform treatment technique trigger in R309-211-8(1)(a)(i) and (ii) has been exceeded only if the samples are taken in accordance with the existing sample siting plan and are representative of water throughout the distribution system.

(e) Systems must identify repeat monitoring locations in the sample siting plan. Unless the provisions of paragraphs (1)(e)(i) or (1)(e)(ii) of this section are met, the system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one service connection away from the end of the distribution system, the system must still take all required repeat samples. However, the Director may allow an alternative sampling location in lieu of the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. Except as provided for in paragraph (1)(e)(ii) of this section, systems required to conduct triggered source water monitoring under R309-215-16(2) must take ground water source sample(s) in addition to repeat samples required under this this rule.

(i) Systems may propose repeat monitoring locations to the Director that the system believes to be representative of a pathway for contamination of the distribution system. A system may elect to specify either alternative fixed locations or criteria for selecting repeat sampling sites on a situational basis in a standard operating procedure (SOP) in its sample siting plan. The system must design its SOP to focus the repeat samples at locations that best verify and determine the extent of potential contamination of the distribution system area based on specific situations. The Director may modify the SOP or require alternative monitoring locations as needed.

(ii) Ground water systems serving 1,000 or fewer people may propose repeat sampling locations to the Director that differentiate potential source water and distribution system contamination (e.g., by sampling at entry points to the distribution system). A ground water system with a single well required to conduct triggered source water monitoring may, with written Director approval, take one of its repeat samples at the monitoring location required for triggered source water monitoring under R309-215-16(2)(a) if the system demonstrates to the Director's satisfaction that the sample siting plan remains representative of water quality in the distribution system. If approved by the Director, the system may use that sample result to meet the monitoring requirements in both R309-215-16(2)(a) and this section.

(A) If a repeat sample taken at the monitoring location required for triggered source water monitoring is E. coli-positive, the system has violated the E. coli MCL and must also comply with R309-215-16(2)(a)(iii). If a system takes more than one repeat sample at the monitoring location required for triggered source water monitoring, the system may reduce the number of additional source water samples required under R309-215-16(2)(a)(iii) by the number of repeat samples taken at that location that were not E. coli-positive.

(B) If a system takes more than one repeat sample at the monitoring location required for triggered source water monitoring under R309-215-16(2)(a), and more than one repeat sample is E. coli-positive, the system has violated the E. coli MCL and must also comply with R309-215-16(3)(a)(i).

(C) If all repeat samples taken at the monitoring location required for triggered source water monitoring are E. coli-negative and a repeat sample taken at a monitoring location other than the one required for triggered source water monitoring is E. coli-positive, the system has violated the E. coli MCL, but is not required to comply with R309-215-16(2)(a)(iii).

(f) The Director may review, revise, and approve, as appropriate, repeat sampling proposed by systems under paragraphs (1)(e)(i) and (ii) of this section. The system must demonstrate that the sample siting plan remains representative of the water quality in the distribution system. The Director may determine that monitoring at the entry point to the distribution system (especially for undisinfected ground water systems) is effective to differentiate between potential source water and distribution system problems.

(2) Special purpose samples. Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, must not be used to determine whether the coliform treatment technique trigger has been exceeded. Repeat samples taken pursuant to R309-

211-7 are not considered special purpose samples, and must be used to determine whether the coliform treatment technique trigger has been exceeded.

(3) Invalidation of total coliform samples. A total coliform-positive sample invalidated under this paragraph (3) of this section does not count toward meeting the minimum monitoring requirements of this subpart.

(a) The Director may invalidate a total coliform-positive sample only if the conditions of paragraph (3)(a)(i), (ii), or (iii) of this section are met.

(i) The laboratory establishes that improper sample analysis caused the total coliform-positive result.

(ii) The Director, on the basis of the results of repeat samples collected as required under R309-211-7(1), determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem. The Director cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected at a location other than the original tap are total coliform-negative (e.g., a Director cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the system has only one service connection).

(iii) The Director has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required under R309-211-7(1), and use them to determine whether a coliform treatment technique trigger in R309-211-8 has been exceeded. To invalidate a total coliform-positive sample under this paragraph, the decision and supporting rationale must be documented in writing, and approved and signed by the supervisor of the Director who recommended the decision. The Director must make this document available to EPA and the public. The written documentation must state the specific cause of the total coliform-positive sample, and what action the system has taken, or will take, to correct this problem. The Director may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(b) A laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the Multiple-Tube Fermentation Technique), produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P-A) Coliform Test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., Membrane Filter Technique). If a laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to re-sample within 24 hours and have the samples analyzed until it obtains a valid result. The Director may waive the 24-hour time limit on a case-by-case basis. Alternatively, the Director may implement criteria for waiving the 24-hour sampling time limit to use in lieu of case-by-case extensions.

(4) A public water system that uses inadequately treated surface water or inadequately treated ground water under the direct influence of surface water shall collect and analyze for total coliforms at least one sample each day the turbidity level of the source water exceeds 1 NTU. This sample shall be collected near the first service connection from the source. The system shall collect the sample within 24 hours of the time when the turbidity level was first exceeded. The sample shall be analyzed within 30 hours of collection. Sample results from this coliform monitoring shall be included in determining total coliform compliance for that month. The Director may extend the 24 hour limitation if the system has a logistical problem that is beyond the system's control. In the case of an extension the Director shall specify how much time the system has to collect the sample.

R309-211-5. Routine Monitoring Requirements for Water Systems Serving 1,000 or Fewer People.

(1) General.

(a) The provisions of this section apply to water systems serving 1,000 or fewer people.

(b) Following any total coliform-positive sample taken under the provisions of this section, systems must comply with the repeat monitoring requirements and E. coli analytical requirements in R309-211-7.

(c) Once all monitoring required by this section and R309-211-7 for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in R309-211-8 have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by R309-211-8.

(2) Monitoring frequency for total coliforms. The monitoring frequency for total coliforms is one sample/month.

(3) Seasonal systems.

(a) All seasonal systems must demonstrate completion of a Director-approved start-up procedure, which may include a requirement for startup sampling prior to serving water to the public.

(b) A seasonal system must monitor every month that it is in operation.

(c) The Director may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating.

(4) Additional routine monitoring the month following a total coliform-positive sample. Systems must collect at least three routine samples during the next month, except that the Director may waive this requirement if the conditions of paragraph 5(4)(a), (b), or (c) of this section are met. Systems may either collect samples at regular time intervals throughout the month or may collect all required routine samples on a single day if samples are taken from different sites. Systems must use the results of additional routine samples in coliform treatment technique trigger calculations under R309-211-8(1).

(a) The Director may waive the requirement to collect three routine samples the next month in which the system provides water to the public if the Director, or an agent approved by the Director, performs a site visit before the end of the next month in which the system provides water to the public. Although a sanitary survey need not be performed, the site visit must be sufficiently

detailed to allow the Director to determine whether additional monitoring and/or any corrective action is needed. The Director cannot approve an employee of the system to perform this site visit, even if the employee is an agent approved by the Director to perform sanitary surveys.

(b) The Director may waive the requirement to collect three routine samples the next month in which the system provides water to the public if the Director has determined why the sample was total coliform-positive and has established that the system has corrected the problem or will correct the problem before the end of the next month in which the system serves water to the public. In this case, the Director must document this decision to waive the following month's additional monitoring requirement in writing, have it approved and signed by the supervisor of the Director who recommends such a decision, and make this document available to the EPA and public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the system has taken and/or will take to correct this problem.

(c) The Director may not waive the requirement to collect three additional routine samples the next month in which the system provides water to the public solely on the grounds that all repeat samples are total coliform-negative. If the Director determines that the system has corrected the contamination problem before the system takes the set of repeat samples required in R309-211-7, and all repeat samples were total coliform-negative, the Director may waive the requirement for additional routine monitoring the next month.

R309-211-6. Routine Monitoring Requirements for Public Water Systems Serving More Than 1,000 People.

(1) General.

(a) The provisions of this section apply to public water systems serving more than 1,000 persons.

(b) Following any total coliform-positive sample taken under the provisions of this section, systems must comply with the repeat monitoring requirements and E. coli analytical requirements in R309-211-7.

(c) Once all monitoring required by this section and R309-211-7 for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in R309-211-8 have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by R309-211-8.

(d) Seasonal systems.

(i) Beginning April 1, 2016, all seasonal systems must demonstrate completion of a Director-approved start-up procedure, which may include a requirement for start-up sampling prior to serving water to the public.

(ii) The Director may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating.

(2) Monitoring frequency for total coliforms. The monitoring frequency for total coliforms is based on the population served by the system, as follows:

TABLE 211-1
TOTAL COLIFORM MONITORING FREQUENCY FOR PUBLIC WATER SYSTEMS

Population served	Minimum number of samples per month
25 to 1,000	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

R309-211-7. Repeat Monitoring and E. coli Requirements.

(1) Repeat monitoring.

(a) If a sample taken under R309-211-5 though R309-211-6 is total coliform-positive, the system must collect a set of repeat samples within 24 hours of being notified of the positive result. The system must collect no fewer than three repeat samples for each total coliform-positive sample found. The Director may extend the 24-hour limit on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control. Alternatively, the Director may implement criteria for the system to use in lieu of case-by-case extensions. In the case of an extension, the Director must specify how much time the system has to collect the repeat samples. The Director cannot waive the requirement for a system to collect repeat samples in paragraphs (1)(a) through (1)(c) of this section.

(b) The system must collect all repeat samples on the same day, except that the Director may allow a system with a single service connection to collect the required set of repeat samples over a three-day period or to collect a larger volume repeat sample(s) in one or more sample containers of any size, as long as the total volume collected is at least 300 ml.

(c) The system must collect an additional set of repeat samples in the manner specified in paragraphs (1)(a) through (1)(c) of this section if one or more repeat samples in the current set of repeat samples is total coliform-positive. The system must collect the additional set of repeat samples within 24 hours of being notified of the positive result, unless the Director extends the limit as provided in paragraph (1)(a) of this section. The system must continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger specified in R309-211-8(1) has been exceeded as a result of a repeat sample being total coliform-positive and notifies the Director. If a trigger identified in R309-211-8 is exceeded as a result of a routine sample being total coliform-positive, systems are required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

(d) After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of as a routine sample.

(e) Results of all routine and repeat samples taken under R309-211-5 through R309-211-7 not invalidated by the Director must be used to determine whether a coliform treatment technique trigger specified in R309-211-8 has been exceeded.

(2) Escherichia coli (E. coli) testing.

(a) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if E. coli are present. If E. coli are present, the system must notify the Director by the end of the day when the system is notified of the test result, unless the system is notified of the result after the Director office is closed and the Director does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the Director before the end of the next business day.

(b) The Director has the discretion to allow a system, on a case-by-case basis, to forgo E. coli testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is E. coli-positive. Accordingly, the system must notify the Director as specified in paragraph (2)(a) of this section and the provisions of R309-200-5(6)(b) apply.

R309-211-8. Coliform Treatment Technique Triggers and Assessment Requirements for Protection Against Potential Fecal Contamination.

(1) Treatment technique triggers. Systems must conduct assessments in accordance with paragraph (2) of this section after exceeding treatment technique triggers in paragraphs (1)(a) and (1)(b) of this section.

(a) Level 1 treatment technique triggers.

(i) For systems taking 40 or more samples per month, the system exceeds 5.0% total coliform-positive samples for the month.

(ii) For systems taking fewer than 40 samples per month, the system has two or more total coliform-positive samples in the same month.

(iii) The system fails to take every required repeat sample after any single total coliform-positive sample.

(b) Level 2 treatment technique triggers.

(i) An E. coli MCL violation, as specified in R309-211-9(1).

(ii) A second Level 1 trigger as defined in paragraph (1)(a) of this section, within a rolling 12-month period, unless the Director has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform-positive and has established that the system has corrected the problem.

(2) Requirements for assessments.

(a) Systems must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 2 assessments must be conducted by parties approved by the Director.

(b) When conducting assessments, systems must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The system must conduct the assessment consistent with any Director directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

(c) Level 1 Assessments. A system must conduct a Level 1 assessment consistent with Director requirements if the system exceeds one of the treatment technique triggers in paragraph (1)(a) of this section.

(i) The system must complete a Level 1 assessment as soon as practical after any trigger in paragraph (1)(a) of this section. In the completed assessment form, the system must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment form may also note that no sanitary defects were identified. The system must submit the completed Level 1 assessment form to the Director within 30 days after the system learns that it has exceeded a trigger.

(ii) If the Director reviews the completed Level 1 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Director must consult with the system. If the Director requires revisions after consultation, the system must submit a revised assessment form to the Director on an agreed-upon schedule not to exceed 30 days from the date of the consultation.

(iii) Upon completion and submission of the assessment form by the system, the Director must determine if the system has identified a likely cause for the Level 1 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to the Director for correcting the problem.

(d) Level 2 Assessments. A system must ensure that a Level 2 assessment consistent with Director requirements is conducted if the system exceeds one of the treatment technique triggers in paragraph (1)(b) of this section. The system must comply with any expedited actions or additional actions required by the Director in the case of an E. coli MCL violation.

(i) The system must ensure that a Level 2 assessment is completed by the Director or by a party approved by the Director as soon as practical after any trigger in paragraph (1)(b) of this section. The system must submit a completed Level 2 assessment form to the Director within 30 days after the system learns that it has exceeded a trigger. The assessment form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment form may also note that no sanitary defects were identified.

(ii) The system may conduct Level 2 assessments if the system has staff or management with the certification or qualifications specified by the Director unless otherwise directed by the Director.

(iii) If the Director reviews the completed Level 2 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Director must consult with the system. If the Director requires revisions after consultation, the system must submit a revised assessment form to the Director on an agreed-upon schedule not to exceed 30 days.

(iv) Upon completion and submission of the assessment form by the system, the Director must determine if the system has identified a likely cause for the Level 2 trigger and determine whether the system has corrected the problem, or has included a schedule acceptable to the Director for correcting the problem.

(3) Corrective Action. Systems must correct sanitary defects found through either Level 1 or 2 assessments conducted under paragraph (2) of this section. For corrections not completed by the time of submission of the assessment form, the system must complete the corrective action(s) in compliance with a timetable approved by the Director in consultation with the system. The system must notify the Director when each scheduled corrective action is completed.

(4) Consultation. At any time during the assessment or corrective action phase, either the water system or the Director may request a consultation with the other party to determine the appropriate actions to be taken. The system may consult with the Director on all relevant information that may impact on its ability to comply with a requirement of this subpart, including the method of accomplishment, an appropriate timeframe, and other relevant information.

R309-211-9. Violations.

(1) E. coli MCL Violation. A system is in violation of the MCL for E. coli when any of the conditions identified in paragraphs (1)(a) through (1)(d) of this section occur.

(a) The system has an E. coli-positive repeat sample following a total coliform-positive routine sample.

(b) The system has a total coliform-positive repeat sample following an E. coli-positive routine sample.

(c) The system fails to take all required repeat samples following an E. coli-positive routine sample.

(d) The system fails to test for E. coli when any repeat sample tests positive for total coliform.

(2) Treatment technique violation.

(a) A treatment technique violation occurs when a system exceeds a treatment technique trigger specified in R309-211-8(1) and then fails to conduct the required assessment or corrective actions within the timeframe specified in R309-211-8(2) and (3).

(b) A treatment technique violation occurs when a seasonal system fails to complete a Director-approved start-up procedure prior to serving water to the public.

(3) Monitoring violations.

(a) Failure to take every required routine or additional routine sample in a compliance period is a monitoring violation.

(b) Failure to analyze for E. coli following a total coliform-positive routine sample is a monitoring violation.

(4) Reporting violations.

(a) Failure to submit a monitoring report or completed assessment form after a system properly conducts monitoring or assessment in a timely manner is a reporting violation.

(b) Failure to notify the Director following an E. coli-positive sample as required by R309-211-7(2)(a) in a timely manner is a reporting violation.

(c) Failure to submit certification of completion of Director-approved start-up procedure by a seasonal system is a reporting violation.

R309-211-10. Invalidation of a Total Coliform Sample.

The invalidation of a total coliform sample result can be made only by the Administrator in accordance with Section 141.21(c)(1)(i), (ii), or (iii) or by the certified laboratory in accordance with R309-211-4(3), with the Administrator acting as the Director.

R309-211-11. Reporting and Recordkeeping.

(1) Reporting.

(a) E. coli.

(i) A system must notify the Director by the end of the day when the system learns of an E. coli MCL violation, unless the system learns of the violation after the Director's office is closed and the Director does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the Director before the end of the next business day, and notify the public in accordance with R309-220.

(ii) A system must notify the Director by the end of the day when the system is notified of an E. coli-positive routine sample, unless the system is notified of the result after the Director's office is closed and the Director does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the Director before the end of the next business day.

(b) A system that has violated the treatment technique for coliforms in R309-211-8 must report the violation to the Director no later than the end of the next business day after it learns of the violation, and notify the public in accordance with R309-220.

(c) A system required to conduct an assessment under the provisions of R309-211-8 of this part must submit the assessment report within 30 days. The system must notify the Director in accordance with R309-211-8(3) when each scheduled corrective action is completed for corrections not completed by the time of submission of the assessment form.

(d) A system that has failed to comply with a coliform monitoring requirement must report the monitoring violation to the Director within 10 days after the system discovers the violation, and notify the public in accordance with R309-220.

(e) A seasonal system must certify, prior to serving water to the public, that it has complied with the Director-approved start-up procedure.

(2) Recordkeeping.

(a) The system must maintain any assessment form, regardless of who conducts the assessment, and documentation of corrective actions completed as a result of those assessments, or other available summary documentation of the sanitary defects and corrective actions taken under R309-211-8 for Director review. This record must be maintained by the system for a period not less than five years after completion of the assessment or corrective action.

(b) The system must maintain a record of any repeat sample taken that meets Director's criteria for an extension of the 24-hour period for collecting repeat samples as provided for under R309-211-7(1)(a).

KEY: drinking water, distribution system monitoring, total coliform, compliance determinations
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, Implemented, or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water
R309-215
Monitoring and Water Quality: Treatment Plant Monitoring Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40036
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-215, the changes made address updates to the monitoring required by system type and population. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring, it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000 per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.

♦ LOCAL GOVERNMENTS: For local governments, the cost will not change. Base monitoring will stay the same, and for small communities, the follow-up monitoring requirements have been slightly reduced.

♦ SMALL BUSINESSES: For small businesses that have their own public water system, there will be a cost impact. Base monitoring will switch from one sample per calendar quarter to one sample per month. For routine monitoring, the requirements will increase the samples from 4 per year to 12 per year. The increase in routine sample costs for just the laboratory analysis will be approximately $250 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule will impact USFS campgrounds and kids camps. Base monitoring will switch from one sample per calendar quarter to one sample per month of operation. Most of these systems operate only part of the year (May through September). For routine monitoring, the requirements will increase the samples from two to three per year to one sample for each month of operation. The increase in routine sample costs for just the laboratory analysis will be approximately $100 to $150 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The

relatively small cost impact on transient and non-transient system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Yee by phone at 801-536-4216, by FAX at 801-536-4211, or by Internet E-mail at jyee@utah.gov
♦ Patti Fauver by phone at 801-536-4196, by FAX at 801-536-4211, or by Internet E-mail at pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/20/2016 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-215. Monitoring and Water Quality: Treatment Plant Monitoring Requirements.
R309-215-9. Turbidity Monitoring and Reporting.

Public water systems utilizing surface water and ground water under the direct influence of surface water shall monitor for turbidity in accordance with this section. Small surface water systems serving a population less than 10,000 shall monitor in accordance with subsections (1), (2), (3), (5) and (6). Large surface water systems serving 10,000 or more population shall monitor in accordance with subsections (1), (2), (3), (4) and (6).

(1) Routine Monitoring Requirements for Treatment Facilities utilizing surface water sources or ground water sources under the direct influence of surface water.

(a) All public water systems which use a treatment technique to treat water obtained in whole or in part from surface water sources or ground water sources under the direct influence of surface water shall monitor for turbidity at the treatment plant's clearwell outlet. This monitoring shall be independent of the individual filter monitoring required by R309-525-15(4)(b)(vi) and R309-525-15(4)(c)(vii). Where the plant facility does not have an internal clearwell, the turbidity shall be monitored at the inlet to a finished water reservoir external to the plant provided such reservoir receives only water from the treatment plant and, furthermore, is located before any point of consumer connection to the water system. If such external reservoir does not exist, turbidity shall then be monitored at a location immediately downstream of the treatment plant filters.

(b) All treatment plants, with the exception of those utilizing slow sand filtration and other conditions indicated in section (c) below, shall be equipped with continuous turbidity monitoring and recording equipment for which the direct responsible charge operator will validate the continuous measurements for accuracy in accordance with paragraph (d) below. These plants shall continuously record the finished water turbidity of the combined filter effluent as well as each individual filter. All systems shall be equipped to continuously monitor the turbidity at each filter unless the treatment plant is only equipped with two filters and the turbidity is measured at the combined filter effluent (CFE). If there is a failure in continuous monitoring equipment the system shall conduct grab sampling every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Systems serving less than 10,000 population shall have no more than 14 days to conduct grab samples in lieu of continuous monitoring in order to correct any failing equipment. All surface water systems shall monitor the turbidity results of individual filters at a frequency no greater than every 15 minutes.

(c) Turbidity measurements, as outlined below, shall be reported to the Division within ten days after the end of each month that the system serves water to the public. Systems are required to mark and interpret turbidity values from the recorded charts at the end of each four-hour interval of operation (or some shorter regular time interval) to determine compliance with the turbidity performance criterion. For systems using slow sand filtration the Director may reduce the sampling frequency to as little as once per day if the Director determines that less frequent monitoring is sufficient to indicate effective filtration performance. For systems serving 500 or fewer persons, the Director may reduce the turbidity sampling frequency to as little as once per day, regardless of the type of filtration treatment used, if the Director determines that less frequent monitoring is sufficient to indicate effective filtration performance.

The following shall be reported and the required percentage achieved for compliance:

(i) The total number of interpreted filtered water turbidity measurements taken during the month;

(ii) The number and percentage of interpreted filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in R309-200-5(5)(a)(ii) (or increased limit approved by the Director). The percentage of measurements which are less than or equal to the turbidity limit shall be 95 percent or greater for compliance; and

(iii) The date and value of any turbidity measurements taken during the month which exceed 5 NTU. The system shall inform the Division as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with R309-220-6(2)(c) if any turbidity measurements exceed 5 NTU.

(d) The analytical method which shall be followed in making the required determinations shall be Nephelometric Method - Nephelometric Turbidity Unit as set forth in the latest edition of Standard Methods for Examination of Water and Wastewater, 1985, American Public Health Association et al., (Method 214A, pp. 134-

136 in the 16th edition). Continuous turbidity monitoring equipment shall be checked for accuracy and recalibrated using methods outlined in the above standard at a minimum frequency of monthly. The direct responsible charge operator will note on the turbidity report form when these recalibrations are conducted. For systems that practice lime softening, the representative combined filter effluent turbidity sample may be acidified prior to analysis with prior approval by the Director as to the protocol.

(2) Procedures if a Filtered Water Turbidity Limit is Exceeded

(a) Resampling -

If an analysis indicates that the turbidity limit has been exceeded, the sampling and measurement shall be confirmed by resampling as soon as practicable and preferably within one hour.

(b) If the result of resampling confirms that the turbidity limit has been exceeded, the system shall collect and have analyzed at least one bacteriologic sample near the first service connection from the source as specified in [~~R309-210-5(1)(f)~~]R309-211-4(4). The system shall collect this bacteriologic sample within 24 hours of the turbidity exceedance. Sample results from this monitoring shall be included in determining bacteriologic compliance for that month.

(c) Initial Notification of the Director -

If the repeat sample confirms that the turbidity limit has been exceeded, the supplier shall report this fact to the Director as soon as practical, but no later than 24 hours after the exceedance is known in accordance with the public notification requirements under R309-220-6(2)(c). This reporting is in addition to reporting the incident on any monthly reports.

(3) For the purpose of individual plant evaluation and establishment of pathogen removal credit for the purpose of lowering the required "CT" value assigned a plant, plant management may do additional turbidity monitoring at other points to satisfy criteria in R309-215-7(2).

(4) Additional reporting and recordkeeping requirements for large surface water systems (serving greater than 10,000 population) reporting and recordkeeping requirements.

In addition to the reporting and recordkeeping requirements sub-sections (1), (2) and (3) above, a large surface water system that provides conventional filtration treatment or direct filtration shall report monthly to the Division the information specified in paragraphs (a) and (b) of this section. In addition to the reporting and recordkeeping requirements above, a public water system subject to the requirements of this subpart that provides filtration approved under R309-530-8 or R309-530-9 shall report monthly to the Division the information specified in paragraphs (a) of this section. The reporting in paragraph (a) of this section is in lieu of the reporting specified above.

(a) Turbidity measurements, as required in R309-200-5(5)(a), shall be reported within 10 days after the end of each month the system serves water to the public. Information that shall be reported includes:

(i) The total number of filtered water turbidity measurements taken during the month.

(ii) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to 0.3 NTU or those levels established under R309-200-5(5)(a)(ii).

(iii) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Director under R309-530-8 or R309-530-9.

(b) Systems shall maintain the results of individual filter monitoring taken under R309-215-9(1)(b) for at least three years. Systems shall record the results of individual filter monitoring every 15 minutes. Systems shall report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Systems shall report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (b)(i) through (iv) of this section. Systems that use lime softening may apply to the Director for alternative exceedance levels for the levels specified in paragraphs (b)(i) through (iv) of this section if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(i) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(ii) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system shall report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(iii) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment shall consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(iv) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall arrange for and conduct a comprehensive performance evaluation by the Director or a third party approved by the Director no later than 30 days following the exceedance and have the evaluation completed and submitted to the Division no later than 90 days following the exceedance.

(5) Additional reporting and recordkeeping requirements for surface water systems serving less than 10,000 population.

In addition to the reporting and recordkeeping requirements sub-sections (1), (2) and (3) above, a surface water system that provides conventional filtration treatment or direct filtration shall report monthly to the Division the information specified in paragraphs (a) and (b) of this section. In addition to the reporting and recordkeeping requirements above, a public water system subject to the requirements of this subpart that provides filtration approved under R309-530-8 or R309-530-9 shall report monthly to the Division the information specified in paragraphs (a) of this section. The reporting in paragraph (a) of this section is in lieu of the reporting specified above.

(a) Turbidity measurements, as required in R309-200-5(5)(a), shall be reported within 10 days after the end of each month the system serves water to the public. Information that shall be reported includes:

(i) The total number of filtered water turbidity measurements taken during the month.

(ii) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to 0.3 NTU or those levels established under R309-200-5(5)(a)(ii).

(iii) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Director under R309-530-8 or R309-530-9.

(b) Systems shall maintain the results of individual filter monitoring taken under R309-215-9(1)(b) for at least three years. Systems shall record the results of individual filter monitoring every 15 minutes. Systems shall report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Systems shall report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (b)(i) through (iv) of this section. Systems that use lime softening may apply to the Director for alternative exceedance levels for the levels specified in paragraphs (b)(i) through (iv) of this section if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(i) For any individual filter (or CFE for systems with 2 filters that monitor CFE in lieu of individual filters) that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number(s), the corresponding date(s), the turbidity values which exceeded 1.0 NTU, and the cause (if known) for the exceedance(s), to the Director by the 10th of the following month.

(ii) If a system was required to report to the Director for three months in a row and turbidity exceeded 1.0 NTU in two consecutive recordings taken 15 minutes apart at the same filter (or CFE for systems with 2 filters that monitor CFE in lieu of individual filters), the system shall conduct a self-assessment of the filter within 14 days of the day the filter exceeded 1.0 NTU in two consecutive measurements for the third straight month unless a CPE as specified in paragraph (iii) of this section was required. Systems with 2 filters that monitor CFE in lieu of individual filters must conduct a self assessment on both filters. The self-assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. If a self-assessment is required, the date that it was triggered and the date that it was completed.

(iii) If a system was required to report to the Director for two months in a row and turbidity exceeded 2.0 NTU in two consecutive measurements taken 15 minutes apart at the same filter (or CFE for systems with 2 filters that monitor CFE in lieu of individual filters), the system shall arrange to have a comprehensive performance evaluation (CPE) conducted by the Director or a third party approved by the Director no later than 60 days following the day the filter exceeded 2.0 NTU in two consecutive measurements for the second straight month. If a CPE is required, the system must report a CPE required and the date it was triggered. If a CPE has been completed by the Director or a third party approved by the Director within the 12 prior months or the system and Division are jointly participating in an ongoing Comprehensive Technical Assistance (CTA) project at the system, a new CPE is not required. If conducted, a CPE must be completed and submitted to the Division no later than 120 days following the day the filter exceeded 2.0 NTU in two consecutive measurements for the second straight month.

(6) Additional reporting requirements.

(a) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system shall inform the Division as soon as possible, but no later than the end of the next business day.

(b) If at any time the turbidity in representative samples of filtered water exceeds the maximum level set by the Director under R309-530-8 or R309-530-9 for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system shall inform the Division as soon as possible, but no later than the end of the next business day.

R309-215-10. Residual Disinfectant.

Treatment plant management shall continuously monitor disinfectant residuals and report the following to the Division within ten days after the end of each month that the system serves water to the public, except as otherwise noted:

(1) For each day, the lowest measurement of residual disinfectant concentration in mg/L in water entering the distribution system, except that if there is a failure in the continuous monitoring equipment, grab sampling every 4 hours may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment. Systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies listed in Table 215.2 below:

TABLE 215-2
RESIDUAL GRAB SAMPLE FREQUENCY

System size by population	Samples/day
Less than 500	1
501 to 1,000	2
1,001 to 2,500	3
2,501 to 3,300	4

Note: The day's samples cannot be taken at the same time. The sampling intervals are subject to Director's review and approval.

(2) The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.2 mg/L and when the Division was notified of the occurrence. The system shall notify the Division as soon as possible, but no later than by the end of the next business day. The system also shall notify the Division by the end of the next business day whether or not the residual was restored to at least 0.2 mg/L within four hours.

(3) The following information on the samples taken in the distribution system in conjunction with total coliform monitoring pursuant to [~~R309-210-5~~]R309-211 and R309-210-8(3)(a)(i):

(a) number of instances where the residual disinfectant concentration is measured;

(b) number of instances where the residual disinfectant concentration is not measured but heterotrophic bacteria plate count (HPC) is measured;

(c) number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

(d) number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/ml;

(e) number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/ml;

(f) for the current and previous month the system serves water to the public, the value of "V" in the formula, V = ((c+d+e)/(a+b)) x 100, where a = the value in sub-section (a) above, b = the value in sub-section (b) above, c = the value in sub-section (c) above, d = the value in sub-section (d) above, and e = the value in sub-section (e) above.

R309-215-16. Groundwater Rule.

(1) Applicability: This subpart applies to all public water systems that use ground water except that it does not apply to public water systems that combine all of their ground water with surface water or with ground water under the direct influence of surface water prior to treatment. For the purposes of this subpart, "ground water system" is defined as any public water system meeting this applicability, including consecutive systems receiving finished ground water.

(a) General requirements: Systems subject to this subpart must comply with the following requirements:

(i) Sanitary survey information requirements for all ground water systems as described in R309-100-7.

(ii) Microbial source water monitoring requirements for ground water systems that do not treat all of their ground water to at least 99.99 percent (4-log) treatment of viruses (using inactivation, removal, or an Director-approved combination of 4-log virus inactivation and removal) before or at the first customer as described in R309-215-16(2).

(iii) Treatment technique requirements, described in R309-215-16(3), that apply to ground water systems that have fecally contaminated source waters, as determined by source water monitoring conducted under R309-215-16(2), or that have significant deficiencies that are identified by the Director or that are identified by EPA under SDWA section 1445. A ground water system with fecally contaminated source water or with significant deficiencies subject to the treatment technique requirements of this subpart must implement one or more of the following corrective action options: correct all significant deficiencies; provide an alternate source of water; eliminate the source of contamination; or provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer.

(b) Ground water systems that provide at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer are required to conduct compliance monitoring to demonstrate treatment effectiveness, as described in R309-215-16(3)(b).

(c) If requested by the Director, ground water systems must provide the Director with any existing information that will enable the Director to perform a hydrogeologic sensitivity assessment. For the purposes of this subpart, "hydrogeologic sensitivity assessment" is a determination of whether ground water systems obtain water from hydrogeologically sensitive settings.

(d) Compliance date: Ground water systems must comply, unless otherwise noted, with the requirements of this subpart beginning December 1, 2009.

(2) Ground water source microbial monitoring and analytical methods.

(a) Triggered source water monitoring.

(i) General requirements. A ground water system must conduct triggered source water monitoring if the conditions identified in paragraphs (a)(i)(A) and (a)(i)(B) of this section exist.

(A) The system does not provide at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for each ground water source; and

(B) The system is notified that a sample collected under [~~R309-210-5(1)~~]R309-211 is total coliform-positive and the sample is not invalidated under [~~R309-210-5(4)~~]R309-211-10.

(ii) Sampling Requirements. A ground water system must collect, within 24 hours of notification of the total coliform-positive sample, at least one ground water source sample from each ground water source in use at the time the total coliform-positive sample was collected under [~~R309-210-5(1)~~]R309-211, except as provided in paragraph (a)(ii)(B) of this section.

(A) The Director may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the ground water source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Director must specify how much time the system has to collect the sample.

(B) If approved by the Director, systems with more than one ground water source may meet the requirements of this paragraph (a)(ii) by sampling a representative ground water source or sources. Systems must submit for Director approval a triggered source water monitoring plan that identifies one or more ground water sources that are representative of each monitoring site in the system's sample site plan under [~~R309-210-5(1)(d)~~]R309-211- 4(1) and that the system intends to use for representative sampling under this paragraph.

(C) A ground water system serving 1,000 or fewer people [~~or fewer~~] may use a repeat sample collected from a ground water source to meet both the requirements of [~~R309-210-5(2)(a)~~]R309-211-7(1) and to satisfy the monitoring requirements of paragraph (a)(ii) of this section for that ground water source only if the Director approves the use of E. coli as a fecal indicator for source water monitoring under this paragraph (a) and approves the use of a single sample for meeting both the triggered source water monitoring requirements in this paragraph (a) and the repeat monitoring requirements in R309-211-7.

If the repeat sample collected from the ground water source is E.coli positive, the system must comply with paragraph (a)(iii) of this section.

(iii) Additional Requirements. If the Director does not require corrective action under R309-215-16(3)(a)(ii) for a fecal indicator-positive source water sample collected under paragraph (a)(ii) of this section that is not invalidated under paragraph ([~~d~~]c) of this section, the system must collect five additional source water samples from the same source within 24 hours of being notified of the fecal indicator-positive sample.

(iv) Consecutive and Wholesale Systems.

(A) In addition to the other requirements of this paragraph (a), a consecutive ground water system that has a total coliform-positive sample collected under [~~R309-210-5(1)~~]R309-211 must notify the wholesale system(s) within 24 hours of being notified of the total coliform-positive sample.

(B) In addition to the other requirements of this paragraph (a), a wholesale ground water system must comply with paragraphs (a)(iv)(B)(I) and (a)(iv)(B)(II) of this section.

(I) A wholesale ground water system that receives notice from a consecutive system it serves that a sample collected under [~~R309-210-5(1)~~]R309-211-5 and 6 is total coliform-positive must, within 24 hours of being notified, collect a sample from its ground water source(s) under paragraph (a)(ii) of this section and analyze it for a fecal indicator under paragraph (c) of this section.

(II) If the sample collected under paragraph (a)(iv)(B)(I) of this section is fecal indicator-positive, the wholesale ground water system must notify all consecutive systems served by that ground water source of the fecal indicator source water positive within 24 hours of being notified of the ground water source sample monitoring result and must meet the requirements of paragraph (a)(iii) of this section.

(v) Exceptions to the Triggered Source Water Monitoring Requirements. A ground water system is not required to comply with the source water monitoring requirements of paragraph (2)(a) of this section if either of the following conditions exists:

(A) The Director determines, and documents in writing, that the total coliform-positive sample collected under [~~R309-210-5(1)~~]R309-211-5 and 6 is caused by a distribution system deficiency; or

(B) The total coliform-positive sample collected under [~~R309-210-5(1)~~]R309-211-5 and 6 is collected at a location that meets Director criteria for distribution system conditions that will cause total coliform-positive samples.

(b) Assessment Source Water Monitoring. If directed by the Director, ground water systems must conduct assessment source water monitoring that meets Director-determined requirements for such monitoring. A ground water system conducting assessment source water monitoring may use a triggered source water sample collected under paragraph (a)(ii) of this section to meet the requirements of paragraph (b) of this section. Director-determined assessment source water monitoring requirements may include:

(i) collection of a total of 12 ground water source samples that represent each month the system provides ground water to the public,

(ii) collection of samples from each well unless the system obtains written Director approval to conduct monitoring at one or more wells within the ground water system that are representative of multiple wells used by that system and that draw water from the same hydrogeologic setting,

(iii) collection of a standard sample volume of at least 100 mL for fecal indicator analysis regardless of the fecal indicator or analytical method used,

(iv) analysis of all ground water source samples in accordance with R309-210-4(1) and R309-200-4(3) for the presence of E. coli, enterococci, or coliphage,

(v) collection of ground water source samples at a location prior to any treatment of the ground water source unless the Director approves a sampling location after treatment, and

(vi) collection of ground water source samples at the well itself unless the system's configuration does not allow for sampling at the well itself and the Director approves an alternate sampling location that is representative of the water quality of that well.

(c) Invalidation of a fecal indicator-positive ground water source sample.

(i) A ground water system may obtain Director invalidation of a fecal indicator-positive ground water source sample collected under paragraph (a) of this section only under the conditions specified in paragraphs (c)(i)(A) and (B) of this section.

(A) The system provides the Director with written notice from the laboratory that improper sample analysis occurred; or

(B) The Director determines and documents in writing that there is substantial evidence that a fecal indicator-positive ground water source sample is not related to source water quality.

(ii) If the Director invalidates a fecal indicator-positive ground water source sample, the ground water system must collect another source water sample under paragraph (a) of this section within 24 hours of being notified by the Director of its invalidation decision and have it analyzed for the same fecal indicator using the analytical methods in paragraph (c) of this section. The Director may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Director must specify how much time the system has to collect the sample.

(d) Sampling location.

(i) Any ground water source sample required under paragraph (a) of this section must be collected at a location prior to any treatment of the ground water source unless the Director approves a sampling location after treatment.

(ii) If the system's configuration does not allow for sampling at the well itself, the system may collect a sample at a Director-approved location to meet the requirements of paragraph (a) of this section if the sample is representative of the water quality of that well.

(e) New Sources. If directed by the Director, a ground water system that places a new ground water source into service after November 30, 2009, must conduct assessment source water monitoring under paragraph (b) of this section. If directed by the Director, the system must begin monitoring before the ground water source is used to provide water to the public.

(f) Public Notification. A ground water system with a ground water source sample collected under paragraph (a) or (b) of this section that is fecal indicator-positive and that is not invalidated under paragraph (d) of this section, including consecutive systems served by the ground water source, must conduct public notification under R309-220-5.

(g) Monitoring Violations. Failure to meet the requirements of paragraphs (a)-(f) of this section is a monitoring violation and

requires the ground water system to provide public notification under R309-220-7.

. . . . . .

(5) Reporting and recordkeeping for ground water systems.

(a) Reporting. In addition to the requirements of R309-105-16, a ground water system regulated under this subpart must provide the following information to the Director:

(i) A ground water system conducting compliance monitoring under R309-215-16(3)(b) must notify the Director any time the system fails to meet any Director-specified requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within four hours. The ground water system must notify the Director as soon as possible, but in no case later than the end of the next business day.

(ii) After completing any corrective action under R309-215-16(3)(a), a ground water system must notify the Director within 30 days of completion of the corrective action.

(iii) If a ground water system subject to the requirements of R309-215-16(2)(a) does not conduct source water monitoring under R309-215-16(2)(a)(v)(B), the system must provide documentation to the Director within 30 days of the total coliform positive sample that it met the Director criteria.

(b) Recordkeeping. In addition to the requirements of R309-105-17, a ground water system regulated under this subpart must maintain the following information in its records:

(i) Documentation of corrective actions. Documentation shall be kept for a period of not less than ten years.

(ii) Documentation of notice to the public as required under R309-215-16(3)(a)(vii). Documentation shall be kept for a period of not less than three years.

(iii) Records of decisions under R309-215-16(2)(a)(v)(B) and records of invalidation of fecal indicator-positive ground water source samples under R309-215-16(2)(d). Documentation shall be kept for a period of not less than five years.

(iv) For consecutive systems, documentation of notification to the wholesale system(s) of total-coliform positive samples that are not invalidated under [~~R309-210-5(4)~~]R309-211-10. Documentation shall be kept for a period of not less than five years.

(v) For systems, including wholesale systems, that are required to perform compliance monitoring under R309-215-16(3)(b):

(A) Records of the Director-specified minimum disinfectant residual. Documentation shall be kept for a period of not less than ten years.

(B) Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Director-prescribed minimum residual disinfectant concentration for a period of more than four hours. Documentation shall be kept for a period of not less than five years.

(C) Records of Director-specified compliance requirements for membrane filtration and of parameters specified by the Director for Director-approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours. Documentation shall be kept for a period of not less than five years.

KEY: drinking water, surface water treatment plant monitoring, disinfection monitoring, compliance determinations
Date of Enactment or Last Substantive Amendment: [~~September 21, 2010~~]2016
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water
R309-220
Monitoring and Water Quality: Public Notification Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40037
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-220, the changes made address updates to the public notice requirements. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring, it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would

be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000 per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.

♦ LOCAL GOVERNMENTS: For local governments, the cost will not change. Base monitoring will stay the same, and for small communities, the follow-up monitoring requirements have been slightly reduced.

♦ SMALL BUSINESSES: For small businesses that have their own public water system, there will be a cost impact. Base monitoring will switch from one sample per calendar quarter to one sample per month. For routine monitoring, the requirements will increase the samples from 4 per year to 12 per year. The increase in routine sample costs for just the laboratory analysis will be approximately $250 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule will impact USFS campgrounds and kids camps. Base monitoring will switch from one sample per calendar quarter to one sample per month of operation. Most of these systems operate only part of the year (May through September). For routine monitoring, the requirements will increase the samples from two to three per year to one sample for each month of operation. The increase in routine sample costs for just the laboratory analysis will be approximately $100 to $150 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The relatively small cost impact on transient and non-transient system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

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

ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jennifer Yee by phone at 801-536-4216, by FAX at 801-536-4211, or by Internet E-mail at jyee@utah.gov

♦ Patti Fauver by phone at 801-536-4196, by FAX at 801-536-4211, or by Internet E-mail at pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 01/20/2016 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.

R309-220. Monitoring and Water Quality: Public Notification Requirements.

R309-220-5. Tier 1 Public Notice -- Form, Manner and Frequency of Notice.

(1) Violation Categories and Other Situations Requiring a Tier 1 Public Notice:

(a) Violation of the MCL for total coliforms when [~~fecal coliform or~~]E. coli are present[~~ in the water distribution system (as specified in R309-200-5(6)(b)), or when the water system fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform (as specified in R309-205-5(5))~~], as defined in R309-211-9(1);

(b) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as defined in R309-200-5(1)(c), Table 200-1, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in R309-205-5(1)(e)(ii);

(c) Exceedance of the nitrate MCL by non-community water systems, where permitted to exceed the MCL by the Director under R309-200-5(1)(c), Table 200-1, note (4)(b), as required under R309-220-12;

(d) Violation of the MRDL for chlorine dioxide, as defined in 40 CFR section 141.65(a), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water system does not take the required samples in the distribution system, as specified in 40 CFR section 141.133(c)(2)(i);

(e) Violation of the turbidity MCL under R309-200-5(5)(a), where the Director determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(f) Violation of the Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment rule (IESWTR) or the Long Term 1 Enhanced Surface Water Treatment rule (LT1ESWTR) treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit, where the Director determines

after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(g) Occurrence of a waterborne disease outbreak, as defined in R309-110, or other waterborne emergency (such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);

(h) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the Director either in its rules or on a case-by-case basis.

(i) Detection of E. coli, enterococci, or coliphage in source water samples as specified in R309-215-16(2)(a) and R309-215-16(2)(b).

(2) Frequency of the Tier 1 Public Notice and Additional Steps Required:

Public water systems must:

(a) Provide a public notice as soon as practical but no later than 24 hours after the system learns of the violation;

(b) Initiate consultation with the Director as soon as practical, but no later than 24 hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and

(c) Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the Director. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.

(3) Form and Manner of the Public Notice:

Public water systems must provide the notice within 24 hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, water systems are to use, at a minimum, one or more of the following forms of delivery:

(a) Appropriate broadcast media (such as radio and television);

(b) Posting of the notice in conspicuous locations throughout the area served by the water system;

(c) Hand delivery of the notice to persons served by the water system; or

(d) Another delivery method approved in writing by the Director.

R309-220-6. Tier 2 Public Notice -- Form, Manner and Frequency of Notice.

(1) Violation Categories And Other Situations Requiring a Tier 2 Public Notice:

(a) All violations of the MCL, MRDL, seasonal system treatment technique requirements, and treatment technique requirements, except where a Tier 1 notice is required under R309-220-5(1) or where the Director determines that a Tier 1 notice is required;

(b) Violations of the monitoring and testing procedure requirements, where the Director determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation; and

(c) Failure to comply with the terms and conditions of any variance or exemption in place.

(d) Failure to take corrective action or failure to maintain at least 4-log treatement of viruses (using inactivation, removal, or an Director-approved combination of 4-log virus inactiviation and removal) before or at the first customer under R309-215-16(3)(a).

(2) Frequency of the Tier 2 Public Notice:

(a) Public water systems must provide the public notice as soon as practical, but no later than 30 days after the system learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved. The Director may, in appropriate circumstances, allow additional time for the initial notice of up to three months from the date the system learns of the violation. It is not appropriate for the Director to grant an extension to the 30-day deadline for any unresolved violation or to allow across-the-board extensions by rule or policy for other violations or situations requiring a Tier 2 public notice. Extensions granted by the Director must be in writing.

(b) The public water system must repeat the notice every three months as long as the violation or situation persists, unless the Director determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. It is not appropriate for the Director to allow less frequent repeat notice for an MCL or treatment technique violation under the Total Coliform Rule or R309-211 or a treatment technique violation under the Surface Water Treatment Rule, Interim Enhanced Surface Water Treatment Rule or Filter Backwash Recycling Rule. It is also not appropriate for the Director to allow through its rules or policies across-the-board reductions in the repeat notice frequency for other ongoing violations requiring a Tier 2 repeat notice. Director determinations allowing repeat notices to be given less frequently than once every three months must be in writing.

(c) For the turbidity violations specified in this paragraph, public water systems must consult with the Director as soon as practical but no later than 24 hours after the public water system learns of the violation, to determine whether a Tier 1 public notice under R309-220-5(1) is required to protect public health. When consultation does not take place within the 24-hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours (i.e., no later than 48 hours after the system learns of the violation), following the requirements under R309-220-5(2) and (3). Consultation with the Director is required for:

(i) Violation of the turbidity MCL under R309-200-5(5)(a); or

(ii) Violation of the SWTR, IESWTR or LT1ESWTR treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit.

(3) Form and Manner of the Public Notice:

Public water systems must provide the initial public notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific

situation and type of water system, but it must at a minimum meet the following requirements:

(a) Unless directed otherwise by the Director in writing, community water systems must provide notice by:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(ii) Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (3)(a)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places served by the system or on the Internet; or delivery to community organizations.

(b) Unless directed otherwise by the Director in writing, non-community water systems must provide notice by:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

(ii) Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required in paragraph (3)(b)(i) of this section. Such persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include: publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

R309-220-7. Tier 3 Public Notice -- Form, Manner and Frequency of Notice.

(1) Violation Categories And Other Situations Requiring a Tier 3 Public Notice:

(a) Monitoring violations under R309-205, R309-210 and R309-215, except where a Tier 1 notice is required under R309-220-5(1) or where the Director determines that a Tier 2 notice is required;

(b) Failure to comply with a testing procedure established in R309-205, R309-210 and R309-215, except where a Tier 1 notice is required under R309-220-5(1) or where the Director determines that a Tier 2 notice is required;

(c) Operation under a variance granted under R309-100-10;

(d) Availability of unregulated contaminant monitoring results, as required under R309-220-10; and

(e) Exceedance of the fluoride secondary maximum contaminant level (SMCL), as required under R309-220-11[~~-~~]; and

(f) Reporting and Recordkeeping violations under R309-211.

(2) Frequency of the Tier 3 Public Notice:

(a) Public water systems must provide the public notice not later than one year after the public water system learns of the violation or situation or begins operating under a variance or exemption. Following the initial notice, the public water system must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days (even if the violation or situation is resolved).

(b) Instead of individual Tier 3 public notices, a public water system may use an annual report detailing all violations and situations that occurred during the previous twelve months, as long as the timing requirements of paragraph (2)(a) of this section are met.

(3) Form and Manner of the Public Notice:

Public water systems must provide the initial notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(a) Unless directed otherwise by the Director in writing, community water systems must provide notice by:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(ii) Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (3)(a)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places or on the Internet; or delivery to community organizations.

(b) Unless directed otherwise by the Director in writing, non-community water systems must provide notice by:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

(ii) Any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice required in paragraph (3)(b)(i) of this section. Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include: publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

(4) Use of the Consumer Confidence Report to meet the Tier 3 public notice requirements:

For community water systems, the Consumer Confidence Report (CCR) required under R309-225 may be used as a vehicle for the initial Tier 3 public notice and all required repeat notices, as long as:

(a) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation as required under R309-220-7(2);

(b) The Tier 3 notice contained in the CCR follows the content requirements under R309-220-8; and

(c) The CCR is distributed following the delivery requirements under R309-220-7(3).

R309-220-15. Standard Health Effects Language.

Microbiological Contaminants:

(1) Total Coliform. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, [~~bacteria~~]waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. [~~Coliforms were found in more samples than allowed and this was a warning of potential problems.~~]We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

(2) Coliform Assessment and/or Corrective Action Violation. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that are found. (THE SYSTEM MUST USE THE FOLLOWING APPLICABLE SENTENCES.) We failed to conduct the required assessment.

We failed to correct all identified sanitary defects that were found during the assessment(s).

([~~2~~]3) [~~Fecal coliform/~~]E.Coli Assessment and/or Corrective Action Violations. [~~Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.~~]E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We violated the standard for E. coli, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct a detailed assessment to identify problems and to correct any problems that are found. (THE SYSTEM MUST USE THE FOLLOWING APPLICABLE SENTENCES.) We failed to conduct the required assessment. We failed to correct all identified sanitary defects that were found during the assessment that we conducted.

(4) E. coli. E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems

(5) Seasonal System TT Violations. When this violation includes the failure to monitor for total coliforms or E. coli prior to serving water to the public, the mandatory language found at R309-220-8(4)(b) must be used. When this violation includes failure to complete other actions, the appropriate elements found in R309-220-8(1) to describe the violation must be used.

([~~3~~]6) Total organic carbon. Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acides (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

([~~4~~]7) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1) and Filter Backwash Recycling Rule (FBRR) violations.

([~~5~~]8) Giardia lamblia. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

([~~6~~]9) Viruses. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

([~~7~~]10) Heterotrophic plate count (HPC) bacteria. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

([~~8~~]11) Legionella. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

([~~9~~]12) Cryptosporidium. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

([~~10~~]13) Fecal Indicators. Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these waste can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

Radioactive Contaminants:

([~~11~~]14) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

([~~12~~]15) Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

([~~13~~]16) Combined Radium 226/228. Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.

([~~14~~]17) Uranium. Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.

Inorganic Contaminants:

([~~15~~]18) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

([~~16~~]19) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

([~~17~~]20) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

([~~18~~]21) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

([~~19~~]22) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

([~~20~~]23) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

([~~21~~]24) Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

([~~22~~]25) Copper. Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.

([~~23~~]26) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

([~~24~~]27) Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorisis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

([~~25~~]28) Lead. Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

([~~26~~]29) Mercury (inorganic). Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

([~~27~~]30) Nitrate. Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

([~~28~~]31) Nitrite. Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

([~~29~~]32) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.

([~~30~~]33) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

Synthetic organic contaminants including pesticides and herbicides:

([~~31~~]34) 2,4-D. Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

([~~32~~]35) 2,4,5-TP (Silvex). Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.

([~~33~~]36) Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

([~~34~~]37) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

([~~35~~]38) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

([~~36~~]39) Benzo(a)pyrene (PAH). Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

([~~37~~]40) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.

([~~38~~]41) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.

([~~39~~]42) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

([~~40~~]43) Di (2-ethylhexyl) adipate. Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.

([~~41~~]44) Di (2-ethylhexyl) phthalate. Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.

([~~42~~]45) Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

([~~43~~]46) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

([~~44~~]47) Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could

experience reproductive difficulties and may have an increased risk of getting cancer.

([~~45~~]48) Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

([~~46~~]49) Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

([~~47~~]50) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

([~~48~~]51) Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

([~~49~~]52) Ethylene dibromide. Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

([~~50~~]53) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

([~~51~~]54) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

([~~52~~]55) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.

([~~53~~]56) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.

([~~54~~]57) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

([~~55~~]58) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

([~~56~~]59) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

([~~57~~]60) Oxamyl (Vydate). Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

([~~58~~]61) PCBs (Polychlorinated biphenyls). Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

([~~59~~]62) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

([~~60~~]63) Picloram. Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.

([~~61~~]64) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

([~~62~~]65) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.

Volatile Organic Contaminants:

([~~63~~]66) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.

([~~64~~]67) Bromate. Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.

([~~65~~]68) Carbon Tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

([~~66~~]69) Chloramines. Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

([~~67~~]70) Chlorine. Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

([~~68~~]71) Chlorite. Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

([~~69~~]72) Chlorine dioxide. Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

([~~70~~]73) Chlorobenzene. Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.

([~~71~~]74) o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.

([~~72~~]75) p-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

([~~73~~]76) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

([~~74~~]77) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

([~~75~~]78) cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

([~~76~~]79) trans-1,2-Dicholoroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

([~~77~~]80) Dichloromethane. Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

([~~78~~]81) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

([~~79~~]82) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

([~~80~~]83) Haloacetic Acids (HAA). Some piple who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

([~~81~~]84) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

([~~82~~]85) Tetrachloroethylene. Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.

([~~83~~]86) 1,2,4-Trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

([~~84~~]87) 1,1,1,-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.

([~~85~~]88) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

([~~86~~]89) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

([~~87~~]90) TTHMs (Total Trihalomethanes). Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.

([~~88~~]91) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

([~~89~~]92) Vinyl Chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

([~~90~~]93) Xylenes. Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

KEY: drinking water, public notification, health effects
Date of Enactment or Last Substantive Amendment: [~~September 24, 2009~~]2016
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water
R309-225
Monitoring and Water Quality: Consumer Confidence Reports

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40038
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the revisions to the federal Total Coliform Rule as required by the federal regulations to maintain primary enforcement authority (primacy) for the rule.

SUMMARY OF THE RULE OR CHANGE: The Revised Total Coliform Rule (RTCR) requires changes to many of the Division's rules; therefore, the information and comments provided in this form will be applicable to the necessary changes to Rules R309-105, R309-110, R309-200, R309-210, R309-211, R309-215, R309-220, and R309-225 in aggregate. In this specific rule, R309-225, the changes made address updates to the annual water quality report or consumer confidence report requirements. (DAR NOTE: The proposed amendment to Rule R309-105 is under DAR No. 40031, the proposed amendment to Rule R309-110 is under DAR No. 40032, the proposed amendment to Rule R309-200 is under DAR No. 40033, the proposed amendment to Rule R309-210 is under DAR No. 40034, the proposed new Rule R309-211 is under DAR No. 40035, the proposed amendment to Rule R309-215 is under DAR No. 40036, the proposed amendment to Rule R309-220 is under DAR No. 40037, and the proposed amendment to Rule R309-225 is under DAR No. 40038 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Along with the final rule language, EPA presented the estimated increase in annual cost nationwide with the new requirements. They estimate nationwide there will be an increase of $30,000,000. With an implementation plan of monthly monitoring it would be $30,000,000 nationwide. Utah is a 1% state. As such, the increase projected from the national estimate for Utah would be $300,000, respectively. The costs are estimated to be incurred 90% by public water systems and 10% by the state primacy programs; therefore, the estimated impact to the state budget based on EPA's cost analysis would be $30,000

per year. It is important to note this cost estimate also includes the cost of fixing sanitary defects (significant deficiencies) found in the system infra-structure which would be independently required to be fixed upon discovery during a sanitary survey.
♦ LOCAL GOVERNMENTS: For local governments, the cost will not change. Base monitoring will stay the same, and for small communities, the follow-up monitoring requirements have been slightly reduced.
♦ SMALL BUSINESSES: For small businesses that have their own public water system, there will be a cost impact. Base monitoring will switch from one sample per calendar quarter to one sample per month. For routine monitoring, the requirements will increase the samples from 4 per year to 12 per year. The increase in routine sample costs for just the laboratory analysis will be approximately $250 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule will impact USFS campgrounds and kids camps. Base monitoring will switch from one sample per calendar quarter to one sample per month of operation. Most of these systems operate only part of the year (May through September). For routine monitoring, the requirements will increase the samples from two to three per year to one sample for each month of operation. The increase in routine sample costs for just the laboratory analysis will be approximately $100 to $150 per year. This estimate does not include the transport of the sample to a certified lab. The transportation cost will vary greatly and will likely be mitigated by other required business near certified labs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule impacts every public water system and every person in the state. It is unlikely the rule will independently impact the water rate structure of any community water system. The relatively small cost impact on transient and non-transient system (recreational type facilities and industrial type facilities) should not independently affect consumer costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Executive Director agrees with the fiscal impacts detailed above.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Yee by phone at 801-536-4216, by FAX at 801-536-4211, or by Internet E-mail at jyee@utah.gov
♦ Patti Fauver by phone at 801-536-4196, by FAX at 801-536-4211, or by Internet E-mail at pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 01/20/2016 01:00 PM, MSOB, 195 N 1950 W, DEQ Board Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-225. Monitoring and Water Quality: Consumer Confidence Reports.
R309-225-5. Content of the Reports.

(1) Each community water system must provide to its customers an annual report that contains the information specified in this section and R309-225-6.

(2) Information on the source of the water delivered.

(a) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(i) The type of the water: e.g., surface water, ground water; and

(ii) The commonly used name (if any) and location of the body (or bodies) of water.

(b) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the Director, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Director or written by the operator.

(3) Definitions.

(a) Each report must include the following definitions:

(i) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(ii) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(b) A report for a community water system operating under a variance or an exemption issued under R309-100-10 or R309-100-11 must include the following definition: Variances and Exemptions:

Director or EPA permission not to meet an MCL or a treatment technique under certain conditions.

(c) A report which contains data on a contaminant that EPA regulates using any of the following terms must include the applicable definitions:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water.

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(iii) Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(iv) Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(d) After April 1, 2016, a report that contains information regarding a Level 1 or Level 2 Assessment required under R309-211 must include the applicable definitions:

(i) Level 1 Assessment: A Level 1 assessment is a study of the water system to identify potential problems and determine (if possible) why total coliform bacteria have been found in our water system.

(ii) Level 2 Assessment: A Level 2 assessment is a very detailed study of the water system to identify potential problems and determine (if possible) why an E. coli MCL violation has occurred and/or why total coliform bacteria have been found in our water system on multiple occasions.

(4) Information on Detected Contaminants.

(a) This sub-section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). It applies to:

(i) Contaminants subject to an MCL, action level, maximum residual disinfectant level, or treatment technique (regulated contaminants);

(ii) Contaminants for which monitoring is required by 40 CFR section 141.40 (unregulated contaminants); and

(iii) Disinfection by-products or microbial contaminants for which monitoring is required by R309-210, R309-215 and [~~40 CFR sections 141.142 and 141.143~~]R309-211, except as provided under paragraph (e)(1) of this section, and which are detected in the finished water.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c) The data must be derived from data collected to comply with EPA and State monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter except that:

(i) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than 5 years need be included.

(ii) Results of monitoring in compliance with federal Information Collection Rule, (40 CFR sections 141.142 and 141.143) need only be included for 5 years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(d) For detected regulated contaminants, the table(s) must contain:

(i) The MCL for that contaminant expressed as a number equal to or greater than 1.0;

(ii) The MCLG for that contaminant expressed in the same units as the MCL;

(iii) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph(3)(c) of this section;

(iv) For contaminants subject to an MCL, except turbidity, [~~and total coliforms~~], total coliform, fecal coliform and *E. coli*, the highest contaminant level used to determine compliance with the quality standards listed in R309-200 and the range of detected levels, as follows:

(A) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(B) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL. For the MCLs for TTHM and HAA5 in R309-200-5(3)(c)(vi), systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one location exceeds the TTHM and HAA5 MCL, the system must include the locational running annual averages for all locations that exceed the MCL.

(C) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all monitoring locations: the average and range of detection expressed in the same units as the MCL. The system is required to include individual sample results for the IDSE conducted under R309-210-9 when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken.

(D) When rounding of results to determine compliance with the MCL is allowed by the rules, rounding should be done prior to converting the number in order to express it as a number equal to or greater than 1.0.

(v) For turbidity.

(A) When it is reported pursuant to R309-205-8 and R309-215-9: the highest average monthly value.

(B) When it is reported pursuant to R309-215-9: the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in R309-200-5(5)(a) and (b) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(vi) For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.

(vii) Before March 31, 2016, For total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(viii) Before March 31, 2016, For fecal coliform: the total number of positive samples.

(vii) After April 1, 2016, for E. coli analytical results under R309-211: The total number of positive samples.

([~~ix~~]viii) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in R309-225-8 that is most applicable to the system.

(e) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(f) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language in R309-220-[~~14~~]15.

(g) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(5) Information on Cryptosporidium, radon, and other contaminants.

(a) If the system has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the requirements of the federal Information Collection Rule (40 CFR section 141.143), which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring; and

(ii) An explanation of the significance of the results.

(b) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(c) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, EPA strongly encourages systems to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that systems find out if EPA has proposed a regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(6) Compliance with UPDWR. In addition to the requirements of R309-225-5(4)(f), the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(a) Monitoring and reporting of compliance data;

(b) Filtration and disinfection prescribed by R309-505 of this part. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(c) Lead and copper control requirements prescribed by R309-210-6. For systems which fail to take one or more actions prescribed by R309-210-6(1)(c), R309-210-6(2), or R309-210-6(4), the report must include the applicable language in R309-220-14 for lead, copper, or both.

(d) Treatment techniques for Acrylamide and Epichlorohydrin prescribed by R309-215-8. For systems which violate the requirements of R309-215-8, the report must include the relevant language from R309-220-14.

(e) Recordkeeping of compliance data.

(f) Special monitoring requirements prescribed by 40 CFR section 141.40 (unregulated contaminants); and

(g) Violation of the terms of a variance, an exemption, or an administrative or judicial order.

(7) Variances and Exemptions. If a system is operating under the terms of a variance or an exemption issued under R309-100-10 or R309-100-11, the report must contain:

(a) An explanation of the reasons for the variance or exemption;

(b) The date on which the variance or exemption was issued;

(c) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(d) A notice of any opportunity for public input in the review, or renewal, of the variance or exemption.

(8) Additional information.

(a) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language of paragraphs (8)(a)(i) through (iii) or systems may use their own comparable language. The report also must include the language of paragraph (8)(a)(iv) of this section.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases,

radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(ii) Contaminants that may be present in source water include:

(A) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

(B) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

(C) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.

(D) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems.

(E) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(b) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(c) In communities with a large proportion of non-English speaking residents, as determined by the Director, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(d) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water.

(e) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(f) Systems required to comply with R309-215-16.

(i) Any ground water system that receives notice from the Director of a significant deficiency or notice from a laboratory of a fecal indicator-positive ground water source sample that is not invalidated by the Director under R309-215-16(2)(d) must inform its customers of any significant deficiency that is uncorrected at the time of the next report or of any fecal indicator-positive ground water source sample in the next report. The system must continue to inform the public annually until the Director determines that particular significant deficiency is corrected or the fecal contamination in the ground water source is addressed under R309-215-16(3)(a). Each report must include the following elements.

(A) The nature of the particular significant deficiency or the source of the fecal contamination (if the source is known) and the date the significant deficiency was identified by the Director or the dates of the fecal indicator-positive ground water source samples;

(B) If the fecal contamination in the ground water source has been addressed under R309-215-16(3)(a) and the date of such action;

(C) For each significant deficiency or fecal contamination in the ground water source that has not been addressed under R309-215-16(3)(a), the Director-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed; and

(D) If the system receives notice of a fecal indicator-positive ground water source sample that is not invalidated by the Director under R309-215-16(2)(d), the potential health effects using the health effects language of Appendix A of subpart O.

(ii) If directed by the Director, a system with significant deficiencies that have been corrected before the next report is issued must inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction under paragraph (8)(f)(i) of this section.

R309-225-6. Required Additional Health Information.

(1) All reports must prominently display the following language:

Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(2) A system which detects arsenic at levels above 5 micrograms per liter, but below the MCL:

(a) Must include in its report a short informational statement about arsenic, using language such as: While your drinking water meets EPA's standard for arsenic, it does contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems.

(b) May write its own educational statement, but only in consultation with the Director.

(3) A system which detects nitrate at levels above 5 mg/L, but below the MCL:

(a) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(b) May write its own educational statement, but only in consultation with the Director.

(4) Every report must include the following lead-specific information:

(a) A short informational statement about lead in drinking water and its effects on children. The statement must include the following information:

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. [~~,~~](NAME OF UTILITY)[~~,~~] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at http://www.epa.gov/safewater/lead.

(b) A system may write its own educational statement, but only in consultation with the Director.

(5) Community water systems that detect TTHM above 0.080 mg/L (milligrams per liter), but below the MCL in R309-200-5(3)(c), as an annual average, monitored and calculated under the provisions of R309-210-8, must include health effects language for TTHMs prescribed in R309-220-14.

(6) Beginning in the report due by July 1, 2002 and ending January 22, 2006, a community water system that detects arsenic above 0.01 milligrams per liter and up to and including 0.05 milligrams per liter must include the arsenic health effects language prescribed in R309-220-14.

(7) After April 1, 2016, Systems required to comply with R309-211.

(a) Any system required to comply with the Level 1 assessment requirement or a Level 2 assessment requirement that is not due to an E. coli MCL violation must include in the report the text found in paragraph (7)(a)(i) and paragraphs (7)(a)(ii) and (iii) of this section as appropriate, filling in the blanks accordingly and the text found in paragraphs (7)(a)(iv)(A) and (B) of this section if appropriate.

(i) Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

(ii) During the past year we were required to conduct (INSERT NUMBER OF LEVEL 1 ASSESSMENTS) Level 1 assessment(s). (INSERT NUMBER OF LEVEL 1 ASSESSMENTS) Level 1 assessment(s) were completed. In addition, we were required to take (INSERT NUMBER OF CORRECTIVE ACTIONS) corrective actions and we completed (INSERT NUMBER OF CORRECTIVE ACTIONS) of these actions.

(iii) During the past year (INSERT NUMBER OF LEVEL 2 ASSESSMENTS) Level 2 assessments were required to be completed for our water system. (INSERT NUMBER OF LEVEL 2 ASSESSMENTS) Level 2 assessments were completed. In addition, we were required to take (INSERT NUMBER OF CORRECTIVE ACTIONS) corrective actions and we completed (INSERT NUMBER OF CORRECTIVE ACTIONS) of these actions.

(iv) Any system that has failed to complete all the required assessments or correct all identified sanitary defects, is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

(A) During the past year we failed to conduct all of the required assessment(s).

(B) During the past year we failed to correct all identified defects that were found during the assessment.

(b) Any system required to conduct a Level 2 assessment due to an E. coli MCL violation must include in the report the text found in paragraphs (7)(b)(i) and (ii) of this section, filling in the blanks accordingly and the text found in paragraphs (7)(b)(iii)(A) and (B) of this section, if appropriate.

(i) E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We found E. coli bacteria, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

(ii) We were required to complete a Level 2 assessment because we found E. coli in our water system. In addition, we were required to take (INSERT NUMBER OF CORRECTIVE ACTIONS) corrective actions and we completed (INSERT NUMBER OF CORRECTIVE ACTIONS) of these actions.

(iii) Any system that has failed to complete the required assessment or correct all identified sanitary defects, is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

(A) We failed to conduct the required assessment.

(B) We failed to correct all sanitary defects that were identified during the assessment that we conducted.

(c) If a system detects E. coli and has violated the E. coli MCL, in addition to completing the table as required in R309-225-5(4)(d), the system must include one or more of the following statements to describe any noncompliance, as applicable:

(i) We had an E. coli-positive repeat sample following a total coliform-positive routine sample.

(ii) We had a total coliform-positive repeat sample following an E. coli-positive routine sample.

(iii) We failed to take all required repeat samples following an E. coli-positive routine sample.

(iv) We failed to test for E. coli when any repeat sample tests positive for total coliform.

(d) If a system detects E. coli and has not violated the E. coli MCL, in addition to completing the table as required in R309-225-5(4)(d), the system may include a statement that explains that although they have detected E. coli, they are not in violation of the E. coli MCL.

R309-225-8. Major Sources of Contaminants in Drinking Water.

Microbiological Contaminants

(1) Total Coliform Bacteria - Naturally present in the environment.

(2) [~~Fecal coliform and~~]E. coli - Human and animal fecal waste.

(3) Fecal Indicators (enterococci or coliphage) - Human and animal fecal waste.

(4) Turbidity- Soil runoff.

(5) Total organic carbon - Naturally present in the environment.

Radioactive Contaminants

(6) Alpha emitters (pCi/l) - Erosion of natural deposits.

(7) Beta/photon emitters (mrem/yr) - Decay of natural and man-made deposits.

(8) Combined radium (pCi/l) - Erosion of natural deposits.

(9) Uranium (ug/l) - Erosion of natural deposits.

Inorganic Contaminants

(10) Antimony (ppb) - Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.

(11) Arsenic (ppb) - Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.

(12) Asbestos (MFL) - Decay of asbestos cement water mains; Erosion of natural deposits.

(13) Barium (ppm) - Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits.

(14) Beryllium (ppb) - Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries.

(15) Cadmium (ppb) - Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; runoff from waste batteries and paints.

(16) Chromium (ppb) - Discharge from steel and pulp mills; Erosion of natural deposits.

(17) Copper (ppm) - Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives.

(18) Cyanide (ppb) - Discharge from steel/metal factories; Discharge from plastic and fertilizer factories.

(19) Fluoride (ppm) - Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories.

(20) Lead (ppb) - Corrosion of household plumbing systems; Erosion of natural deposits.

(21) Mercury (inorganic) (ppb) - Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland.

(22) Nitrate (as Nitrogen) (ppm) - Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.

(23) Nitrite (as Nitrogen) (ppm) - Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.

(24) Selenium (ppb) - Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines.

(25) Thallium (ppb) - Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories. Synthetic Organic Contaminants including Pesticides and Herbicides

(26) 2,4-D (ppb) - Runoff from herbicide used on row crops.

(27) 2,4,5-TP (Silvex)(ppb) - Residue of banned herbicide.

(28) Acrylamide - Added to water during sewage/wastewater treatment.

(29) Alachlor (ppb) - Runoff from herbicide used on row crops.

(30) Atrazine (ppb) - Runoff from herbicide used on row crops.

(31) Benzo(a)pyrene (PAH) (nanograms/l) -Leaching from linings of water storage tanks and distribution lines.

(32) Carbofuran (ppb) - Leaching of soil fumigant used on rice and alfalfa.

(33) Chlordane (ppb) - Residue of banned termiticide.

(34) Dalapon (ppb) - Runoff from herbicide used on rights of way.

(35) Di(2-ethylhexyl) adipate (ppb) - Discharge from chemical factories.

(36) Di(2-ethylhexyl) phthalate (ppb) - Discharge from rubber and chemical factories.

(37) Dibromochloropropane (ppt) - Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.

(38) Dinoseb (ppb) - Runoff from herbicide used on soybeans and vegetables.

(39) Diquat (ppb) - Runoff from herbicide use.

(40) Dioxin (2,3,7,8-TCDD) (ppq) - Emissions from waste incineration and other combustion; Discharge from chemical factories.

(41) Endothall (ppb) - Runoff from herbicide use.

(42) Endrin (ppb) - Residue of banned insecticide.

(43) Epichlorohydrin - Discharge from industrial chemical factories; An impurity of some water treatment chemicals.

(44) Ethylene dibromide (ppt) - Discharge from petroleum refineries.

(45) Glyphosate (ppb) - Runoff from herbicide use.

(46) Heptachlor (ppt) - Residue of banned pesticide.

(47) Heptachlor epoxide (ppt) - Breakdown of heptachlor.

(48) Hexachlorobenzene (ppb) - Discharge from metal refineries and agricultural chemical factories.

(49) Hexachlorocyclopentadiene (ppb) - Discharge from chemical factories.

(50) Lindane (ppt) - Runoff/leaching from insecticide used on cattle, lumber, gardens.

(51) Methoxychlor (ppb) - Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock.

(52) Oxamyl (Vydate)(ppb) - Runoff/leaching from insecticide used on apples, potatoes and tomatoes.

(53) PCBs (Polychlorinated biphenyls) (ppt) - Runoff from landfills; Discharge of waste chemicals.

(54) Pentachlorophenol (ppb) - Discharge from wood preserving factories.

(55) Picloram (ppb) - Herbicide runoff.

(56) Simazine (ppb) - Herbicide runoff.

(57) Toxaphene (ppb) - Runoff/leaching from insecticide used on cotton and cattle. Volatile Organic Contaminants

(58) Benzene (ppb) - Discharge from factories; Leaching from gas storage tanks and landfills.

(59) Bromate (ppb) - By-product of drinking water chlorination.

(60) Carbon tetrachloride (ppb) - Discharge from chemical plants and other industrial activities.

(61) Chloramines (ppm) - Water additive used to control microbes.

(62) Chlorine (ppm) - Water additive used to control microbes.

(63) Chlorite (ppm) - By-product of drinking water chlorination.

(64) Chlorine dioxide (ppb) - Water additive used to control microbes.

(65) Chlorobenzene (ppb) - Discharge from chemical and agricultural chemical factories.

(66) o-Dichlorobenzene (ppb) - Discharge from industrial chemical factories.

(67) p-Dichlorobenzene (ppb) - Discharge from industrial chemical factories.

(68) 1,2-Dichloroethane (ppb) - Discharge from industrial chemical factories.

(69) 1,1-Dichloroethylene (ppb) - Discharge from industrial chemical factories.

(70) cis-1,2-Dichloroethylene (ppb) - Discharge from industrial chemical factories.

(71) trans-1,2-Dichloroethylene (ppb) - Discharge from industrial chemical factories.

(72) Dichloromethane (ppb) - Discharge from pharmaceutical and chemical factories.

(73) 1,2-Dichloropropane (ppb) - Discharge from industrial chemical factories.

(74) Ethylbenzene (ppb) - Discharge from petroleum refineries.

(75) Haloacetic Acids (HAA) (ppb) - By-product of drinking water disinfection.

(76) Styrene (ppb)- Discharge from rubber and plastic factories; Leaching from landfills.

(77) Tetrachloroethylene (ppb) - Discharge from factories and dry cleaners.

(78) 1,2,4-Trichlorobenzene (ppb) - Discharge from textile-finishing factories.

(79) 1,1,1-Trichloroethane (ppb) - Discharge from metal degreasing sites and other factories.

(80) 1,1,2-Trichloroethane (ppb) - Discharge from industrial chemical factories.

(81) Trichloroethylene (ppb) - Discharge from metal degreasing sites and other factories.

(82) TTHMs (Total trihalomethanes)(ppb) - By-product of drinking water chlorination.

(83) Toluene (ppm) - Discharge from petroleum factories.

(84) Vinyl Chloride (ppb) - Leaching from PVC piping; Discharge from plastics factories.

(85) Xylenes (ppm) - Discharge from petroleum factories; Discharge from chemical factories.

KEY: drinking water, consumer confidence report, water quality
Date of Enactment or Last Substantive Amendment: [~~September 24, 2009~~]2016
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

Governor, Economic Development
R357-7
Utah Capital Investment Board

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 40028
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This statute surrounding this program was changed by H.B. 411 in the 2015 General Session and this rule has been updated to reflect the most recent legislative changes.

SUMMARY OF THE RULE OR CHANGE: This rule establishes criteria and procedures for the allocation and issuance of contingent tax credits by the Board. The old rule also established the criteria and procedures for the allocation and issuance of contingent tax credits by the Board. However, this new rule removes all of the old criteria and replaces them with a new set of criteria that is contingent on the Utah Capital Investment Corporation showing economic impact of referrals and subsequent investments. The old rule was based on a system where tax credits were issued based on debt financing for the amount of the investment made by the investor. The new criteria is based on equity investments that show economic impact and are calculated based upon what is now listed in the updated statute. The rule further adds how an investor becomes eligible to receive the tax credits including the issuance of a certificate of eligibility and the form such certificate shall take. The rule further adds the process for several newly created requirements including the assessment of likelihood of tax credit redemption, the criteria for calculating the economic impact of any given investment, criteria for establishing the Target Rate of Return for the investment portfolios, and the process for claiming and redeeming the tax credits. The old rule had similar criteria but these have been updated to reflect the new statutory changes to program while keeping the old criteria in rule for tax credits made prior to 07/01/2015.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-6-203 and Section 63N-6-401 and Section 63N-6-406 and Section 63N-6-408

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is the potential for some impact to state budget regarding this rule because it determines how and in what amount certain tax credits would be given due to investments made by the Utah Capital Investment Corporation. The criteria in this rule will establish how these determinations are made and could impact the state budget.
♦ LOCAL GOVERNMENTS: There is no perceived impact to local governments because they cannot apply for or receive these tax credits.
♦ SMALL BUSINESSES: This rule does not impact small businesses because it determines a tax credit for investments based on economic impact as demonstrated by the Utah Capital Investment Corporation. The rule does not create any

new requirements for businesses or any other potential costs creations.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule will not impact any other persons because it pertains solely to the economic impacts created by investments facilitated by the Utah Capital Investment Corporation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because this rule outlines how a tax credit is awarded and calculated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule may have some fiscal impact to the state budget in regards to the determination of tax credit eligibility and amount. Otherwise, there are no other costs associated with this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeffrey Van Hulten by phone at 801-538-8694, by FAX at 801-538-8888, or by Internet E-mail at jeffreyvan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Val Hale, Executive Director

R357. Governor, Economic Development.
[~~**R357-7. Utah Capital Investment Board.**~~
~~**R357-7-1. Purpose.**~~
~~(1) The purpose of these rules is to establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors.~~

~~**R357-7-2. Authority.**~~
~~(1) U.C.A. 63N-6-203, 63N-6-401, 63N-6-406, 63N-6-408 requires the Utah Capital Investment Board to make rules establishing the manner by which it allocates, issues, certifies, transfers and redeems contingent tax credits.~~

~~**R357-7-3. Definitions.**~~
~~(1) "Act" means the Utah Venture Capital Enhancement Act U.C.A. 63N-6.~~
~~(2) "Actual Return" means the actual aggregate amount of moneys or the fair market value of property received from a fund of funds by a designated investor, with respect to an investment amount for which a certificate is issued, including amounts received as returns of invested capital or returns on invested capital and amounts received in excess of invested capital, in whatever form received for the period from the date of the closing to the applicable maturity date.~~
~~(3) "Board" means the Utah Capital Investment Board created under U.C.A. 63N-6-103(1).~~
~~(4) "Certificate" or "tax credit certificate" means a document constituting a contract between the state of Utah and a holder and evidencing a tax credit that has been issued and, subject to the contingencies described on the certificate that may become available to the holder.~~
~~(5) "Certificate register" means the register to be maintained by the board recording the name, address, and taxpayer identification number of each holder and the maximum potential amount of the tax credits represented by each certificate issued to each holder.~~
~~(6) "Certified tax credits" means tax credits that have been verified by the board to the commission and to the holder of the certificate that represents such tax credits.~~
~~(7) "Closing" means a time when a certificate is issued to a designated investor in exchange for a commitment to contribute cash to the capital of a fund of funds.~~
~~(8) "Commission" means the Utah State Tax Commission.~~
~~(9) "Commitment" means either a binding obligation undertaken at closing to invest in a fund of funds in the future or an actual investment made in a fund of funds, but without counting the same amount twice.~~
~~(10) "Contingencies" shall mean the conditions under which a tax credit may be claimed and shall include each of the following;~~
~~(a) The condition that the tax credits may only be used to the extent that the actual return on the investment amount associated with the certificate is less than the applicable scheduled return on such investment amount, and then only to the extent such tax credit becomes a certified tax credit.~~
~~(b) The condition that the amount of the total verified tax credits represented by such certificate that may be claimed during any redemption year will be limited to the amount certified by the board to the commission.~~
~~(c) The condition that no amount of the tax credit may be claimed prior to a maturity date stated on the certificate; and~~
~~(d) The condition that the receipt by the designated investor of an actual return on the investment amount associated with the certificate equal to the scheduled return on such investment amount will result in the cancellation of the tax credit certificate.~~
~~(11) "Corporation" means the Utah Capital Investment Corporation created under Section U.C.A. 63N-6-301.~~
~~(12) "Day" means any weekday Monday through Friday that is not a legal holiday of the state of Utah.~~
~~(13) "Designated investor" means a natural person or an entity, other than the corporation, that has committed to contribute capital to a fund of funds, and such person's or entity's successors or assignees.~~
~~(14) "Designated purchaser" means:~~
~~(a) a person who enters into a written undertaking with the board to purchase a commitment; or~~
~~(b) a transferee who assumes the obligations to make the purchase described in the commitment.~~

(15) "Fiscal year" means the fiscal year for the state of Utah.

(16) "Fund of funds" means any private, for-profit limited partnership or limited liability company established by the corporation to which a designated investor commits to make a capital contribution.

(17) "Holder" means a holder of a tax certificate, either as a designated investor or as a transferee of a designated investor, as reflected on the certificate register.

(18) "Investment amount" means the amount of cash contributed by a designated investor to a fund of funds with respect to which a certificate has been issued.

(19) "Maturity date" means a specific date or dates specified in a certificate, representing the earliest date of which a holder of the certificate may use it.

(20) "Percentage of Return" means the percentage represented by the quotient of (1) the actual return for a designated investor on the investment amount associated with a certificate divided by (2) the scheduled return for such designated investor on such investment amount.

(21) "Portfolio entity" means a venture capital fund or direct investment entity in which a fund of funds makes an investment.

(22) "Rate of return" means Internal Rate of Return calculated inclusive of all cash flows both positive and negative in addition to the fair market value of unrealized investments.

(23) "Redeem" means, with respect to a certificate, to present such certificate to the commission as payment due on or after the date of such presentation.

(24) "Redemption reserve" means the reserve established by the corporation to facilitate the cash redemption of certificates.

(25) "Redemption year" means each calendar year for which certified tax credits associated with a certificate may first be utilized.

(26) "Scheduled return" means the scheduled return, whether in money or property, (including returns of and returns on investment) with respect to an investment amount associated with a certificate issued to a designated investor in a fund of funds determined in accordance with the limited partnership agreement or the operating agreement of such fund of funds for the period from the date of the closing to the applicable maturity date. If relevant for determining the amount of the scheduled return, the board shall presume that a verified credit will be transferred at 100 percent of the amount stated on the certified tax credit. It shall be the burden of a designated investor to show that the certified tax credit cannot be transferred without discounting the amount stated on such credit.

(27) "Tax credit" means a contingent, refundable tax credit authorized by U.C.A. 63N-6-406(4)(c).

R357-7-4. Requirements of the Utah Capital Investment Corporation.

(1) Within 20 days prior to each closing, the corporation shall deliver a written report to the board containing the following information:

(a) a copy of the certificate of limited partnership or articles of organization of the fund of funds for which a closing is scheduled;

(b) a summary of the terms of the anticipated investments in such fund of funds as contained in the limited partnership agreement or the operating agreement of the funds of funds;

(c) a statement of the anticipated date of the closing; and

(d) evidence that the designated investor is an accredited investor.

(2) No less than two days prior to each closing, the corporation shall deliver to the board a signed statement of an officer of the corporation certifying the names, addresses, and taxpayer identification numbers of the persons expected to be designated investors at the closing, the total amount of the capital commitments expected to be received at the closing, the maximum amount of tax credits to be represented by each certificate to be issued at the closing, the date of the anticipated closing, the maturity date or dates for each certificate to be issued at closing, the contingencies applicable to the tax credits, and the calculation formula for determining the scheduled return.

R357-7-5. Allocation and Issuance of Certificates.

(1) Certificates shall be issued only by the board and only with respect to an actual capital commitment to a fund of funds. The board shall not issue a certificate until it has verified that the Utah Fund of Funds has agreed to treat the tax credits as a loan from the state of Utah, and the terms for the repayment of the loan.

(2) Following receipt of the certification of the corporation, the board shall issue a certificate to each such designated investor at closing.

(3) The maximum amount of the tax credits represented by each certificate shall be calculated in accordance with the limited partnership agreement or operating agreement of the applicable fund of funds or loan agreement between a designated investor and a fund of funds and will be subject to the limitations stated in the U.C.A. 63N-6-406(2)(a)(c).

(4) A tax credit certificate shall contain, or incorporate by reference to another document, each of the following:

(a) the name, address, and tax identification number of the holder;

(b) the amount of the investment commitment;

(c) all of the contingencies applicable to the tax credits;

(d) the date of issuance of the certificate;

(e) the maximum amount of the tax credit represented by the certificate;

(f) the maturity date of the certificate;

(g) the formula to be used to determine the total amount of return owed to the designated investor;

(h) if the certificate is issued upon a transfer after certification, the amount of the certified tax credits represented by such certificate and the redemption year(s); and

(i) the credit code to use to claim the credit on the Utah State tax return.

(5) All other requirements as set forth in U.C.A. 63N-6-406(6).

R357-7-6. Procedures for Certification of Tax Credits.

(1) At any time after the applicable maturity date for a certificate, the holder may present such certificate to the board for certification no later than June 30 of the calendar year maturity date stated on the certificate.

~~(2) Prior to certification the board will verify that no funds are available in the redemption reserve account.~~

~~(3) The corporation, and any entity with which the corporation has entered into agreements pursuant to the investments and financial transactions described in U.C.A. 63N-6-301(2)(e), shall provide all documents that the board finds are, or may become, necessary for the board to certify the amount of tax credits to be issued pursuant to the chapter. Such documents include but are not limited to the following:~~

~~(a) Financial transactions related to the corporation, the Utah Fund of Funds, designated investors, lenders, or portfolio entities.~~

~~(b) Financial documents, loan agreements, and security instruments to which any of the corporation, the Utah Fund of Funds, designated investors, lenders, or a portfolio entity is a party.~~

~~(c) Investment agreements to which any of the corporation, Utah Fund of Funds, designated investors, lenders, or a portfolio entity is a party.~~

~~(d) All legal documents and correspondence outlined herein to which any of the corporation, the Utah Fund of Funds, designated investors, lenders, or a portfolio entity is a party.~~

~~(e) All documents and financial information necessary to calculate the actual return, scheduled return, and the percentage of return.~~

~~(f) Any other documents the board deems necessary to assess compliance with this chapter or to correctly verify the amount of tax credits related to a certificate issued pursuant to this chapter.~~

~~(4) Within 30 days of the receipt of all documents and information pursuant to subsection (3) the board shall establish and certify the amount of tax credits related to that certificate, if any, which may be initially used in each redemption year.~~

~~(5) The board shall issue to the holder of such certificate a certification setting forth (a) the amount of certified tax credits represented by such certificate (if any) and (b) the amount of certified tax credits represented by such certificate and redemption year (if any).~~

~~(6) If the certified certificate has more than one maturity date, the board shall issue to the holder a certificate for the certified tax credits. The certified certificate will contain no contingencies. The board shall issue one or more balance certificates for any maturity dates for which the tax credits are not then being certified.~~

~~(7) Certificates being certified for a maturity date shall be certified pro rata with all other certificates being certified for the same maturity date.~~

~~(8) If a contingent certificate has more than one maturity date, the most recent maturity date prior to the date on which the certificate was presented to the board for certification shall be the maturity date used for purposes of certification under this rule.~~

~~(9) Once a tax credit has been certified, the board will notify the Commission of such certification within 7 days.~~

~~R357-7-7. Contractual Nature of Certificates; Irrevocability of Tax Credits.~~

~~(1) Upon the issuance of a certificate, the entitlement of a holder to use the tax credits represented by the certificate shall be final and permanent, subject only to the contingencies expressly stated or incorporated by reference in the certificate, and such entitlement shall not be subject to any further condition, reduction, modification, amendment, change, revocation, or recapture.~~

~~(2) The entitlement of a holder to claim tax credits represented by a certificate shall constitute a contract between the state of Utah on the one hand and such holder and the holder's successors and assignees on the other hand which shall not be subject to modification, amendment, change or rescission without prior written consent of the holder as of the date of any such purported action. No such modification, amendment, change or recession to which a holder may have agreed shall be binding upon any of the successors or assignees of such holder unless it is stated in the text of the certificate issued to such successor assignee.~~

~~(3) The entitlement of a holder to claim tax credits represented by such certificate shall not be affected in any way or become subject to forfeiture or recapture by:~~

~~(a) Action or inaction of the holder or designated investor;~~

~~(b) The transfer by the designated investor of all our any portion of the designated investor's interest in a fund of funds;~~

~~(c) The determination after the closing that a fund of funds was not organized or did not make its investments in accordance with the requirements of the Act or these rules;~~

~~(d) The invalidity or illegality for any reason of the existence or functions of the board, a fund of funds, or the corporation or any portfolio entity for any reason;~~

~~(e) The bankruptcy, insolvency, reorganization, merger, consolidation, dissolution or liquidation of the board, a fund of funds, or the corporation or any portfolio entity for any reason; or~~

~~(f) The level, timing or degree of success of any fund of funds or any portfolio entities, or the extent to which venture capital funds that are portfolio entities are invested in Utah venture capital projects, or are successful in accomplishing any economic development objective.~~

~~(4) If the legal existence of the board, a fund of funds, the corporation or the commission is ended or some or all of its respective functions are transferred to another entity at any time prior to the full use of 100 percent of the tax credits that could potentially be represented by all of the certificates, the board or its successor (or the state of Utah if the legal existence of the board ends or the board ceases to have the requisite authority and there is no successor with such authority) shall adopt such rules as may be necessary to ensure the continuity and effectiveness of the entitlement of each holder to use the tax credits represented by such holder's certificate.~~

~~R357-7-8. Transfer of Tax Credit Certificates.~~

~~(1) Certificates shall be transferrable by the holders and any subsequent holders to any transferee or transferees.~~

~~(2) Transfer of a certificate may be effected only by the holder's surrender of the certificate to the board with an endorsement in favor of the transferee, or transferees, and a statement containing the name, address and tax identification number of the transferee, and a written request for the board to issue a replacement certificate or certificates in the name of the transferee(s) (as well as, in any case where the transferor request that more than one replacement certificate be issued, a statement by the transferor that sets forth the aggregate amount of tax credits represented by the transferred certificate that are to be represented by each replacement certificate).~~

(3) Within 20 days after the surrender and endorsement of a certificate, the board shall issue a replacement certificate or certificates in the name of the transferee(s). Once a transferor of a certificate has surrendered a certificate to the board, such transferor may no longer use the tax credits represented by such a certificate.

(4) A holder shall have the right to pledge and grant security interests in certificates and tax credits held by such holder as collateral for loans to or other obligations of the holder.

R357-7-9. Cancellation of Tax Credits Upon Receipt of the Scheduled Return.

(1) Tax credits represented by a certificate are subject to cancellation only as provided in the certificate and upon receipt by the designated investor of an actual return equal to the designated investor's scheduled return with respect to such certificate.

(2) At the time of each distribution to a designated investor in a fund of funds, the corporation shall determine the amount of tax credits related to each certificate that have been cancelled and have become null and void by reason of such distribution, if any, and shall certify such amount to the board.

(a) After any such certification, the board shall certify to the holder of each such certificate, at the holder's address as shown on the certificate register, and to the commission the amount of tax credits that are deemed to have been cancelled and to be null and void.

(b) If at any time prior to a certification of a certificate the actual return of a designated investor shall equal the designated investor's scheduled return with respect to such a certificate, and all other conditions for cancellation contained in the certificate have been met, the corporation shall so certify to the board.

(c) After any such certification, the board shall certify to such holder at the holder's address shown on the certificate register and to the commission that such certificates shall be deemed to have been cancelled and to be null and void. Tax credits that are cancelled may be reissued with respect to the same or another fund of funds.

R357-7-10. Lost or Mutilated Tax Credit Certificates.

Upon receipt of evidence satisfactory to the board of the loss, theft, destruction or mutilation of any certificate, and in case of any such loss, theft or destruction, upon delivery of any indemnity agreement satisfactory to the board, or in case of any such mutilation, upon surrender and cancellation of such certificate, the board shall issue an deliver to the holder a replacement certificate within twenty days.

R357-7-11. Redeeming the Tax Credit Certificates.

(1) Once certified by the board, the holder of the tax credit certificate may present such certificate to the commission for redemption subject to the following provisions:

(a) The contingent tax credit certified by the board shall be claimed for a tax year of the designated investors, or transferee, that begins during the same year as the stated maturity date listed on such certificate. The designated investor (or a transferee of the Certified Contingent Credit) may submit to the commission at any time following the date of such certification by the board, but no later than the general filing deadline for Utah State tax returns (including extensions) for the redemption year.

(b) The person or entity claiming a refund must timely file a Utah State tax return claiming a refundable credit, and no other filing or forms or actions are necessary, and no other conditions apply, for obtaining a refund in respect of such tax credit. The commission will manually process a tax return with a claim for refund certified by the board and will pay the amount indicated on such tax return (such payment generally, but not always, made within ninety (90) days from the date for such return (the "Due Date")). If the board notified the commission of the filing of a claim for refund by the designated investor, the commission will take steps to expedite the refund.

(2) There is no limitation on a person:

(a) filing more than one claim for refund with the commission, or

(b) receiving more than one refund from the commission, in each case, in any one calendar year or other twelve (12) month period.

(3) If an entity is not otherwise a Utah taxpayer, its taxable year, for purposes of the Utah Act, shall be considered to end annually on the same date that its tax year ends for US federal income tax purposes. For a disregarded entity that is not otherwise a Utah taxpayer, such entity may designate any date on which its taxable year ends by stating such date on the Utah tax return on which it files its claim for refund.

(4) If the investor or any transferee is a corporation or other business organization or entity included in a combined Utah state tax return, and such tax return claims a tax credit, the commission will treat such tax credit as a refundable credit for the combined group.

R357-7-12. Criteria and Procedures for Assessing the Likelihood of Future Certificate Redemptions by Designated Investors.

(1) On an annual basis, the corporation staff and/or the Allocation Manager will provide the board with a comprehensive report including the following:

(a) a detailed accounting of cash outflows and cash inflows from fund investments during the year.

(b) a detailed accounting of payments made to lenders or equity investors during the year.

(c) a detailed accounting of management fees paid to the corporation during the year.

(d) a detailed accounting of increases or decreases in unrealized value during the year.

(e) a five year projection of cash flows with sensitivity around investment returns, interest rates, and distribution pacing.

(f) third party audit of the Utah Fund of Funds including asset valuation.

(g) verification of individual portfolio fund IRR.

R357-7-13. Target Rate of Return or Range of Returns on Venture Capital Investments of the Utah Fund of Funds.

The target rate of return on venture capital investments of the Utah Fund of Funds is a minimum of 5%. The corporation will submit to the board annually a detailed accounting of the calculation of the rate of return. It is understood by the board that the fund that returns in the early years of the fund will likely be negative.

~~**R357-7-14. Certificate Registry.**~~

~~A certificate register detailing all transactions involving the certificates shall be held and maintained at the Office of the Utah Treasurer.~~]

R357-7. Utah Capital Investment Board.

R357-7-1. Purpose.

(1) The purpose of these rules is to establish criteria and procedures for the allocation and issuance of contingent tax credits by the Board.

R357-7-2. Authority.

(1) U.C.A. Section 63N-6-203, 63N-6-401, 63N-6-406 and 63N-6-408 require the Board to:

(a) Make rules establishing the manner by which it allocates, issues, calculates, certifies and provides for the application for, transfer and redemption of, contingent tax credits;

(b) Establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investor; and

(c) Set a target rate of return or range of returns for the investment portfolio of the Utah fund of funds.

R357-7-3. Definitions.

(1) "Accredited Investor" has the same meaning as under the U.S. Securities Act of 1933, as amended, including the rules promulgated thereunder.

(2) "Act" means the Utah Venture Capital Enhancement Act, U.C.A. Section 63N-6-101 et seq.

(3) "Actual Return" means the actual aggregate amount of cash or cash equivalents and the fair market value of property received from a Utah Fund of Funds with respect to a Private Investment, including amounts received as returns of contributed capital or returns on capital contributions and amounts received in excess of capital contributed, in whatever form received.

(4) "Annual Report" means the annual report of the activities conducted by the Utah Fund of Funds that is published by the Corporation, in consultation with the Board in accordance with U.C.A. Section 63N-6-301(6).

(5) "Auditor" means the Person that conducts the annual audit made in accordance with U.C.A. Section 63N-6-405.

(6) "Board" means the Utah Capital Investment Board, established in accordance with U.C.A. Section 63N-6-201.

(7) "Business Day" means any day other than a Saturday, Sunday, or a day on which banking institutions located in Salt Lake City, Utah are authorized by law to be closed.

(8) "Calendar Year" means, with respect to any date or event, the actual calendar year in which such date or event occurs.

(9) "Capital Invested" means the actual aggregate amount of cash or cash equivalents and the fair market value of property contributed with respect to a Private Investment in a Utah Fund of Funds, including capital contributions made by and distributions returned to such Utah Fund of Funds in accordance with the terms of the limited partnership agreement or operating agreement of the Utah Fund of Funds.

(10) "Certificate" means a "certificate" within the meaning of U.C.A. Section 63N-6-103(2).

(11) "Certificate of Eligibility" means a certificate issued in accordance with section 3 of rule 7.6 to a Designated Investor.

(12) "Certificate Register" means the register maintained by the Board recording the name, address and taxpayer identification number of each Designated Investor and all transactions involving Certificates, Certificates of Eligibility, Tax Credit Redemption Certificates and Tax Credit Balance Certificates, including the maximum amount of tax credits represented by each certificate issued or Transferred to such Designated Investor.

(13) "Certification" means (i) with respect to a Certificate for contingent tax credits, the process by which the Board certifies the amount of tax credits the Designated Investor is entitled to receive in accordance with rule 7.4 or rule 7.5 as applicable, and (ii) with respect to a Certificate of Eligibility or Tax Credit Balance Certificate, the process by which the Board certifies the amount of tax credits a Designated Investor is entitled to receive upon application in accordance with rule 7.6.

(14) "Commission" means the Utah State Tax Commission.

(15) "Corporation" means Utah Capital Investment Corporation, established in accordance with U.C.A. Section 63N-6-301.

(16) "Closing" means the date of acceptance of a Designated Investor's capital commitment and admission of such Designated Investor as a limited partner or member, as applicable, in a Utah Fund of Funds.

(17) "Debt-based Refinancing" means a Private Investment structured as a loan to a Utah Fund of Funds that is used to repay all or a portion of the outstanding principal, premium or interest of an existing loan to such Utah Fund of Funds that was originated before July 1, 2014 or the modification of the terms of such an existing loan in accordance with U.C.A. Section 63N-6-406(2)(e).

(18) "Designated Investor" means (a) a Person who makes a Private Investment to whom a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate is issued, and (b) such Person's successor as a matter of law. A Transferee of a Designated Investor shall succeed to the rights of a Designated Investor with respect to a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate to the extent such rights are Transferred in accordance with rule 7.7 and upon such Transfer shall be a Designated Investor for purposes of these rules.

(19) "Designated Purchaser" means a "designated purchaser" within the meaning of U.C.A. Section 63N-6-103(8).

(20) "Determination Date" means, with respect to each Utah Fund of Funds, December 31 of the Calendar Year in which the Term of such Utah Fund of Funds expires.

(21) "Economic Development Impact" means the dollar amount determined by the Board in accordance with rule 7.9.

(22) "Equity-based Refinancing" means a Private Investment structured as equity in a Utah Fund of Funds that is used to repay all or a portion of the outstanding principal, premium or interest of an existing loan made to such Utah Fund of Funds that was originated before July 1, 2014 in accordance with U.C.A. Section 63N-6-406(2)(e).

(23) "Feeder Fund" means a Designated Investor that is an investment fund, the principal purpose of which is to make a Private Investment in a Utah Fund of Fund and for which the Corporation serves as manager, general partner, or investment manager at the time

of such Private Investment. A Feeder Fund may be organized in a jurisdiction other than the state of Utah.

(24) "Fiscal Year" means the fiscal year as established in U.C.A. Section 51-7-3.5.

(25) "Maturity Date" means the date specified in a Certificate, representing the earliest date such Certificate may be presented to the Board for Certification.

(26) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust or any other legal or commercial entity.

(27) "Private Investment" means a "private investment" within the meaning of U.C.A. Section 63N-6-103(11).

(28) "Redemption" means the presentation of a certified tax credit to the Commission for payment in accordance with U.C.A. Section 63N-6-408.

(29) "Redemption Reserve" means the "redemption reserve" within the meaning of U.C.A. Section 63N-6-103(12).

(30) "Scheduled Return" means the scheduled return, whether in cash, cash equivalents or other property (including returns of and returns on investment), with respect to a Private Investment as set forth in a Certificate for the period from the date of the Closing for such Private Investment to the applicable Maturity Date.

(31) "Shortfall" means the amount, if any, equal to the amount by which the Capital Invested with respect to a Private Investment in a Utah Fund of Funds exceeds the Actual Return received with respect to such Private Investment.

(32) "Target Rate of Return" means the target rate of return established by the Board in accordance with rule 7.9.

(33) "Tax Credit Balance Certificate" means a certificate issued in accordance with sections 7 or 10 of rule 7.6.

(34) "Tax Credit Eligibility" means the amount of tax credits a Designated Investor is entitled to apply for in accordance with sections 6 and 7 of rule 7.6.

(35) "Tax Credit Redemption Certificate" means a certificate issued by the Board representing a tax credit that may be claimed by a Designated Investor in accordance with U.C.A. Section 63N-6-408(4).

(36) "Term" means the period of the term of a Utah Fund of Funds prior to the commencement of its dissolution and winding up, as specified in the applicable Utah Fund of Funds operating agreement or limited partnership agreement, including any early termination or extension of such term.

(37) "Transfer" means the transfer, assignment or encumbrance of a Designated Investor's interest in a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate, made in accordance with rule 7.7.

(38) "Transferee" means the Person to whom a Designated Investor Transfers its interest in a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate, in accordance with rule 7.7.

(39) "Transferor" means the Designated Investor that is Transferring its interest in a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate, in accordance with rule 7.7.

(40) "Utah-based Investment Fund" means a private investment fund, whose principal office is maintained in the state of Utah.

(41) "Utah-based Operating Company" means an operating company, the principal executive office of which is located in the state of Utah, or that employs more than 50% of its employees in the state of Utah.

(42) "Utah Fund of Funds" means any limited partnership or limited liability company established in accordance with U.C.A. Section 63N-6-401 in which a Designated Investor makes a Private Investment. There may be more than one Utah Fund of Funds.

R357-7-4. Procedure for the Issuance, Certification and Redemption of Tax Credits for Debt-based Refinancing Transactions.

This rule 7.4 applies to the Debt-based Refinancing of existing loans to a Utah Fund of Funds that were entered into prior to July 1, 2014 even if the refinancing occurs after July 1, 2015.

(1) No later than 20 Business Days prior to each Closing of a Debt-based Refinancing, the Corporation shall provide the following information to the Board:

(a) A summary of the terms of the loan instrument(s) and other contractual agreements to be entered into by the Utah Fund of Funds or the Corporation in connection with the Debt-based Refinancing; and

(b) The anticipated Closing date.

(2) No later than two Business Days prior to each Closing of a Debt-based Refinancing, the Corporation shall provide the following information to the Board for each Person expected to become a Designated Investor at Closing:

(a) Name of the Designated Investor;

(b) Evidence that the Designated Investor is an Accredited Investor;

(c) The Designated Investor's address and taxpayer identification number;

(d) The aggregate principal amount of loans expected to be made at such Closing by such Designated Investor;

(e) The method of determining the scheduled principal and interest payments applicable to such Debt-based Refinancing;

(f) The Scheduled Return for the Designated Investor applicable to such Debt-based Refinancing.

(g) The maximum amount of contingent tax credits to be certified for each Certificate to be issued at Closing;

(h) The Maturity Date or Maturity Dates for each Certificate to be issued at Closing; and

(i) All of the requested contingencies to be applicable to the contingent tax credits to which such Certificate relates.

(3) Upon receipt of the information identified in sections 1 and 2 of this rule 7.4, the Board shall issue a Certificate for contingent tax credits in accordance with U.C.A. Section 63N-6-406, to each Designated Investor identified at Closing with respect to such Designated Investor's Private Investment to be made at Closing. The following provisions shall apply to such Certificates:

(a) Certificates may only be issued by the Board;

(b) Certificates shall be based on the principal amount invested in the applicable Utah Fund of Funds plus scheduled interest.

(c) The maximum amount of contingent tax credits represented by each Certificate shall be calculated in accordance with the limitations set forth in U.C.A. Section 63N-6-406(2)(a);

(d) The maximum amount of outstanding Certificates that may be redeemed in a Fiscal Year will be calculated on a proportional basis in the proportions set forth in U.C.A. Section 63N-6-406(2)(c).

(e) The maximum amount of tax credits to be certified for a Private Investment may not exceed the difference between (i) the Scheduled Return for such Private Investment and (ii) the Actual Return received with respect to such Private Investment, determined as of the applicable Maturity Date.

(4) Each Certificate issued to a Designated Investor in connection with a Debt-based Refinancing shall contain, or incorporate by reference to another document, each of the following:

(a) The name, address and taxpayer identification number of the Designated Investor to which such Certificate relates;

(b) The amount of the Designated Investor's maximum principal loan amount and interest rate;

(c) All contingencies applicable to the tax credits to which such Certificate relates;

(d) The date of issuance of such Certificate;

(e) The Maturity Date or Maturity Dates of such Certificate;

(f) The maximum amount of contingent tax credits represented by such Certificate;

(g) The process for presenting the Certificate for Certification and Redemption; and

(h) Such other provisions the Board determines to be include that are consistent with the Act and these rules.

(5) Certification of Contingent Tax Credits:

(a) To redeem a Certificate for tax credits, a Designated Investor shall present the Board with its Certificate for Certification no later than June 30 of the Calendar Year in which the earliest Maturity Date stated on the Certificate occurs.

(b) Prior to Certification, the Board will determine the amount of funds available in the Redemption Reserve.

(i) If funds are available in the Redemption Reserve, the Board shall direct the Corporation to make a cash payment with respect to such Certificate in accordance with U.C.A. Section 63N-6-408 to the extent funds are available therefor and tax credits are eligible for Certification under such Certificate, such payment to be allocated among Designated Investors in proportion to the outstanding balances of all Certificates, Certificates of Eligibility and Tax Credit Balance Certificates timely presented to the Board pending Certification.

(ii) Any such payments referenced in paragraph (i) shall reduce, dollar for dollar, the amount of tax credits that may be certified by the Board with respect to such Certificates.

(c) Prior to Certification, the Board, at its election, may make a demand upon a Designated Purchaser to purchase the tax credits represented by the Certificate in accordance with U.C.A. Section 63N-6-409.

(d) The Corporation shall provide all information and documents reasonably available to it that the Board requests and determines are necessary for the Board to be able to certify the amount of tax credits to be claimed by the Designated Investor. Such information and documents shall include but are not limited to the following:

(i) Contractual agreements to which either any of the Corporation, the Designated Investor or any applicable Utah Fund of Funds is a party that were entered into in connection with the Debt-based Refinancing.

(ii) All documents and financial information necessary to calculate the actual amounts paid by the Utah Fund of Funds to the Designated Investor with respect to its Private Investment in the Utah Fund of Funds.

(iii) Any other documents the Board deems necessary to assess compliance with this chapter or to verify the amount of certifiable tax credits related to a Certificate.

(e) No later than the date that is the later of (i) September 1 of the Calendar Year in which the earliest Maturity Date stated on the Certificate occurs or (ii) the date that is 20 Business Days after receipt of all information and documents pursuant to section 5(d) of this rule 7.4 the Board shall establish and certify to the Designated Investor the amount of tax credits related to the Certificate, if any.

(f) The Board shall provide the Designated Investor a Tax Credit Redemption Certificate setting forth the amount of certified tax credits represented by such Certificate (if any) that may be claimed by the Designated Investor, in accordance with U.C.A. Section 63N-6-408 and rule 7.11.

(g) If the certified Certificate has more than one Maturity Date, the Board shall issue to the Designated Investor a Tax Credit Redemption Certificate for the certified tax credits for the applicable Maturity Date in accordance with section 5(f) of this rule 7.4 and shall issue to the Designated Investor one or more Certificates for the balance of any contingent tax credits applicable to future Maturity Dates for which the tax credits are not then being certified.

(h) Certificates being certified for a Maturity Date shall be certified pro rata with all other Certificates being certified for the same Maturity Date.

(i) If a Certificate for contingent tax credits has more than one Maturity Date, the Maturity Date or Maturity Dates occurring in the same Calendar Year on which the Certificate was presented to the Board for certification shall be the Maturity Date or Maturity Dates used for purposes of Certification under this rule 7.4.

(j) Once a Tax Credit Redemption Certificate has been issued, the Board shall notify the Commission of such issuance within five Business Days.

(k) Upon Certification of a Certificate, the Board shall cancel such Certificate, unless such Certificate has a Maturity Date that has not expired, in which case the Board shall issue a balance Certificate in accordance with section 5(g) of this rule 7.4.

(6) Expiration or Cancellation of Tax Credits Represented by Certificates. Tax credits represented by a Certificate shall expire or be cancelled as provided in the Certificate.

(7) The agreements between a Utah Fund of Funds and a Designated Investor regarding a Private Investment shall provide that upon timely presentation of the Certificate applicable to such Private Investment to the Board for Certification in accordance with this rule 7.4 by such Designated Investor or its Transferee, such Designated Investor shall be deemed to have assigned to the Corporation effective as of the Maturity Date all of the indebtedness owed to such Designated Investor by the applicable Utah Fund of Funds. Any payments made by such Utah Fund of Funds to such Designated Investor after the Maturity Date with respect to such assigned indebtedness shall reduce the amount of tax credits represented by the Tax Redemption Certificate to be issued to such Designated Investor. Any amounts received by the Corporation with respect to such assigned indebtedness shall be paid first to the

state of Utah in an amount up to the amount of tax credits granted by the state of Utah to such Designated Investor and the balance shall be retained by the Corporation to be included in the Redemption Reserve.

R357-7-5. Procedure for the Issuance, Certification and Redemption of Tax Credits for Equity-based Refinancing Transactions.

This rule 7.5 applies to the Equity-based Refinancing of existing loans to Utah Fund of Funds that were entered into prior to July 1, 2014 even if the refinancing occurs after July 1, 2015.

(1) No later than 20 Business Days prior to each Closing of an Equity-based Refinancing, the Corporation shall provide the following information to the Board:

(a) A summary of the terms of the limited partnership agreement or the operating agreement of the issuing Utah Fund of Funds and other contractual agreements to be entered into by the Utah Fund of Funds or the Corporation in connection with the Equity-based Refinancing; and

(b) The anticipated Closing date.

(2) No later than two Business Days prior to each Closing of an Equity-based Refinancing, the Corporation shall provide the following information to the Board for each Person expected to become a Designated Investor at Closing:

(a) Name of the Designated Investor;

(b) Evidence that the Designated Investor is an Accredited Investor;

(c) The Designated Investor's address and taxpayer identification number;

(d) The aggregate amount of the capital commitment expected to be made at such Closing by such Designated Investor;

(e) The maximum amount of contingent tax credits to be certified for each Certificate to be issued at Closing;

(f) The Maturity Date or Maturity Dates for each Certificate to be issued at Closing; and

(g) All of the requested contingencies to be applicable to the contingent tax credits to which such Certificate relates.

(3) Upon receipt of the information identified in sections 1 and 2 of this rule 7.5, the Board shall issue a Certificate for contingent tax credits in accordance with U.C.A. Section 63N-6-406, to each Designated Investor identified at Closing with respect to such Designated Investor's Private Investment to be made at Closing. The following provisions shall apply to such Certificates:

(a) Certificates may only be issued by the Board;

(b) Certificates shall be based on the Capital Invested in the applicable Utah Fund of Funds.

(c) The maximum amount of contingent tax credits represented by each Certificate shall be calculated in accordance with the limitations set forth in U.C.A. Section 63N-6-406(2)(a);

(d) The maximum amount of outstanding Certificates that can be redeemed in a Fiscal Year will be calculated on a proportional basis in the proportions set forth in U.C.A. Section 63N-6-406(2)(c).

(e) The maximum amount of tax credits to be certified for a Designated Investor may not exceed any Shortfall attributable to such Designated Investor's Private Investment, determined as of the applicable Maturity Date.

(4) Each Certificate issued to a Designated Investor in connection with an Equity-based Refinancing shall contain, or incorporate by reference to another document, each of the following:

(a) The name, address and taxpayer identification number of the Designated Investor to which such Certificate relates;

(b) The amount of the Designated Investor's maximum investment commitment;

(c) All contingencies applicable to the tax credits to which such Certificate relates;

(d) The date of issuance of such Certificate;

(e) The Maturity Date or Maturity Dates of such Certificate;

(f) The maximum amount of the contingent tax credits represented by such Certificate;

(g) The process for presenting the Certificate for Certification and Redemption; and

(h) Such other provisions the Board determines to include that are consistent with the Act and these rules.

(5) Certification of Contingent Tax Credits:

(a) To redeem a Certificate for tax credits, a Designated Investor shall present the Board with its Certificate for Certification no later than June 30 of the Calendar Year in which the earliest Maturity Date stated on the Certificate occurs.

(b) Prior to Certification, the Board will determine the amount of funds available in the Redemption Reserve.

(i) If funds are available in the Redemption Reserve, the Board shall direct the Corporation to make a cash payment with respect to such Certificate in accordance with U.C.A. Section 63N-6-408 to the extent funds are available therefor and tax credits are eligible for certification under such Certificate, such payment to be allocated among Designated Investors in proportion to the outstanding balances of all Certificates, Certificates of Eligibility and Tax Credit Balance Certificates timely presented to the Board pending Certification.

(ii) Any such payments referenced in paragraph (i) shall reduce, dollar for dollar, the amount of tax credits that may be certified by the Board with respect to such Certificates.

(c) Prior to Certification, the Board, at its election, may make a demand upon a Designated Purchaser to purchase the tax credits represented by the Certificate in accordance with U.C.A. Section 63N-6-409.

(d) The Corporation shall provide all information and documents reasonably available to it that the Board requests and determines are necessary for the Board to be able to certify the amount of tax credits to be claimed by the Designated Investor. Such information and documents include but are not limited to the following:

(i) Contractual agreements to which any of the Corporation, the Designated Investor or any applicable Utah Fund of Funds is a party that were entered into in connection with the Equity-based Refinancing.

(ii) All documents and financial information necessary to calculate the actual amounts paid by the Utah Fund of Funds to the Designated Investor with respect to its Private Investment in the Utah Fund of Funds.

(iii) Any other documents the Board deems necessary to assess compliance with this chapter or to verify the amount of certifiable tax credits related to a Certificate.

(e) No later than the date that is the later of (i) September 1 of the Calendar Year in which the earliest Maturity Date stated on the Certificate occurs or (ii) the date that is 20 Business Days after receipt of all information and documents pursuant to section 5(d) of this rule 7.5 the Board shall establish and certify to the Designated Investor the amount of tax credits related to the Certificate, if any.

(f) The Board shall provide the Designated Investor a Tax Credit Redemption Certificate setting forth the amount of certified tax credits represented by such Certificate (if any) that may be claimed by the Designated Investor, in accordance with U.C.A. Section 63N-6-408 and rule 7.11.

(g) If the certified Certificate has more than one Maturity Date, the Board shall issue to the Designated Investor a Tax Credit Redemption Certificate for the certified tax credits for the applicable Maturity Date in accordance with section 5(f) of this rule 7.5 and shall issue to the Designated Investor one or more Certificates for the balance of any contingent tax credits applicable to future Maturity Dates for which the tax credits are not then being certified.

(h) Certificates being certified for a Maturity Date shall be certified pro rata with all other Certificates being certified for the same Maturity Date.

(i) If a Certificate for contingent tax credits has more than one Maturity Date, the Maturity Date or Maturity Dates occurring in the same Calendar Year on which the Certificate was presented to the Board for certification shall be the Maturity Date or Maturity Dates used for purposes of Certification under this rule 7.5.

(j) Once a Tax Credit Redemption Certificate has been issued, the Board will notify the Commission of such issuance within five Business Days.

(k) Upon Certification of a Certificate, the Board shall cancel such Certificate, unless such Certificate has a Maturity Date that has not expired, in which case the Board shall issue a balance Certificate in accordance with section 5(g) of this rule 7.5.

(6) Expiration or Cancellation of Tax Credits Represented by Certificates. Tax credits represented by a Certificate shall expire or be cancelled as provided in the Certificate.

(7) The agreements between a Utah Fund of Funds and a Designated Investor regarding a Private Investment shall provide that upon timely presentation of the Certificate applicable to such Private Investment to the Board for Certification in accordance with this rule 7.5 by such Designated Investor or its Transferee, such Designated Investor shall be deemed to have assigned to the Corporation effective as of the Maturity Date all of such Designated Investor's Private Investment in the applicable Utah Fund of Funds. Such assignment shall include, without limitation, any and all rights to future distributions, dividends, redemption proceeds or other payments from such Utah Fund of Funds attributable to such Private Investment. Any payments made by such Utah Fund of Funds to such Designated Investor after the Maturity Date with respect to such assigned interest shall reduce the amount of tax credits represented by the Tax Redemption Certificate to be issued to such Designated Investor. Any amounts received by the Corporation with respect to such assigned interest shall be paid first to the state of Utah in an amount up to the amount of certified tax credits granted by the state of Utah to such Designated Investor and the balance shall be retained by the Corporation to be included in the Redemption Reserve.

R357-7-6. Procedure for the Application, Issuance, Certification and Redemption of Economic Development Incentive-based Tax Credits for Equity-based Investments in a Utah Fund of Funds.

This rule 7.6 applies to Private Investments structured as equity investments in any Utah Fund of Funds initiated on or after July 1, 2015, excluding any Equity-based Refinancing.

(1) No later than 20 Business Days prior to each Closing to which this rule 7.6 applies, the Corporation shall provide the following information to the Board:

(a) A summary of the terms of the limited partnership agreement or the operating agreement of the applicable Utah Fund of Funds and any other contractual agreements to be entered into by the applicable Utah Fund of Funds, the Corporation and any Designated Investor in connection with its Private Investment in a Utah Fund of Funds; and

(b) The anticipated Closing date.

(2) No later than two Business Days prior to each Closing, the Corporation shall provide the Board with the following information with respect to each Person expected to become a Designated Investor at such Closing:

(a) Name of the Designated Investor;

(b) Evidence that the Designated Investor is an Accredited Investor;

(c) The Designated Investor's address and taxpayer identification number;

(d) The aggregate amount of the capital commitment expected to be made at such Closing by the Designated Investor; and

(e) The Term of the applicable Utah Fund of Funds.

(3) Within 20 Business Days after each Closing, the Board shall issue to each Designated Investor that has invested in the applicable Utah Fund of Funds at such Closing a Certificate of Eligibility.

(a) The maximum aggregate amount of tax credits for which a Designated Investor may apply as represented by its Certificate of Eligibility shall be calculated in accordance with the limitations set forth in U.C.A. Section 63N-6-406(2)(a).

(b) A Certificate of Eligibility shall entitle a Designated Investor to apply for a Tax Credit Redemption Certificate in accordance with this rule 7.6 as in effect at the time such Certificate of Eligibility was certified by the Board and may not be modified, terminated or rescinded without the consent of such Designated Investor.

(4) Each Certificate of Eligibility shall contain, or incorporate by reference to another document, each of the following:

(a) The name, address and taxpayer identification number of the Designated Investor to whom the Certificate of Eligibility is issued;

(b) The maximum amount of tax credits represented by such Certificate of Eligibility for which such Designated Investor is eligible to apply (which shall be equal to such Designated Investor's capital commitment to the applicable Utah Fund of Funds);

(c) The date of issuance of the Certificate of Eligibility; and

(d) A statement that such Designated Investor is eligible to apply for tax credits represented by a Tax Credit Redemption Certificate, subject to the limitations set forth in this rule 7.6.

(e) A Designated Investor who has received a Certificate of Eligibility may apply to the Board for tax credits represented by a Tax Credit Redemption Certificate if the following conditions are satisfied:

(i) Subject to section 5(c) of this rule 7.6, such Designated Investor has contributed capital to the applicable Utah Fund of Funds in the amount required under the agreement between such Utah Fund of Funds and the Designated Investor;

(ii) The Term of the applicable Utah Fund of Funds has expired.

(iii) As of the Determination Date, there is a Shortfall attributable to such Designated Investor's Private Investment.

(iv) There is Economic Development Impact attributable to the applicable Utah Fund of Funds as most recently certified by the Board in accordance with rule 7.9 and section 12 of this rule 7.6 prior to the Determination Date.

(v) As of the Determination Date, there are insufficient funds in the Redemption Reserve available to make a cash payment equal to the amount of the lesser of (i) the Shortfall described in section 5(a)(iii) of this rule 7.6 for all Designated Investors of the applicable Utah Fund of Funds, and (ii) the amount of Economic Development Impact described in section 5(a)(iv) of this rule 7.6 attributable to such Designated Investors.

(f) Any Designated Investor not eligible to apply for tax credits as a result of the condition set forth in section 5(a)(v) of this rule 7.6, may present its Certificate of Eligibility to the Board no later than the June 30 following the Determination Date, and to the extent such Certificate of Eligibility would otherwise be certified in accordance with this rule 7.6 absent such condition, the Board shall direct the Corporation to make a cash payment from the Redemption Reserve or other sources with respect to such Designated Investors in accordance with U.C.A. Section 63N-6-408 to the extent funds are available therefor by no later than September 1 of the Calendar Year immediately following the Determination Date, such payment to be allocated among Designated Investors in proportion to the outstanding balances of all Certificates, Certificates of Eligibility and Tax Credit Balance Certificates timely presented to the Board pending Certification.

(g) If a Feeder Fund fails to contribute capital to a Utah Fund of Funds with respect to which such Feeder Fund is a Designated Investor in the amount required under the agreement between such Utah Fund of Funds and such Feeder Fund, and such failure is a direct result of the failure of any member, partner or other equity investor of such Feeder Fund (a "Feeder Fund Investor") to make a contribution of capital required to be made to such Feeder Fund, then the restriction on applying for tax credits set forth in section 5(a)(i) of this rule 7.6 shall apply only to (i) that portion of the tax credits represented by the Certificate of Eligibility issued to such Feeder Fund that bears the same proportion to the aggregate tax credits represented by such Certificate of Eligibility, as the obligation to contribute capital to such Feeder Fund of such Feeder Fund Investor bears to the aggregate obligations to contribute capital to such Feeder Fund of all its Feeder Fund Investors or (ii) any Certificate of Eligibility Transferred to such Feeder Fund Investor by such Feeder Fund.

(5) Upon the satisfaction of the conditions set forth in section 5(a) of this rule 7.6, a Designated Investor may apply for a Tax Credit Redemption Certificate, in a form prescribed by the Board in accordance with this rule 7.6. The Tax Credit Redemption Certificate shall be issued in an amount equal to the lesser of (i) the Economic Development Impact attributable to such Designated Investor determined in accordance with rule 7.9 and section 12 of this rule 7.6 and (ii) the Shortfall attributable to such Designated Investor's Private Investment, in each case calculated as of the Determination Date.

(6) To apply for tax credits, a Designated Investor shall present the Board with its Certificate of Eligibility no later than the first June 30 following the Determination Date. If for any reason a Designated Investor fails to present its Certificate of Eligibility to the Board on time, such Certificate of Eligibility shall automatically expire without further action of the Board and any eligibility to apply for tax credits represented thereby shall be forfeited.

(a) The amount of tax credits represented by a Certificate of Eligibility that the Board is permitted to certify in a Fiscal Year upon application by a Designated Investor will be calculated and allocated in accordance with section 12 of this rule 7.6.

(b) The Corporation shall provide all information and documents reasonably available to it that the Board requests and determines are necessary for the Board to be able to certify the amount of tax credits to be claimed by the Designated Investor. Such information and documents include but are not limited to the following:

(i) Contractual agreements to which either the Corporation or any applicable Utah Fund of Funds is a party that were entered into in connection with the Designated Investor's Private Investment in the applicable Utah Fund of Funds.

(ii) All financial information and related documents necessary to calculate the Shortfall attributable to such Designated Investor's Private Investment.

(iii) Any other documents the Board deems necessary to assess compliance with this chapter or to verify the amount of certifiable tax credits related to such Certificate of Eligibility.

(c) Prior to Certification, the Board will determine the amount of funds available in the Redemption Reserve.

(i) If funds are available in the Redemption Reserve, the Board shall direct the Corporation to make a cash payment with respect to such Certificate of Eligibility in accordance with U.C.A. Section 63N-6-408 to the extent funds are available therefor and tax credits are eligible for certification under such Certificate of Eligibility, such payment to be allocated among Designated Investors in proportion to the outstanding balances of all Certificates, Certificates of Eligibility and Tax Credit Balance Certificates timely presented to the Board pending Certification.

(ii) Any such payments referenced in paragraph (i) shall reduce, dollar for dollar, the amount of tax credits that may be certified by the Board with respect to such Certificates of Eligibility and Tax Credit Balance Certificates.

(d) Prior to Certification, the Board, at its election, may make a demand upon a Designated Purchaser to purchase the tax credits represented by the Certificate of Eligibility in accordance with U.C.A. Section 63N-6-409.

(e) No later than the date that is the later of (i) September 1 of the Calendar Year immediately following the Determination Date or

(ii) the date that is 20 Business Days after receipt of all information and documents pursuant to section 7(d) of this rule 7.6, the Board shall establish and certify to the Designated Investor the amount of tax credits related to the Certificate of Eligibility, if any.

(f) The Board shall Issue each Designated Investor a Tax Credit Redemption Certificate setting forth the amount of certified tax credits represented by such certificate (if any) that may be claimed by such Designated Investor, in accordance with U.C.A. Section 63N-6-408 and rule 7.11.

(g) Once a Tax Credit Redemption Certificate has been issued, the Board will notify the Commission of such issuance within five Business Days.

(h) Upon issuance of a Tax Credit Redemption Certificate, the Board shall cancel the related Certificate of Eligibility.

(7) To the extent that, in accordance with section 7(a) of this rule 7.6, the Board is not permitted to certify all of the tax credits represented by a Designated Investor's Certificate of Eligibility, upon cancellation of the Certificate of Eligibility in accordance with section 7(h) of this rule 7.6, the Board shall issue to such Designated Investor a Tax Credit Balance Certificate for the amount of remaining tax credits that were limited by section 7(a) of this rule 7.6. The amount of tax credits for which a Designated Investor is eligible to apply represented by its Tax Credit Balance Certificate shall not be adjusted for any Economic Development Impact measurements made in accordance with rule 7.9 for any period after the applicable Determination Date.

(8) A Tax Credit Redemption Certificate issued to a Designated Investor shall contain each of the following:

(a) The name, address and taxpayer identification number of such Designated Investor;

(b) The date of issuance of the Tax Credit Redemption Certificate; and

(c) The amount of tax credits to be claimed.

(9) A Tax Credit Balance Certificate issued to a Designated Investor shall contain each of the following:

(a) The name, address and taxpayer identification number of such Designated Investor;

(b) The date of issuance of the Tax Credit Balance Certificate;

(c) The certificate number of the cancelled Certificate of Eligibility to which the Tax Credit Balance Certificate relates;

(d) The amount tax credits represented by such Tax Credit Balance Certificate; and

(e) The Fiscal Year or Fiscal Years in which such Designated Investor shall be eligible to apply for tax credits represented by such Tax Credit Balance Certificate.

(10) During each the Fiscal Year set forth on a Tax Credit Balance Certificate, a Designated Investor may apply for Certification of the tax credits represented by such Tax Credit Balance Certificate by presenting it to the Board no later than June 30 of such Fiscal Year. If for any reason a Designated Investor fails to present its Tax Credit Balance Certificate to the Board in a timely fashion, such Tax Credit Balance Certificate shall automatically expire without further action of the Board and any amount of tax credits represented thereby shall be forfeited.

(a) The amount of tax credits represented by a Tax Credit Balance Certificate that the Board is permitted to certify in a Fiscal Year upon application by a Designated Investor will be calculated and allocated in accordance with section 13 of this rule 7.6.

(b) Prior to Certification, the Board will determine the amount of funds available in the Redemption Reserve and payments shall be made in a manner consistent with that specified in section 7(c) of this rule 7.6.

(c) Prior to Certification, the Board, at its election, may make a demand upon a Designated Purchaser to purchase the tax credits represented by the Tax Credit Balance Certificate in accordance with U.C.A. Section 63N-6-409.

(d) No later than September 1 of the applicable Fiscal Year set forth in applying Designated Investor's Tax Balance Certificate, the Board shall determine and certify to such Designated Investor the amount of tax credits related to such Tax Credit Balance Certificate (if any) that may be redeemed in such Fiscal Year.

(e) The Board shall issue to the Designated Investor a Tax Credit Redemption Certificate setting forth the amount of certified tax credits represented by such certificate (if any) that may be claimed by the Designated Investor, in accordance with U.C.A. Section 63N-6-408 and rule 7.11.

(f) Once a tax credit has been certified for redemption, the Board will notify the Commission of such certification within five Business Days.

(g) Upon Certification for redemption of a Tax Credit Balance Certificate, the Board shall cancel such Tax Credit Balance Certificate.

(h) To the extent that, in accordance with section 10(a) of this rule 7.6, the Board was not permitted to certify all of the tax credits represented by a Designated Investor's Tax Credit Balance Certificate in the Fiscal Year applied for, upon cancellation of the Tax Credit Balance Certificate in accordance with section 12(g) of this rule 7.6, the Board shall issue to such Designated Investor a new Tax Credit Balance Certificate for the amount of remaining tax credits that were limited by section 7(a) of this rule 7.6, and the Designated Investor may apply for Certification of such certificate in the following Fiscal Year or Fiscal Years in accordance with this section 10.

(11) The amount of Economic Development Impact certified by the Board in accordance with rule 7.9 shall be allocated to each Designated Investor in accordance with this section 12.

(a) The amount of Economic Development Impact measured in accordance with sections 2 and 3 of rule 7.9 shall be allocated to each Designated Investor of the applicable Utah Fund of Funds on a pro rata basis, based on its aggregate capital commitment to such applicable Utah Fund of Funds compared to the aggregate capital commitments of all other Designated Investors in such applicable Utah Fund of Funds.

(b) The amount of Economic Development Impact measured in accordance with section 4 of rule 7.9 shall be allocated to the Designated Investors of the various Utah Funds of Funds as determined by the contractual agreements between such Designated Investors and such Utah Funds of Funds with respect to such Designated Investors' respective Private Investments in such Utah Funds of Funds.

(c) The amount of Economic Development Impact determined in accordance with section 5 of rule 7.9 shall be allocated:

(i) to each Designated Investor of the applicable Utah Fund of Funds on a pro rata basis based on its aggregate capital commitment

to such applicable Utah Fund of Funds compared to the aggregate capital commitments of all other Designated Investors in such applicable Utah Fund of Funds, if such Economic Development Impact is in respect of an applicable Utah Fund of Funds; or

(ii) to the Designated Investors of the various Utah Funds of Funds as determined by the contractual agreements between such Designated Investors and such Utah Funds of Funds with respect to such Designated Investors' respective Private Investments in such Utah Funds of Funds, if such Economic Development Impact is in respect of the activities of the Corporation.

(12) The maximum amount of tax credits the Board is permitted to certify in accordance with this rule 7.6 with respect to Certificates of Eligibility and Tax Credit Balance Certificates presented to the Board by Designated Investors of a Utah Fund of Funds in any Fiscal Year shall be calculated on a proportional basis in the proportions set forth in U.C.A. Section 63N-6-406(2)(c). For the purposes of such calculation:

(a) The $100,000,000 increment set forth in U.C.A. Section 63N-6-406(2)(c) shall be determined by reference to the aggregate capital commitments made by each of the Designated Investors that is eligible to apply for such credits in such Fiscal Year, as set forth on the applicable Certificate of Eligibility of such Designated Investor; and

(b) Available tax credits shall be allocated among such Designated Investors on a pro rata basis in accordance with on their respective capital commitments to the applicable Utah Fund of Funds.

(13) A tax credit represented by a Certificate of Eligibility or Tax Credit Balance Certificate may only be redeemed by a Designated Investor in accordance with the terms of the Certificate of Eligibility or Tax Credit Balance Certificate, as applicable, this rule 7.6 and U.C.A. Section 63N-6-408.

(14) The agreements between a Utah Fund of Funds and a Designated Investor regarding a Private Investment shall provide that upon timely presentation of the Certificate of Eligibility applicable to such Private Investment to the Board for Certification of tax credits represented by such certificate in accordance with this rule 7.6 by such Designated Investor or its Transferee, such Designated Investor shall be deemed to have assigned to the Corporation effective as of the Determination Date a portion of such Designated Investor's Private Investment in the applicable Utah Fund of Funds equal to a fraction, calculated as of the Determination Date, the numerator of which is the amount of such Designated Investor's Tax Credit Eligibility and the denominator of which is the Shortfall attributable to such Designated Investor's Private Investment. Such assignment shall include, without limitation, any and all rights to distributions, dividends, redemption proceeds or other payments from such Utah Fund of Funds attributable to such Private Investment that are made after the Determination Date. Any distributions, dividends, redemption proceeds or other payments made by such Utah Fund of Funds after the Determination Date with respect to such assigned interest to such Designated Investor shall reduce the amount of tax credits that may be issued with respect to the applicable Certificate of Eligibility. Any amounts received by the Corporation with respect to such assigned interest shall be paid first to the state of Utah in an amount up to the amount of tax credits granted by the state of Utah to such Designated Investor and the balance shall be retained by the Corporation to be included in the Redemption Reserve.

R357-7-7. Transfer of Certificates, Tax Credit Redemption Certificates, Certificates of Eligibility and Tax Credit Balance Certificates.

(1) Certificates, Certificates of Eligibility, Tax Credit Redemption Certificates and Tax Credit Balance Certificates shall be transferrable in whole or in part by a Designated Investor to any Transferee or Transferees.

(2) Transfer of a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate may be effected by the Transferor's surrender of such certificate to the Board with an endorsement in favor of the Transferee, a statement containing the name, address and taxpayer identification number of the Transferee and a written request for the Board to issue a replacement certificate in the name of the Transferee.

(a) In any case where the Transferor requests that more than one replacement certificate be issued, such request must be accompanied by a statement by the Transferor that sets forth the amount of tax credits represented by the Transferred Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate that are requested to be represented by each replacement Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate.

(3) Within 20 Business Days after the surrender and endorsement of a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate, the Board shall issue one or more replacement Certificates, Certificates of Eligibility, Tax Credit Redemption Certificates or Tax Credit Balance Certificates, as applicable, in the name of the applicable Transferee. If a Transferor requests the Transfer of only a portion of a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate, the Board shall issue a replacement Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate to the Transferor setting forth the aggregate amount of remaining tax credits represented by such Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate.

(4) Upon the surrender of a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate to the Board, and the issuance of the applicable replacement certificate or certificates for Transfer, such surrendered certificate shall be cancelled.

(5) A Designated Investor may grant security interests in such Designated Investor's Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate, and any tax credits represented thereby, as collateral for loans to or other obligations of such Designated Investor. The Designated Investor shall provide notice to the Board of any such grant of a security interest promptly after any such grant is made.

(6) A Designated Investor shall be entitled to Transfer a Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate without also transferring its corresponding Private Investment in a Utah Fund of Funds. In such event, a Transferee will be entitled to exercise its rights with respect to a Transferred Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate, as described in such certificate, and as set forth in the Act and the rules set forth in this chapter, by reference to the portion of the Transferor's Private Investment held prior to such Transfer that bears the same proportion to the Transferor's total Private Investment held prior to such Transfer

that the tax credits represented by such Transferred Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate bears to the total tax credits represented by the Transferor's Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate prior to such Transfer, as if such portion of the Transferor's Private Investment had been Transferred to the Transferee. Accordingly, the Capital Invested, Scheduled Return, and Actual Return applicable to the Transferee shall be determined by reference to such portion of the Transferor's Private Investment, including amounts related to principal loaned, capital contributed, receipts and returns that are transacted prior to such Transfer with respect to such portion. If a Transferor does not hold a Private Investment, a Transferee of a Transferred Certificate, Certificate of Eligibility, Tax Credit Redemption Certificate or Tax Credit Balance Certificate shall be entitled to the exercise the rights with respect thereto by reference to the Private Investment of such Transferor's predecessor or successor in interest, as the case may be, in the same proportions as described above.

R357-7-8. Criteria and Procedures for Assessing the Likelihood of Future Certificate Redemption.

(1) Each year, the Corporation and/or the allocation manager designated in accordance with U.C.A. Section 63N-6-301(2)(b) will provide the Board with a comprehensive report including the following:

(a) A detailed accounting of cash outflows and cash inflows from investments made by each Utah Fund of Funds during the previous Calendar Year.

(b) A detailed accounting of payments made to lenders to or equity investors in each Utah Fund of Funds during the previous Calendar Year.

(c) A detailed accounting of management fees paid to the Corporation by each Utah Fund of Funds during the previous Calendar Year.

(d) A detailed accounting of increases or decreases in unrealized value of the assets of each Utah Fund of Funds during the Previous Calendar Year.

(e) A five year projection of cash flows with sensitivity around investment returns, interest rates and distribution pacing for each Utah Fund of Funds.

(f) Third party audit of each Utah Fund of Funds including asset valuation as of the end of the previous Calendar Year.

(g) The internal rate of return on each investment made by each Utah Fund of Funds through the end of the previous Calendar Year.

R357-7-9. Criteria and Procedures for Calculating the Economic Development Impact of Each Utah Fund of Funds and the Corporation for Purposes of Incentive-Based Tax Credits.

The Economic Development Impact attributable to each Utah Fund of Funds for equity-based Private Investments that were initiated on or after July 1, 2015 and to the Corporation shall be measured and determined in accordance with this rule 7.9.

(1) The Economic Development Impact attributable to each Utah Fund of Funds for equity-based Private Investments determined in accordance with U.C.A. Section 63N-6-406(3)(d)(i) shall be equal to the sum of all investments made by such Utah Fund of Funds directly or indirectly in Utah-based Operating Companies plus verifiable amounts invested in Utah-based Operating Companies and Utah-based Investment Funds by third parties (other than amounts invested directly by a Utah Fund of Funds or indirectly by any portfolio fund held by any Utah Fund of Funds) that are directly facilitated by the Corporation's economic development plan and economic development activities, calculated in accordance with sections 2, 3 and 4 of this rule 7.9, respectively.

(2) Direct Investments. A direct investment made by a Utah Fund of Funds in a Utah-based Operating Company shall, at the time of determination, be measured by reference to the greater of the Cost of such investment or the Exit Value of such investment.

(a) The "Cost" of a direct investment by a Utah Fund of Funds shall mean the sum of all amounts paid by such Utah Fund of Funds to make debt or equity investments in such Utah-based Operating Company as reported in the financial statements of such Utah Fund of Funds.

(b) The "Exit Value" of a direct investment by a Utah Fund of Funds shall mean, without duplication, the sum of all amounts received upon the sale or other disposition of any debt or equity investments made in such Utah-based Operating Company as reported in the financial statements of such Utah Fund of Funds plus the fair market value of all equity investments held by such Utah Fund of Funds based on the closing sale price of such equity investments on the expiration date of any applicable contractual restrictions on transfer of such equity investments that are entered into by such Utah Fund of Funds in connection with an underwritten initial public offering of such Utah-based Operating Company.

(c) The Exit Value of a direct investment in such Utah-based Operating Company by a Utah Fund of Funds shall apply only to that portion of an investment that is actually sold or otherwise disposed of, or that is held by such Utah Fund of Funds on the expiration date of any applicable contractual restrictions on transfer of equity investments that are entered into by such Utah Fund of Funds in connection with an underwritten initial public offering of such Utah-based Operating Company; all other direct investments made in a Utah-based Operating Company shall be measured by reference to Cost.

(3) Indirect Investments. An indirect investment made by a Utah Fund of Funds in a Utah-based Operating Company shall, at the time of determination, be measured by reference to the greater of the Cost of such investment or the Exit Value of such investment, in each case as attributable to such Utah Fund of Funds.

(a) The amount of indirect investments attributable to such Utah Fund of Funds in a Utah-based Operating Company shall be the amount of all investments in such Utah-based Operating Company made by a portfolio fund held by such Utah Fund of Funds multiplied by a fraction, the numerator of which is such Utah fund of fund's capital commitment to the applicable portfolio fund and the denominator of which is the aggregate capital commitments of all partners, members or other category of equity investor with similar status of such portfolio fund, each as reported in the financial statements or other investor reports of such portfolio fund.

(b) The "Cost" of a portfolio fund's investment shall mean the sum of all amounts paid by such portfolio fund to make debt or equity investments in such Utah-based Operating Company, as reported in the financial statements or other investor reports of such portfolio fund.

(c) The "Exit Value" of a portfolio fund's investment in such Utah-based Operating Company shall mean, without

duplication, the sum of all amounts received upon the sale or other disposition of all debt or equity investments in such Utah-based Operating Company and the value attributed to such investment made at the time of the distribution in kind of such investment to the partners, members or other category of equity investor with similar status of such portfolio fund as reported in the financial statements or other investor reports of such portfolio fund.

(d) The Exit Value of a portfolio fund's investment shall only apply to that portion of the investment that is actually sold, disposed of, or distributed in kind as of the time of determination; all other investments made by a portfolio fund shall be measured by reference to Cost.

(4) Investments by Third Parties Facilitated by the Corporation. Verifiable amounts invested in Utah-based Operating Companies (other than amounts invested directly by a Utah Fund of Funds or indirectly by any portfolio fund held by any Utah Fund of Funds) and in Utah-based Investment Funds that are directly facilitated by the Corporation's economic development plan and economic development activities shall, at the time of determination, be measured as follows:

(a) The amount invested directly by a third party (other than a Utah Fund of Funds or a portfolio fund held by any Utah Fund of Funds) in a Utah-based Operating Company will be included in the Economic Development Impact attributable to the Corporation if the Corporation's facilitation of such investment and the investment amount is confirmed in writing to the Corporation by either such third party or such Utah-based Operating Company in a manner consistent with section 4(c) of this rule 7.9 and shall be measured in accordance with this section 4(a) by reference to the greater of Cost of such investment or the Exit Value of such investment.

(i) The "Cost" of a direct investment by such third party in a Utah-based Operating Company shall mean the sum of all amounts paid by such third party to make debt or equity investments in such Utah-based Operating Company as confirmed in writing by such third party in accordance with section 4(c) of this rule 7.9.

(ii) The "Exit Value" of a direct investment by such third party shall mean, without duplication, the sum of all amounts received upon the sale or other disposition of any debt or equity investments made in such Utah-based Operating Company plus the fair market value of all equity investments held by such third party based on the closing sale price of such equity investments on the expiration date of any applicable contractual restrictions on transfer of such equity investments that are entered into by such third party in connection with an underwritten initial public offering of such Utah-based Operating Company, in each case as confirmed in writing by such third party in accordance with section 4(c) of this rule 7.9.

(iii) The Exit Value of a direct investment in such Utah-based Operating Company by a Utah Fund of Funds shall apply only to that portion of an investment that is actually sold or otherwise disposed of, or that is held by such third party on the expiration date of any applicable contractual restrictions on transfer of equity investments that are entered into by such third party in connection with an underwritten initial public offering of such Utah-based Operating Company; all other direct investments made in a Utah-based Operating Company by such third party shall be measured by reference to Cost.

(b) The amount invested indirectly by a third party (other than a Utah Fund of Funds or a portfolio fund held by any Utah Fund of Funds) in a Utah-based Operating Company through its investment in a Utah-based Investment Fund will be included in the Economic Development Impact attributable to the Corporation if the Corporation's facilitation of such investment and the investment amount is confirmed in writing to the Corporation by either such third party or such Utah-based Investment Fund in a manner consistent with section 4(c) of this rule 7.9 and shall be measured in accordance with this section 4(b). The Economic Development Impact of the amount indirectly invested by such third party in a Utah-based Operating Company through its investment in a Utah-based Investment Fund shall, at the time of determination, be measured by reference to the greater of the Cost of such investment or the Exit Value of such investment, in each case, as attributable to such third party.

(i) The amount of indirect investments attributable to such third party in a Utah-based Operating Company shall be the amount of all investments in such Utah-based Operating Company made by such Utah-based Investment Fund multiplied by a fraction, the numerator of which is such third party's capital commitment to such Utah-based Investment Fund and the denominator of which is the aggregate capital commitments of all partners, members or other category of equity investor with similar status of such Utah-based Investment Fund, each as confirmed in writing by the Utah-based Investment Fund in accordance with section 4(c) of this rule 7.9.

(ii) The "Cost" of such Utah-based Investment Fund's investment shall mean the sum of all amounts paid by such Utah-based Investment Fund to make debt or equity investments in such Utah-based Operating Company, as confirmed in writing by the Utah-based Investment Fund in accordance with section 4(c) of this rule 7.9.

(iii) The "Exit Value" of a such Utah-based Fund of Fund's investment in such Utah-based Operating Company shall mean, without duplication, the sum of all amounts received upon the sale or other disposition of all debt or equity investments in such Utah-based Operating Company and the value attributed to such investment made at the time of the distribution in kind of such investment to the partners, members or other category of equity investor with similar status of third party as confirmed in writing by the Utah-based Investment Fund in accordance with section 4(c) of this rule 7.9.

(iv) The Exit Value of a third party's investment shall only apply to that portion of the investment that is actually sold, disposed of, or distributed in kind as of the time of determination; all other investments made by such third party shall be measured by reference to Cost.

(c) The confirmation in writing referred to in sections 4(a) and 4(b) of this rule 7.9 shall be made by a responsible officer or equivalent representative of the third party, the Utah-based Operating Company or the Utah-based Investment Fund and shall include (i) the identity of the Utah-based Operating Company or the Utah-based Investment Fund, (ii) a statement that the Corporation was a significant factor in an investment in such Utah-based Operating Company or Utah-based Investment Fund having been made, (iii) the Cost of such investment made by such third party through the date of the confirmation, (iv) the amount of commitments by such third party to make additional investments in the future, and (v) to the extent applicable, the Exit Value of such

investment made by such third party through the date of the confirmation. A confirmation may be provided from time to time to update the Cost of investments made, any outstanding commitments to invest and the Exit Value of investments, which update shall be taken into account in determining Economic Development Impact attributable to the Corporation through the date of the most recent confirmation. Any such written confirmation may be contained in an email or other electronic transmission.

(d) The Economic Development Impact attributable to the Corporation shall be measured by reference to amounts invested as specified in sections 4(a) and 2(b) of this rule 7.9 after enactment of the 2015 amendments to the Utah Venture Capital Enhancement Act.

(5) Third Party Evaluations Authorized by the Board. With approval from the Board, the Corporation may engage an independent third party experienced in evaluating economic development activities to evaluate a Utah Fund of Funds and determine the Economic Development Impact of such Utah Fund of Funds and the activities of the Corporation in accordance with U.C.A. Section 63N-6-406(3)(d)(ii) as follows.

(a) The independent third party shall use a nationally recognized economic development modeling tool approved by the Board.

(b) The Economic Development Impact of a Utah Fund of Funds shall be determined by reference to the economic development impact of the Utah-based Operating Companies in which such Utah Fund of Funds has directly or indirectly invested.

(c) The Economic Development Impact of the Corporation shall be determined by reference to the result of the economic development activities engaged in by the Corporation, including the facilitation by the Corporation of investment in Utah-based Operating Companies and Utah-based Investment Funds.

(d) The Corporation shall provide to the independent third party all information and documents reasonably available to it that the independent third party requests and determines are necessary for the third party make its determination in accordance with this section 5.

(6) Any determination by an independent third party conducted in accordance with section 5 of this rule 7.9 shall adjust the Economic Development Impact attributable under sections 2, 3 and 4 of this rule 7.9 to any Utah Fund of Funds or the Corporation with respect to any investment in a Utah-based Operating Company or Utah-based Investment Fund to account only for Economic Development Impact incremental to the Economic Development Impact that has been attributed under sections 2, 3 and 4 of this rule 7.9 in order to avoid double counting.

(7) The Corporation's Annual Report made in accordance with U.C.A. Section 63N-6-301(6) shall include the following information.

(a) The amounts invested directly or indirectly by each Utah funds of funds into Utah-based Operating Companies and the resulting measurement of Economic Development Impact determined in accordance with sections 2 and 3 of this rule 7.9.

(b) The amounts invested in Utah-based Operating Companies (other than amounts invested by portfolio funds held by any Utah Fund of Funds) and Utah-based Investment Funds that are facilitated by the Corporation's economic development plan and activities and the resulting measurement of Economic Development Impact determined in accordance with section 4 of this rule 7.9.

(c) Any independent third party's evaluations of Economic Development Impact made in accordance with section 5 of this rule 7.9.

(8) The Auditor's opinion required by U.C.A. Section 63N-6-405(4)(d) shall address the information in the Annual Report included in accordance with section 7 of this rule 7.9. Such opinion may be based upon the performance by the Auditor of agreed upon procedures as specified by the Board, which procedures may include reliance upon the financial statements or other investor reports of the portfolio funds of the Utah Fund of Funds, the certifications of the third party investors, Utah-based Operating Companies and Utah-based Investment Funds made in accordance with sections 2, 3 and 4 of this rule 7.9 and the most recent determinations of any independent third party made in accordance with section 5 of this rule 7.9, in each case without the need to verify the accuracy of such financial statements, certifications or determinations.

(9) The Board shall review the amount of Economic Development Impact reported by the Corporation in accordance with section 5 of this rule 7.10 and within 45 Business Days, unless good cause exists to extend the number of days, following receipt of the Corporation's Annual Report the Board shall either (a) approve the amount of Economic Development Impact stated in the report, or (b) notify the Corporation of any disagreement with such amount setting forth the reasons for such disagreement.

(a) Upon approval of the amount of Economic Development Impact set forth in the report, the Board shall certify the Economic Development Impact to the Corporation.

(b) If the Board notifies the Corporation of its disagreement with the amount of Economic Development Impact stated in the report, the Corporation shall respond in writing to the Board within 15 Business Days of receipt of notice from the Board of its disagreement. The Corporation's response shall include either an explanation addressing the Board's reasons for disagreement or a revised determination of the amount of Economic Development Impact and the basis therefore.

(c) The Board shall certify to the Corporation within 15 Business Days of receipt of such explanation or revised determination that it agrees with such explanation or revised determination, or shall state its reasons for disagreement and the procedure set forth in section 7(b) of this rule 7.10, and this section 7(c) shall continue until all such determinations have been certified by the Board.

(d) The Corporation shall provide to the Board all information and documents reasonably available to it that the Board requests and determines are necessary for the Board to make its certification in accordance with this section 7.

(10) The Board shall review the amount of Economic Development Impact reported by the Corporation in accordance with section 7 of this rule 7.9 and within 40 Business Days following receipt of the Corporation's Annual Report the Board shall either (a) approve the amount of Economic Development Impact stated in the report, or (b) reduce such amount by the amount of Economic Development Impact it determines to have been counted in more than one category.

(a) Upon approval of the amount of Economic Development Impact set forth in the report, the Board shall certify the Economic Development Impact to the Corporation.

(b) If the Board determines to make a reduction to avoid double counting, it shall notify the Corporation such determination. The Corporation shall respond in writing to the Board within 15 Business Days of receipt of such a notice from the Board. The Corporation's response shall include an explanation addressing the Board's reasons for reduction or a revised determination of the amount of Economic Development Impact and the basis therefore.

(c) The Board shall certify to the Corporation within 15 Business Days of receipt of such explanation or revised determination that it agrees with such explanation or revised determination, or shall state its reasons for reduction and the procedure set forth in section 9(b) of this rule 7.9, and this section 9(c) shall continue until all such determinations have been certified by the Board.

(d) The Corporation shall provide to the Board all information and documents reasonably available to it that the Board requests and determines are necessary for the Board to make its certification in accordance with this section 9.

(11) The total amount of Economic Development Impact as of any Determination Date shall be the sum of the Economic Development Impact for each year through the Determination Date, determined in accordance with section 9 of this Rule 7.9.

R357-7-10. Criteria for Establishing the Target Rate of Return of the Investment Portfolio.

For investment portfolios of each Utah Fund of Fund:

(1) The "Target Rate of Return" on venture capital investments of such Utah Fund of Funds is a minimum of 5%. The Corporation will submit to the Board annually a detailed accounting of the calculation of the rate of return. It is understood by the Board that returns in the early years of each Utah Fund of Funds will likely be negative.

R357-7-11. Claiming Tax Credits Represented by Tax Credit Redemption Certificates.

(1) Once certified by the board, the holder of the tax credit certificate may present such certificate to the commission for redemption subject to the following provisions:

(a) The contingent tax credit certified by the board shall be claimed for a tax year of the designated investors, or transferee, that begins during the same year as the stated maturity date listed on such certificate. The designated investor (or a transferee of the Certified Contingent Credit) may submit to the commission at any time following the date of such certification by the board, but no later than the general filing deadline for Utah State tax returns (including extensions) for the redemption year.

(b) The person or entity claiming a refund must timely file a Utah State tax return claiming a refundable credit; and no other filing or forms or actions are necessary, and no other conditions apply, for obtaining a refund in respect of such tax credit. The commission will manually process a tax return with a claim for refund certified by the board and will pay the amount indicated on such tax return (such payment generally, but not always, made within ninety (90) days from the date for such return (the "Due Date")). If the board notified the commission of the filing of a claim for refund by the designated investor, the commission will take steps to expedite the refund.

(2) There is no limitation on a person:

(a) filing more than one claim for refund with the commission, or

(b) receiving more than one refund from the commission, in each case, in any one calendar year or other twelve (12) month period.

(3) If an entity is not otherwise a Utah taxpayer, its taxable year, for purposes of the Utah Act, shall be considered to end annually on the same date that its tax year ends for US federal income tax purposes. For a disregarded entity that is not otherwise a Utah taxpayer, such entity may designate any date on which its taxable year ends by stating such date on the Utah tax return on which it files its claim for refund.

(4) If the investor or any transferee is a corporation or other business organization or entity included in a combined Utah state tax return, and such tax return claims a tax credit, the commission will treat such tax credit as a refundable credit for the combined group.

R357-7-12. Certificate Register.

The Certificate Register detailing all transactions involving the Certificates, Certificates of Eligibility, Tax Credit Redemption Certificates and Tax Credit Balance Certificates shall be held and maintained at the Office of the Utah Treasurer.

KEY: economic development, capital investments, tax credits, Utah Capital Investment Board
Date of Enactment or Last Substantive Amendment: [~~September 11, 2014~~]2016
Authorizing, Implemented, or Interpreted Law: 63N-6-203

Governor, Economic Development
R357-13
Hotel Convention Center Incentive

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40027
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is created pursuant to H.B. 402 of the 2015 General Session. It establishes criteria for a qualified hotel to receive the convention hotel incentive and how other hotels may qualify for the mitigation fund.

SUMMARY OF THE RULE OR CHANGE: This rule identifies the following: 1) procedures by which the Governor's Office of Economic Development may enter into an agreement with a qualified hotel owner for the development of a qualified hotel and authorize and set conditions for a convention incentive under the New Convention Facility Development Incentive Act; 2) minimum criteria for an agreement with a qualified hotel owner; 3) roles and responsibilities of the independent review committee; 4) procedures for calculating and paying the convention incentive; and 5) administrative procedures for the Hotel Impact Mitigation Fund.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-2-509

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule does not impact the state budget. It outlines criteria for an incentive already accounted for via statute.
♦ LOCAL GOVERNMENTS: This rule does not impact local governments. The statute already addresses impacts to local government budgets and this rule does not increase or decrease these impacts.
♦ SMALL BUSINESSES: This rule may impact small businesses that are hotels regarding their eligibility to participate in the mitigation fund program.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no other persons or groups that would be impacted by this rule. It only impacts hotels and the qualified hotel that is awarded the convention hotel incentive via a request for proposal process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this rule unless such costs are incurred to meet the criteria of eligibility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not bare any fiscal impact to the state or other parties outside of costs incurred to become eligible for any given criteria contained within this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeffrey Van Hulten by phone at 801-538-8694, by FAX at 801-538-8888, or by Internet E-mail at jeffreyvan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Val Hale, Executive Director

R357. Governor, Economic Development.
R357-13. Hotel Convention Center Incentive.
R357-13-1. Purpose.

(1) This rule identifies:

(a) procedures by which the Governor's Office of Economic Development may enter into an agreement with a qualified hotel owner for the development of a qualified hotel, and authorize and set conditions for a convention incentive under the New Convention Facility Development Incentive Act;

(b) minimum criteria for an agreement with a qualified hotel owner;

(c) roles and responsibilities of the independent review committee;

(d) procedures for calculating and paying the convention incentive; and

(e) administrative procedures for the Hotel Impact Mitigation Fund.

R357-13-2. Authority.

(1) Utah Code Section 63N-2-509 authorizes the Governor's Office of Economic Development to enact rules to carry out its responsibilities under the Act.

R357-13-3. Definitions.

(1) Unless otherwise specifically defined in this rule, Utah Code Section 63N-2-502 defines the terms used in this rule.

(2) "Appointing entity" means any of the entities responsible for appointing members to the Independent Review Committee pursuant to Utah Code Section 63N-2-504.

R357-13-4. Application for Approval of a Qualified Hotel and For Authorization of Incentive.

(1) The Office, with the Board's advice and after considering the recommendations of the independent review committee formed in Utah Code Section 63N-2-504, may enter into an agreement with a qualified hotel owner or host local government:

(a) for the development of a qualified hotel; and

(b) to authorize and set conditions for a convention incentive, to be paid from the convention incentive fund as set forth in Utah Code Section 63B-2-503.5 and pursuant to Utah Code Section 63N-2-505 and this Rule.

(2) The initial application to approve the development of a qualified hotel and to authorize and set conditions for an incentive shall include at least the following information:

(a) Identify the hotel property and the hotel owner;

(b) A proposal for the convention center hotel, including construction time lines and proposed spending over the life of the project;

(c) Include the required endorsement letter from the County in which the hotel is located;

(i) The endorsement letter shall include by reference to or attachment of all of the requirements placed on the hotel by the County in relation to the endorsement letter; and

(ii) The endorsement letter shall include by reference to or by attachment the County's expectations regarding compliance with its requirement by the developer or owner, including how compliance with the requirements will be measured and tracked.

(d) Details regarding the capital investment expected, which must be at least $200,000,000.00.

(e) The period of time for which the qualified hotel owner or host local government expects to request and claim an incentive related to the project, subject to the limitations set forth in the New Convention Facility Development Incentives Act.

(f) The maximum amount of incentives that the applicant is requesting, subject to the limitations set forth in Utah Code Section 63N-2-503.

(3) The Office, with advice of the Board and after considering recommendations of the Independent Review Committee established by Utah Code Section 63G-2-504, shall review the application and materials and determine whether to enter into an agreement with the Qualified Hotel, and what conditions to place on the award of an incentive.

(a) The Office shall review and application and respond within 60 days.

(b) If more information is requested by the Office or the Board, the applicant will have 15 days to provide the additional information, and the Office's decision will be extended by 30 days.

(c) If the Office declines to approve the project, it shall publish a notice of agency action and state specifically the reasons for declining, and what, if anything the applicant can do to cure the defects.

(d) If the Office approves the project the approval shall include shall include the terms, conditions, contingencies and requirements related to the convention incentive.

(5) If either the qualified hotel owner or the host local government are aggrieved by the Notice of Agency Action in section (3)(c), the entity may seek review by the Executive Director of the Governor's Office of Economic Development, using the procedures set forth in the Utah Administrative Procedures Act, Utah Code Section 63G-4-301.

R357-13-5. Independent Review Committee.

(1) Creation of Independent Review Committee

(a) The Board shall establish the independent review committee within thirty days of the RFP award.

(i) All entities with appointing authority shall submit the name(s) of the person(s) that they are appointing to the Board no later than 10 days after the RFP award.

(ii) The appointing authority shall ensure that the person being appointed has accepted the position on the independent review committee and is willing and able to serve, prior to submitting the name to the Board.

(iii) The Board shall appoint its member to independent review committee no later than 10 days after the RFP award.

(iv) If the appointing entity is removing its appointee from the Independent Review Committee, or if the appointee resigns, the appointing entity shall notify GOED within 3 business days, and appoint a replacement person as soon as practically possible.

(2) Conducting Business:

(a) Four members of the Independent Review Committee shall constitute a quorum.

(b) Voting may take place if a quorum is present at meeting

(c) A majority vote of members present during a meeting (either in person or via electronic meeting) constitutes the vote of the Independent Review Committee for the purposes or proceeding with the Committee's duties.

(3) Electronic Meetings:

(a) The independent review committee may conduct its business through electronic meetings pursuant to Utah Code Section 52-4-207.

(b) A quorum of the public body is not required to be present at the anchor location, but at least one member of the independent review committee shall be present at an anchor location for a electronic meeting.

(c) All meetings will provide for the capacity for Board members to participate electronically.

(d) All members participating electronically shall notify the office at least 24 hours in advance of the meeting of their intent to participate electronically.

(4) Role of the Independent Review Committee: The Independent Review Committee may:

(a) Make recommendations to the Office regarding appropriate terms and conditions for an agreement with a qualified hotel;

(b) Consult with the Office regarding compliance with the;

(i) Conditions, contingencies and requirements related to the convention incentive;

(ii) Proof of new tax revenue to support an application or claim for a convention incentive;

(iii) Proof of reduction of the tax credit by $1,900,000 for the first two years of the project;

(c) Specify the maximum dollar amount that the incentive recipient may receive for each application;

(d) Review documentation to ensure that incentives are being used for the purposes set forth in Utah Code Section 63N-2-513.

R357-13-6. Procedures for Claiming a Convention Incentive.

(1) The applicant for a convention incentive shall be paid in accordance with Utah Code Section 63N-2-505 The entity claiming the convention incentive shall submit a claim in a form prescribed by the Office.

(2) For claims of construction or off-site revenue, each claim shall identify by location, using the nine digit postal code, where the sales and use taxes constituting new tax revenue were paid. For each location identified, the certification shall itemize the amount constituting new tax revenue for each category of sales and use tax identified in Utah Code Section 63N-2-502.

(3) Once an application and the tax returns referenced in Utah Code Section 63N-2-505(2)(b) are received, the Governor's Office of Economic Development shall have 90 days to review the information and determine whether there is sufficient information to certify the claim for payment. .

(4) Any additional information requested by the Office shall be provided within 30 days.

(5) Following review of the information requested and received, the Office, shall issue a Notice of Agency Action either approving, modifying, rejecting a claim, or instructing the qualified hotel owner or host local government to resubmit the claim.

(i) Timing and Amount of payment of an approved claim is subject to the availability of funds in the Incentive Fund.

(ii) Notwithstanding Sub-section (i), if the application is approved and there is sufficient funds in the Incentive Fund, payments will be made within 30 days of the notice approving the claim in paragraph 5.

(6) If either the qualified hotel owner or the host local government are aggrieved by the Notice of Agency Action, the entity may seek review by the Executive Director of the Governor's Office of Economic Development, using the procedures set forth in

the Utah Administrative Procedures Act, Utah Code Section 63G-4-301.

R357-13-7. Incremental Property Tax Revenue.

(1) The Office shall define in an Agreement with the Qualified Hotel how and under what circumstances a county in which a qualified hotel is located shall retain incremental property tax revenue during the eligibility period and that provides assurances that incremental property tax revenue may only be used for the purposes set forth in Utah Code Section 63N-2-508(3).

R357-13-8. Procedures for the Administration of the Hotel Impact Mitigation Fund.

(1) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(2) An affected hotel may apply for mitigation by Filing an Application in a form prescribed by the Office.

(a) Applications for mitigation will be accepted during an "open application" period, with opening and closing dates specified by the Office. Notification of the open application period will be posted on the GOED website.

(b) An applicant who fails to apply for mitigation during the open application period will not be eligible for mitigation funds during that fiscal year.

(c) Applications will be accepted for four consecutive years per Utah Code Section 63N-2-512(5)(a)(ii). An applicant must submit a new application each year, and the application must reflect the direct loss for the preceding calendar year only. Any additional losses reported beyond the preceding calendar year's losses shall be discounted.

(3) Eligibility: In order to be determined eligible for reimbursement from the Hotel Impact Mitigation Fund, an applicant shall demonstrate:

(a) That the applicant is a hotel built in the state before July 1, 2014;

(b) That the hotel has experienced a direct loss as defined in Utah Code Section 63N-2-512(1)(b).

(c) Evidence of Direct Loss must clearly establish the link between the qualified hotel and the applicant's loss. In order to show Direct Loss, the Applicant shall:

(i) Provide the applicant's baseline occupancy rates for the prior 3 years, by year;

(ii) Provide audited financial reports for the prior 3 years, by year.

(iii) Provide Tax Return data showing that the Applicant has reported a financial loss;

(iv) Provide audited statement showing the link between the qualified hotel and the applicant's direct loss, showing that the qualified hotel, and not any other factor, is responsible for the direct loss.

(v) Apply during the open application period as set forth in subsection (2).

(3) In accordance with office rules, the board shall annually pay up to $2,100,000 of money in the mitigation fund:

(a) to affected hotels, on a pro rata basis, based on amount of direct loss claimed and verified by the Office;

(b) and based on the unencumbered money available in the Hotel Impact Mitigation Fund for the fiscal year in which the applications are processed.

(4) The board shall make any required payment within 90 days of the end of the application period, unless an applicant seeks agency review or good cause exists to extend the time.

(5) If an application for reimbursement by the Hotel Impact Mitigation Fund is denied, the entity may seek review by the Executive Director of the Governor's Office of Economic Development, using the procedures set forth in the Utah Administrative Procedures Act, Utah Code Section 63G-4-301.

(a) Review must be filed within 5 business days of notice by the Office that the Application is denied.

KEY: hotel convention center incentives, tax credits
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 63M-1-3409

Health, Administration
R380-40
Local Health Department Minimum Performance Standards

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40049
FILED: 12/31/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to update the rule to conform to current public health practice, remove out-of-date requirements, and improve clarity to guide implementation and monitoring of adherence to standards.

SUMMARY OF THE RULE OR CHANGE: The changes include the following: 1) definitions are updated to include "evidence-based services" and define "primary care specialty"; 2) the section requiring a joint negotiation of specific standards between the Utah Department of Health (UDOH) and each local health department (LHD) is removed so that the standards in this rule apply to all LHDs; 3) the section on corrective action is revised to clarify the process by which UDOH will communicate and the LHD will respond when a LHD might be or is out of compliance; 4) the requirements for a Local Health Officer (LHO) are separated into a separate section, and requirements are updated, including removing the requirement for a physician LHO to have a master's degree plus experience and requiring all nonphysician LHOs to have a master's degree. The requirements for a LHD to employ or contract with a physician if the LHO is not a physician are clarified. While an exemption to the standards may be granted for a LHO in position, the ability to grant an exemption after that time is removed; 5) a requirement is added for a LHD to employ an epidemiologist; 6) Personal Health Services is expanded to include population health services reflecting current public

health practice. Several outdated requirements are removed and replaced by a simpler requirement to conduct community assessments and develop evidence-based programs to address identified priorities. A requirement to provide epidemiology services was added; 7) Environmental Health Programs is simplified to clarify that the LHD is responsible to enforce state rules in this area. Several responsibilities that relate to the Department of Environmental Quality (DEQ) were removed; 8) a Public Health Emergency Preparedness section is added to address this area that has emerged since the last rule revision; and 9) other out-of-date requirements are removed in several areas.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26A-1-106(1)(c)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This change in the rule is not expected to result in new costs or savings to the state budget. This is an update to an existing rule with no change in the requirements to the state budget. It is possible that certain local health departments that have difficulty meeting the standards could request additional funding, but the rule doesn't require the state budget to fund those requests. There will be costs to monitor adherence to the standards that can be met with existing state budget resources.
♦ LOCAL GOVERNMENTS: This change will remove outdated requirements and add some new requirements. Since the previous rule was not enforced for several years, it is possible that a clearer rule which can be consistently enforced will result in new costs for LHDs. The amount of those costs cannot be estimated based on available information, but the department believes that any costs should be minimal.
♦ SMALL BUSINESSES: This change is not expected to result in costs or savings to small businesses because the rule does not contain provisions that apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This change is not expected to result in costs or savings to businesses, individuals, or local governments other than as described above for LHDs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change should not result in compliance costs for any persons with the possible exception of a LHD or a county that operates a LHD. The agency believes any costs for a LHD to comply should be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to business because the rule changes affect only LHDs and do not change any payment or funding directed to business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
ADMINISTRATION
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:
♦ Robert Rolfs by phone at 801-538-6111, by FAX at 801-538-6306, or by Internet E-mail at rrolfs@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R380. Health, Administration.
R380-40. Local Health Department Minimum Performance Standards.
R380-40-1. Authority.

This rule is promulgated as required by Section 26A-1-106(1)(c). The minimum performance standards apply to all local health department services, regardless of funding sources.

R380-40-2. Definitions.

(1) "Department" means the Utah Department of Health.
[~~(2) "Local health department" means a city/county or district health department.~~]
(2) "District" means the area and population served by a local health department.
(3) "Evidence-based services" are based on evidence-based practices. Evidence-based practices include interventions, programs, strategies, policies, procedures, processes or activities that have been chosen based on evidence that they improve health outcomes. Evidence-based practices indicate a continuum of practices and can include emerging, promising and best practices.
(4) "Minimum[~~General~~] performance standards" means the minimum duties performed by local health departments for public health administration, personal and population health, environmental health, [~~laboratory services, ~~]and emergency preparedness[~~health resources~~] in addition to the powers and duties listed in Section 26A-1-114 and is equivalent to the phrase "minimum performance standards" in Section 26A-1-[~~116~~]106(1)(c).
(5) "primary care specialty" means pediatrics, internal medicine, family medicine, or obstetrics and gynecology.
[~~(4) "Specific level of performance" means the measurable level of each general performance standard.~~]

[~~R380-40-3. Negotiation.~~

~~The local health department and the department shall jointly negotiate specific measurable levels of performance, not inconsistent with corresponding general performance standards, and record them in a negotiated standards document. The department and the local health department shall take into account in the negotiation process availability of local technical and financial resources, availability of department technical and financial assistance, and past practices~~

~~between the department and local health departments in providing the programs under consideration.~~]

R380-40-3[4]. Compliance.

The local health department and the department shall monitor compliance with minimum[~~general~~] performance standards[~~and specific levels of performance~~].

R380-40-4[5]. Corrective Action.

(1) Except as provided in Subsection (3), i[~~I~~]f the department [~~finds~~]has cause to believe that a local health department is out of compliance with minimum[~~general~~] performance standards [~~and specific levels of performance~~]the department shall provide a preliminary assessment to the local health officer that identifies the suspected areas of noncompliance. The local health officer shall respond to each of the areas identified in the preliminary assessment within 30 days of receipt.[~~then the~~]

(2) After review of the local health officer's response, if the department determines that the local health department is out of compliance with the minimum performance standards and has not provided a satisfactory response, the department shall notify the local board of health and the local health officer in writing of its findings and establish a specific time frame for the correction of each area of noncompliance.

(3) The department shall notify the local board of health and the local health officer if the department has cause to believe that noncompliance with minimum performance standards represents an imminent danger to the safety or health of the people of the State or the district.

(4) The local board of health~~ department~~ shall submit a written [~~plan of~~] corrective action plan [~~to the department~~]that is satisfactory to the department. At a minimum, t[~~T~~]he corrective action plan must[~~shall~~] include the following[~~but not be limited to~~]: [~~local health department name; the specific program under consideration; the general performance standard(s) and specific levels of performance in question;~~] date of report,[~~;~~] areas of noncompliance, corrective actions, [~~;~~] responsible individual,[~~;~~] and dates of plan implementation and completion.

R380-40-5[6]. [~~General Performance Standards For~~]Local Health Officers[~~Department Administration.~~

~~(1) Local health departments shall exercise the powers and duties as outlined in Section 26A-1-114.~~

~~(2) The local board of health shall:~~

~~(a) establish local health department policies;~~

~~(b) adopt an annual budget;~~

~~(c) monitor expenditures;~~

~~(d) oversee compliance with general and specific performance standards;~~

~~(e) provide for long range planning;~~

~~(f) appoint a qualified local health officer, subject to ratification by the governing bodies of the participating jurisdictions;~~

~~(g) periodically, but at least annually, evaluate the performance of the local health officer; and~~

~~(h) report at least annually to county commissioners regarding health issues.~~

~~(3) Each local health department shall have an annual financial audit. The local board of health shall appoint an independent auditor or the audit may be conducted as part of the county audit and, in any event, the local board of health shall accept the audit.~~]

[~~(4)~~](1)(a) A local health officer who is a physician shall:

(i) be a graduate of a regularly chartered and legally constituted school of medicine or osteopathy;

(ii) be licensed to practice medicine in the state of Utah; and

(iii) [~~have successfully completed at least one year's graduate work in public health, public administration or business administration;~~

~~(iv)~~]be board certified in preventive medicine or in a primary care specialty[~~ such as family practice, pediatrics, or internal medicine;~~].[~~ and~~

~~(v) have at least two years of professional full-time experience in public health or preventive medicine in a senior level administrative capacity.~~]

(b) A local health officer who is not a physician shall:

(i) have successfully completed a master's degree in public health, nursing or other health discipline related to public health, [~~or~~] public administration, or business administration from an accredited school; and

(ii) have at least five years of professional full-time [~~public health~~] experience in the practice of public health, of which at least three years were in a senior [~~level~~]administrative capacity.[~~; or~~

~~(ii) have successfully completed a bachelor's degree in a field closely related to public health work from an accredited school and have at least 12 years of professional full-time public health experience, of which at least 10 years have been in a senior level administrative capacity.~~]

(c) If the local health officer is not a physician, the local health department shall contract with or employ a physician that is:

(i) residing in Utah and licensed to practice medicine in the state;

(ii) competent and experienced in a primary care specialty medical care field[~~, such as family practice, pediatrics, OBGYN, or internal medicine~~];

(iii) board certified in preventive medicine or in a primary care specialty [~~such as family practice, pediatrics, or internal medicine~~];

(iv) able to supervise and oversee clinical services delivered within the local health department, including the approval of all clinical protocols, [~~and~~] standing orders, and prescriptions issued within the public health system as described in Section 58-17b-620; and

(v) able to [~~play a substantial role in~~] review[~~ing~~] policies and procedures addressing human disease outbreaks of public health importance including emergency procedures authorized under 58-1-307(6), (7), and (8).[~~; and~~

~~(vi) able to participate in the Department's local health department physician network.~~

~~(d) Local health officers serving as of November 1, 2004, as well as the contracted or employee physician, are deemed to meet the requirements of R380-40-6(4) for the period that the individual so identified serves in those capacities. Upon the hiring of a new local health officer or employing or contracting with a new physician, the requirements of R380-40-6(4)(a), (b), and (c) must be met.~~

~~(e) The Executive Director may grant an exception to the local health officer and physician requirements upon written request from a Local Board of Health documenting the failure of serious and~~

~~substantial efforts to recruit candidates who meet the requirements or how the intent of the rule can be met by a method not specified in the rule.~~]

(d) The Executive Director may grant an exception to the requirements for a local health officer who was in the position before February 1, 2016.

[~~(5)~~](2) The local health officer shall[~~:~~

~~(a)~~] promote and protect the health and wellness of the people within the district to include the following activities[~~jurisdiction~~];

(a[~~b~~]) function as the executive and administrative officer;

(b[~~e~~]) report to and receive policy direction from the local board of health;

(c[~~d~~]) coordinate public health services in the district;

(d[~~e~~]) direct programs assigned by statute to the local health department, including administering and enforcing state and local health laws, regulations and standards;

(e[~~f~~]) direct the investigation and control of diseases and conditions affecting public health;

(f[~~g~~]) be responsible for hiring, terminating, supervising, and evaluating all local health department employees;

(g[~~h~~]) oversee proposed budget preparation;

(h[~~i~~]) present the budget to the board of health for review and approval;

(i[~~j~~]) develop and propose policies for board consideration;

(j[~~k~~]) implement policies of the local board of health;

(k[~~l~~]) advise the department with regard to policy development as those policies impact [~~upon~~]the mission, purpose, and capacity of the local health department;~~ and~~

(l) ensure that available data on health status and health problems of the district are reviewed regularly including

(i) a report to the board of health at least annually, and

(ii) an assessment that includes community input at least every five years;

(m) ensure that information about health and health hazards is disseminated as appropriate to protect the health of people in the district; and

(n) perform other duties as assigned by the local board of health.

[~~(6)~~](3) The local health officer shall ensure that an ongoing planning process is initiated and maintained that includes mission statement; community needs assessments; problem statements; goals, outcomes, and process objectives or implementation activities; evaluation; public involvement; and use of available data sources.

[~~(7)~~](4) The local health officer shall ensure that fiscal management procedures are developed, implemented and maintained in accordance with federal, state, and local government requirements.

[~~(8)~~](5) Consistent with federal and state laws and local ordinances and policies, the local health officer shall ensure:

(a) that employees are recruited, hired, terminated, classified, trained, and compensated in accordance with relevant merit principles, federal civil rights requirements, and laws of general applicability, and that their qualifications are commensurate with job responsibilities;

(b) the orientation of all new employees to the local health department and its personnel policies;

(c) the maintenance of a personnel system that includes an accurate, current, and complete personnel record for each local health department employee;

(d) the verification of all current licensure and certification requirements;

(e) continued education and training for all employees commensurate with job responsibilities;

(f) that each employee receives an annual performance evaluation, based upon a job description and written performance expectations for each employee,[~~; and~~

~~(g) all training and certification programs for establishing and maintaining quality performance will be conducted as required by the Utah Department of Health and the Utah Department of Commerce.~~]

[~~(9)~~](6) A local health officer or designee who is a physician or osteopath licensed to practice medicine in Utah shall supervise and be accountable for medical practice conducted by local health department employees. If the local health officer is not a physician or osteopath licensed in Utah, he shall appoint a medical director licensed to practice medicine or osteopathy in Utah to supervise and be accountable for medical practice conducted by local health department employees.

R380-40-6. Local Health Department Administration

(1) Local health departments shall exercise the powers and duties as outlined in Section 26A-1-114.

(2) In addition to the duties outlined in 26A-1-109 and 26A-1-110, the local board of health shall:

(a) establish local health department policies;

(b) adopt an annual budget;

(c) monitor revenue and expenditures;

(d) oversee compliance with minimum performance standards;

(e) provide for planning as defined in R380-40-5(3);

(f) periodically, but at least annually, evaluate the performance of the local health officer; and

(g) report at least annually to the county governing body or bodies of the district served by the local health department regarding health issues and the health status of residents of the district.

(3) Each local health department shall have an annual financial audit. The local board of health shall appoint an independent auditor or the audit may be conducted as part of the county audit and, in any event, the local board of health shall accept the audit or accept responsibility for findings in the audit that apply to the local health department.

[~~(10)~~](4) Each local health department shall employ a registered nurse with education, experience, and Utah licensure consistent with the position requirements to supervise, evaluate, and be accountable for nursing practice conducted by local health department nurses in order to provide quality public health nursing service.

[~~(11)~~](5) Each local health department shall employ a certified health education specialist [~~health educator~~] or other qualified person with education,[~~ and~~] experience, or a combination of education and experience resulting in comparable expertise [~~consistent with the position requirements~~] to direct health education and promotion activities.

[~~(12)~~](6) Each local health department shall employ an environmental health scientist [~~sanitarian~~] registered in Utah with education and experience consistent with the position requirements to supervise, evaluate, and be accountable for environmental health activities in order to protect and promote public health and safety and protect the environment.

[~~(13)~~](7) Each local health department shall employ an individual with training and experience in epidemiology to conduct and oversee epidemiology activities conducted by the local health department.

(8)(a) Programs provided by local health departments shall be developed, directed, and organized in response to community needs; delivered and controlled in accordance with approved budget; and evaluated for effectiveness and impact.[~~by using a management information system. The management information system, when consistent with program objectives, shall include a method to determine client satisfaction.~~

~~(a) Each local health department shall collect and manage data in accordance with the needs of local health department programs, department programs, and other funding sources.~~]

(b) Each local health department shall provide all public health services in compliance with federal, state, and local [~~(including district)~~]laws, regulations, rules, policies and procedures; and accepted standards of public health, medical and nursing practice.

[~~(c) Each local health department shall maintain an ongoing quality assurance program for public health services designed to objectively and systematically monitor and evaluate the quality of public health services and resolve identified problems.~~]

R380-40-7. [~~General Performance Standards For~~]Local Health Department Personal and Population Health Services.

(1) Each local health department shall provide health education[;] and health promotion [~~and risk reduction~~] services to include: conducting community health assessments, identifying leading causes of disease, death, disability and poor health; and implementing evidence-based services to address the identified priorities. [~~assist residents to:~~

~~(a) obtain the necessary knowledge, skills, capacity, and opportunity to improve and maintain individual, family, and community health;~~

~~(b) use preventive health services, practices, and facilities appropriately;~~

~~(c) understand and participate, where feasible, in decision-making concerning their health care;~~

~~(d) understand and encourage compliance with prescribed medical instructions;~~

~~(e) participate in community health decision making; and~~

~~(f) prevent or delay premature death, disease, injury, or disability through services that encourage the long-term adoption of healthy behavior.~~]

(2) Each local health department shall provide evidence-based communicable disease prevention and control services to include: reporting, surveillance, assessment, epidemiological investigation, and appropriate control measures as defined in State disease plans for reportable communicable [~~vaccine-preventable~~] diseases[~~, sexually transmitted diseases, tuberculosis, AIDS,~~] and other communicable diseases of public health concern. [~~to attempt to prevent, control, or prevent and control epidemics, cases of vaccine-preventable diseases, and the spread of sexually transmitted diseases, AIDS, and tuberculosis.~~]

(3) Each local health department shall [~~provide infant and child~~] ensure health services by assessing the availability of health-related services and health providers in local communities; identifying gaps and barriers in services; convening or participating with community partners to improve community health systems; and providing services identified as priorities by the local assessment and planning process if approved by the local board of health.[~~to help prevent illness, injury, and disability; reduce the preventable complications of illness, injury, and disability; maintain health; and foster healthy growth and development. These services shall include: periodic health assessments; screening for and early identification of health and developmental problems; and provision of appropriate treatment, education, or referral.~~]

(4) Each local health department shall provide epidemiology services including surveillance for reportable conditions, tracking occurrence of conditions affecting the health of communities, and obtaining or preparing epidemiologic data to guide prioritization of problems, and development and evaluation of prevention and control programs. [~~ensure that families of referred cases of infant and childhood death including Sudden Infant Death Syndrome cases, are offered counseling services or referred to counseling services.~~]

(5) Each local health department designated as a local registrar of vital statistics shall ensure the registration of appropriate certificates for all live births, deaths, and fetal deaths that occur in the registration area, as required by Utah Code Annotated Section 26-2. [~~shall advocate and promote preventive health services and health instruction for school-aged children.~~]

(6) Each local health department shall provide evidence-based services as guided by local community assessment and planning to include:

(a) maternal and child health services,

(b) injury control services; and

(c) chronic disease control services.

[~~ensure that injury control needs are identified and programs or services are available to reduce the occurrence of injury and unintentional death.~~

~~(7) Each local health department shall provide chronic disease control services which may include screening, referral, education, promotion, and preventive activities related to the prevention of cardiovascular disease, cancer, diabetes, and other chronic diseases to reduce premature morbidity and mortality associated with these diseases.~~

~~(8) Each local health department shall provide family planning services including information to clients who request it and referral in accordance with State law.~~

~~(9) Each local health department shall ensure that women and families have access to risk appropriate preconceptional, interconceptional, prenatal, intrapartum, and postpartum health services with the objective of lowering the frequency of maternal and infant death, disease and disability, and promoting the development and maintenance of a healthy, nurturing family unit.~~

~~(10) Each local health department shall provide dental health services which may include dental health screening, referral, education, promotion, and preventive activities.~~]

R380-40-8. [~~General Performance Standards For~~]Local Health Department Environmental Health Programs.

(1) Each local health department shall ensure that there is a program including the maintenance of an inventory of regulated entities or complaints for:

(a) food safety consistent with R392-100, R392-101, R392-103, R392-104, and R392-110; and[~~food service establishments to include: the maintenance of an inventory, directory, or listing of establishments~~]; [~~inspections including corrective actions; plan~~

~~reviews; an information management system; and the dissemination of public information;~~]

(b) schools consistent with R392-200;

(c) recreation camps consistent with R392-300;

(d) recreational vehicle parks consistent with R392-301;

([~~b~~]e) public [~~swimming~~]pools consistent with R392-302 and R392-303[~~- to include: the maintenance of an inventory,~~];[~~ directory, or listing of facilities; inspections including corrective actions; plan reviews; an information management system; and the dissemination of public information;~~]

(f) temporary mass gatherings consistent with R392-400;

(g) roadway rest stops consistent with R392-401;

(h) mobile home parks consistent with R392-402;

(i) labor camps consistent with R392-501;

(j) hotels, motels and resorts consistent with R392-502;

(k) indoor clean air consistent with Section 26-38 and R392-510;

(l) illegal drug operations decontamination consistent with R392-600;

(m) indoor tanning beds consistent with R392-700; and

(c) [~~institutions, public facilities, and indoor and outdoor facilities to include: the maintenance of an inventory, directory, or listing of facilities; inspections including corrective actions; plan reviews; an information management system; and the dissemination of public information~~];

[~~(d) safe drinking water to include: the maintenance of an inventory, directory, or listing of systems; inspections including corrective actions; an information management system; and the dissemination of public information;~~]

([~~e~~]n) investigation of complaints about public health hazards, including vector control, [~~nuisance complaints~~] to include[~~:~~] inspections including corrective actions and an information system that documents the process of receiving, investigating and the final disposition of complaints[~~; an information management system; and the dissemination of public information;~~],

[~~(f) vector control to include: complaint inspections including corrective actions; an information management system; and the dissemination of public information;~~

~~(g) air quality and air pollution control to include: conducting limited inspections of visible emissions including corrective actions; an information management system; and the dissemination of public information;~~

~~(h) injury control to include: inspections including corrective actions; an information management system; and the dissemination of public information;~~

~~(i) indoor clean air to include: inspections of public facilities including corrective actions; an information management system; and the dissemination of public information;~~

~~(j) solid waste to include: an inventory, directory, or listing of locations; inspections including corrective actions; an information management system; and the dissemination of public information; and~~

~~(k) subsurface waste water systems to include: the maintenance of an inventory, directory, or listing of facilities; inspections including corrective actions; plan reviews; an information management system; and the dissemination of public information.~~]

(2) Each local health department shall develop, implement, and maintain [~~special~~] environmental health programs[~~, such as programs to respond to noise, hazardous waste, and asbestos abatement control;~~] to meet the special or unique needs of its community as determined by local or state needs assessment and the local board of health.

R380-40-9. Local Health Department Public Health Emergency Preparedness.

(1) Each local health department shall conduct public health emergency preparedness efforts.

(a) conduct, or coordinate with emergency management agencies in the district to conduct, a community public health, medical, mental, and behavioral health hazard and risk assessment that considers populations with special needs to influence prioritization of public health emergency preparedness efforts;

(b) establish partnerships with volunteers, emergency response agencies, and other community organizations involved in emergency response;

(c) establish Memorandums of Agreement with response partners for assistance in emergency response;

(d) identify public health roles and responsibilities in local emergency response;

(e) function as the lead agency for Emergency Support Function #8---Public Health and Medical Services;

(f) maintain an all-hazards public health emergency operations plan that shall include priorities from hazard and risk assessment in R380-40-9(1)(a); hazard-specific response information for an infectious disease outbreak; and protocols or guidelines for dispensing of medical countermeasures, public health emergency messaging, non-pharmaceutical interventions, mass fatality response and requesting additional resources;

(g) maintain a continuity of operations plan that shall include employee notification, lines of authority and succession, and prioritized local health department functions;

(h) annually test public health preparedness through an emergency response drill or exercise;

(i) ensure access to and annually test emergency response communications equipment and systems that will be used in public health emergency response;

(j) the local health officer and at least one other employee shall complete FEMA ICS-100, ICS-200, ICS-300, ICS-400, IS-700, and IS-800 courses.

R380-40-[9]10. General Performance Standards for Local Health Department Laboratory Services.

Each local health department shall ensure the availability of laboratory capacity to support public health programs by maintaining an on-site laboratory, through agreements with the Utah Public Health Laboratory, or by agreements or contracts with private laboratories to conduct needed tests in a timely manner.

[~~All local health departments that have a laboratory are not exempt from existing state and federal laboratory requirements.~~

~~R380-40-10. General Performance Standards for Local Health Department Health Resources.~~

~~(1) Epidemiology. Each local health department shall provide for the investigation, detection, control, and development of preventive strategies of any communicable, infectious, acute, chronic, or other disease, or environmental or occupational health hazard that is considered dangerous or important or which may affect the public health. Reportable diseases shall be reported.~~

~~(2) Vital Statistics. Each local health department designated as a local registrar of vital statistics shall ensure the registration of appropriate certificates for all live births, deaths, and fetal deaths that occur in the registration area, as required by State statute.~~]

KEY: local health departments, performance standards
Date of Enactment or Last Substantive Amendment: [~~February 2, 2005~~]2016
Notice of Continuation: March 6, 2015
Authorizing, and Implemented or Interpreted Law: 26A-1-106(1)(c)

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-1-5
Incorporations by Reference

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40043
FILED: 12/31/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 26-18-3(2)(a) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved state plan with the Centers for Medicare and Medicaid Services (CMS). The purpose of this change, therefore, is to incorporate the most current Medicaid state plan by reference.

SUMMARY OF THE RULE OR CHANGE: The Department incorporates by reference the Utah Medicaid State Plan and approved State Plan Amendments (SPAs) to 01/01/2016. Specifically, the Department incorporates by reference SPA 15-0004-UT Targeted Case Management for the Homeless, which removes obsolete language from the State Plan regarding Targeted Case Management (TCM) for individuals who are homeless. Individuals who are homeless, eligible for Medicaid under the State Plan, and are seriously mentally ill, receive TCM services based on a different section of the State Plan. The Department also incorporates by reference SPA 15-0022-UT Reimbursement for Chiropractic Services, which updates the effective date of rates for chiropractic services to 10/01/2015, to implement an 8 percent rate increase for chiropractic providers. This proposed rule also incorporates by reference the Medical Supplies Utah Medicaid Provider Manual, and the manual's attachment for Donor Human Milk Request Form, effective 01/01/2016; incorporates by reference the Hospital Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2016; incorporates by reference the Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, effective 01/01/2016; incorporates by reference the Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Hospice Care Utah Medicaid Provider Manual, and the manual's attachment for the Utah Medicaid Prior Authorization Request for Hospice Services, effective 01/01/2016; incorporates by reference the Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments, effective 01/01/2016; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Personal Care Utah Medicaid Provider Manual, and the manual's attachment for the Request for Prior Authorization: Personal Care and Capitated Programs effective 01/01/2016; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual, effective 01/01/2016; Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Office of Inspector General (OIG) Administrative Hearings Procedures Manual, effective 01/01/2016; incorporates by reference the Pharmacy Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2016; incorporates by reference the Coverage and Reimbursement Code Look-up Tool, effective 01/01/2016; incorporates by reference the CHEC Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2016; incorporates by reference the Chiropractic Medicine Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the General Attachments (All Providers) for the Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Indian Health Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Laboratory Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2016; incorporates by reference the Medical Transportation Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with its attachments, effective 01/01/2016; incorporates by reference the Licensed Nurse Practitioner Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Physical Therapy

and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables, effective 01/01/2016; incorporates by reference the Physician Services, Anesthesiology and Laboratory Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2016; incorporates by reference the Podiatric Services Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Primary Care Network Utah Medicaid Provider Manual with its attachments, effective 01/01/2016; incorporates by reference the Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the School-Based Skills Development Services Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference Section I: General Information Utah Medicaid Provider Manual, effective 01/01/2016; incorporates by reference the Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, effective 01/01/2016; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, effective 01/01/2016; Vision Care Services Utah Medicaid Provider Manual, effective 01/01/2016; Women's Services Utah Medicaid Provider Manual, effective 01/01/2016; Medically Complex Children's Waiver Utah Medicaid Provider Manual, effective 01/01/2016; and Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual, effective 01/01/2016.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

MATERIALS INCORPORATED BY REFERENCES:

- ♦ Updates Medical Supplies Utah Medicaid Provider Manual, and Donor Human Milk Request Form, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Laboratory Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Personal Care Utah Medicaid Provider Manual, and Request for Prior Authorization: Personal Care and Capitated Programs, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Office of Inspector General Administrative Hearings Procedures Manual, published by Office of Inspector General of Medicaid Services, 01/01/2016
- ♦ Updates Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Medical Transportation Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Coverage and Reimbursement Code Look-up Tool, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Physician Services, Anesthesiology and Laboratory Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Medically Complex Children's Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Women's Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates General Attachments (All Providers) for the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Chiropractic Medicine Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Licensed Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Hospital Services Utah Medicaid Provider Manual with attachments, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Updates Pharmacy Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2016
- ♦ Removes Psychology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2016
- ♦ Updates CHEC Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2016

♦ Updates Utah Medicaid State Plan, published by Centers for Medicare and Medicaid Services, 01/01/2016
♦ Updates Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Home Health Agencies Utah Medicaid Provider Manual, and the Private Duty Nursing Acuity Grid, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Indian Health Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Section I: General Information Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with attachments, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Podiatric Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates School-Based Skills Development Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Hospice Care Utah Medicaid Provider Manual, and Utah Medicaid Prior Authorization Request for Hospice Services, published by Division of Medicaid and Health Financing, 01/01/2016
♦ Updates Primary Care Network Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2016

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the look-up tool, and hearings procedures described in the OIG manual do not create costs or savings to the Department or other state agencies.
♦ LOCAL GOVERNMENTS: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the look-up tool, and hearings procedures described in the OIG manual do not create costs or savings to local governments.
♦ SMALL BUSINESSES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the look-up tool, and hearings procedures described in the OIG manual do not create costs or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the look-up tool, and hearings procedures described in the OIG manual do not create costs or savings to Medicaid recipients and to Medicaid providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the look-up tool, and hearings procedures described in the OIG manual do not create costs or savings to a single Medicaid recipient or to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business because all changes are already in the State Plan.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-1. Utah Medicaid Program.
R414-1-5. Incorporations by Reference.

The Department incorporates the [~~October~~]January 1, 201[~~5~~]6, versions of the following by reference:

(1) Utah Medicaid State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;

(2) Medical Supplies Utah Medicaid Provider Manual, Section 2, Medical Supplies, as applied in Rule R414-70, and the manual's attachment for Donor Human Milk Request Form;

(3) Hospital Services Utah Medicaid Provider Manual with its attachments;

(4) Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;

(5) Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual;

(6) Hospice Care Utah Medicaid Provider Manual, and the manual's attachment for the Utah Medicaid Prior Authorization Request for Hospice Services;

(7) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;

(8) Personal Care Utah Medicaid Provider Manual and the manual's attachment for the Request for Prior Authorization: Personal Care and Capitated Programs;

(9) Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual;

(10) Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual;

(11) Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;

(12) Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual;

(13) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;

(14) Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;

(15) Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual;

(16) Office of Inspector General Administrative Hearings Procedures Manual;

(17) Pharmacy Services Utah Medicaid Provider Manual with its attachments;

(18) Coverage and Reimbursement Code Look-up Tool found at http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php ;

(19) CHEC Services Utah Medicaid Provider Manual with its attachments;

(20) Chiropractic Medicine Utah Medicaid Provider Manual;

(21) Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual;

(22) General Attachments (All Providers) for the Utah Medicaid Provider Manual;

(23) Indian Health Utah Medicaid Provider Manual;

(24) Laboratory Services Utah Medicaid Provider Manual with its attachments;

(25) Medical Transportation Utah Medicaid Provider Manual;

(26) Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with its attachments;

(27) Licensed Nurse Practitioner Utah Medicaid Provider Manual;

(28) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables;

(29) Physician Services, Anesthesiology and Laboratory Services Utah Medicaid Provider Manual with its attachments;

(30) Podiatric Services Utah Medicaid Provider Manual;

(31) Primary Care Network Utah Medicaid Provider Manual with its attachments;[

~~(32) Psychology Services Utah Medicaid Provider Manual;~~]

(3[~~3~~]2) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;

(3[~~4~~]3) Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual;

(3[~~5~~]4) School-Based Skills Development Services Utah Medicaid Provider Manual;

(3[~~6~~]5) Section I: General Information Utah Medicaid Provider Manual;

(3[~~7~~]6) Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual;

(3[~~8~~]7) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual;

(3[~~9~~]8) Vision Care Services Utah Medicaid Provider Manual;

([~~40~~]39) Women's Services Utah Medicaid Provider Manual;

(4[~~1~~]0) Medically Complex Children's Waiver Utah Medicaid Provider Manual; and

(4[~~2~~]1) Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: [~~September 22, 2015~~]2016
Notice of Continuation: March 2, 2012
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-303-8

Foster Care, Former Foster Care Youth and Independent Foster Care Adolescents

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40040
FILED: 12/30/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to comply with a mandate from the Centers for Medicare and Medicaid Services, which specifies who may become eligible for the Former Foster Care Medicaid program.

SUMMARY OF THE RULE OR CHANGE: This amendment expands coverage to foster care youth who reside in Utah and were in foster care in any state at the time they turned 18 years old. Coverage continues for these individuals through the month in which they turn 26 years of age.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

MATERIALS INCORPORATED BY REFERENCES:

- ♦ Updates Subsection 1902(a)(10)(A)(ii)(XVII) of the Social Security Act, published by Social Security Administration, 01/01/2016
- ♦ Updates 42 CFR 435.115(e)(2), published by Government Printing Office, 10/01/2015

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Department estimates an annual cost of about $124,800 to the state budget, regardless of which state is responsible for foster care payment.

♦ LOCAL GOVERNMENTS: There is no impact to local governments because they neither fund nor make eligibility determinations for Medicaid programs.

♦ SMALL BUSINESSES: Small businesses may see a portion of $124,800 in annual revenue with the additional youth who will qualify for the Former Foster Care Medicaid program.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Medicaid providers may see a portion of $124,800 in annual revenue with the additional youth who will qualify for the Former Foster Care Medicaid program. Individuals who qualify for this program may also see a portion of this amount in total out-of-pocket savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A single Medicaid provider may see a portion of $2,400 in annual revenue with the additional youth who will qualify for the Former Foster Care Medicaid program. An individual who qualifies for this program may also see a portion of this amount in out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is impact on business because Medicaid providers may see an increase in revenue for providing treatment to these eligible individuals.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-303. Coverage Groups.
R414-303-8. Foster Care, Former Foster Care Youth and Independent Foster Care Adolescents.

(1) The Department adopts and incorporates by reference 42 CFR 435.115(e)(2), October 1, 201[~~4~~]5 ed. The Department also adopts and incorporates by reference Subsection 1902(a)(10)(A)(i)(IX) and Subsection 1902(a)(10)(A)(ii)(XVII) of the Social Security Act, effective January 1, 201[~~5~~]6.

(2) Eligibility for foster children who meet the definition of a dependent child under the State Plan for Aid to Families with Dependent Children in effect on July 16, 1996, is not governed by this rule. The Department of Human Services determines eligibility for foster care Medicaid.

(3) The Department covers individuals who are under the responsibility of [~~the~~]any [~~S~~]state and meet the criteria of Subsection 1902(a)(10)(A)(i)(IX) of the Social Security Act. Former Foster Care Youth is the name of this coverage group.

(a) Coverage is available through the month in which the individual turns 26 years of age.

(b) There is no income or asset test for eligibility under this group.

(4) The Department elects to cover individuals who are in foster care under the responsibility of the State at the time the individual turns 18 years of age, are not eligible under the Former Foster Care Youth coverage group, and who are 18 years old but not yet 21 years old as described in Subsection 1902(a)(10)(A)(ii)(XVII) of the Social Security Act. This coverage is under the Independent Foster Care Adolescents program. The Department determines eligibility according to the following requirements.

(a) At the time the individual turns 18 years of age, the individual must be in the custody of the Division of Child and Family Services, or the Department of Human Services if the Division of Child and Family Services is the primary case manager, or a federally recognized Indian tribe, but not in the custody of the Division of Youth Corrections.

(b) Income and assets of the child are not counted to determine eligibility under the Independent Foster Care Adolescents program.

(c) When funds are available, an eligible independent foster care adolescent may receive Medicaid under this coverage group until he or she reaches 21 years of age, and through the end of that month.

KEY: MAGI-based, coverage groups, former foster care youth, presumptive eligibility
Date of Enactment or Last Substantive Amendment: [~~August 1, 2015~~]2016
Notice of Continuation: January 23, 2013
Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

Housing Corporation (Utah), Administration
R460-2
Definition of Terms Used Throughout R460

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40012
FILED: 12/28/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Some language in this rule repeats, verbatim, what is stated in established law, i.e. the Utah Housing Corporation (UHC) Act so duplicative language is being removed from the rule. Also, Utah Code references need to be updated in connection with changes made in S.B. 67 in the 2015 General Session.

SUMMARY OF THE RULE OR CHANGE: A section of the rule that provides a listing of some defined terms in Section 63H-8-103 is being eliminated to reduce any confusion regarding defined terms in the UHC Act or in its rules. Additionally, updated Utah Code references are being added.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63H-8-301

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The change is purely administrative in that redundant verbiage is being removed and Utah Code references are being updated. Therefore, there will be no fiscal effect on the state budget.
♦ LOCAL GOVERNMENTS: The change is purely administrative in that redundant verbiage is being removed and Utah Code references are being updated. Therefore, there will be no fiscal effect on local government.
♦ SMALL BUSINESSES: The change is purely administrative in that redundant verbiage is being removed and Utah Code references are being updated. Therefore, there will be no fiscal effect on small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The change is purely administrative in that redundant

verbiage is being removed and Utah Code references are being updated. Therefore, there will be no fiscal effect on any other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the changes simply remove redundant language and update Utah Code references, there is no compliance cost for any affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The UHC Act clearly provides defined terms in Section 63H-8-103. In an effort to follow the Governor's recommendation to provide clear, concise rules, UHC identified a duplicative section in this rule that is already provided in greater clarity in the Act. There is anticipated to be no fiscal impact on any business as a result of this change.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY, UT 84120
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at jhanks@uthc.org

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Grant Whitaker, President and CEO

R460. Housing Corporation, Administration.
R460-2. Definitions of Terms Used Throughout R460.
R460-2-1. Terms Which are Defined in Section [~~35A-8-703~~]63H-8-103.

(1) Bonds;
(2) Corporation;
(3) Financial assistance;
(4) Housing sponsor;
(5) Low and moderate income persons;
(6) Mortgage lender;
(7) Mortgage loan;
(8) Mortgage;
[~~(9) President;~~]
([~~10~~]9) Residential housing;
(1[~~1~~]0) State.

R460-2-2. Additional Defined Terms.

(1) "Act" means the Utah Housing Corporation Act, set forth in Section [~~35A-8-701~~]63H-8-1 et. seq.

(2) "ADA coordinator" means UHC's president or his designee who has responsibility for investigating and providing prompt and equitable resolution of complaints filed by qualified individuals with disabilities.

(3) "Code" means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Treasury Department promulgated thereunder.

(4) "Complainant" means a person who has a disability and who alleges in a complaint filed with UHC according to this rule, that an act of discrimination occurred by UHC, and satisfies one or more of the following:

(a) who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by UHC;

(b) who would otherwise be an eligible applicant for vacant UHC employment positions;

(c) who is an employee of UHC.

(5) "Disability" means with respect to an individual with a disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment.

(6) "Federal" means of, pertaining to, or designating the government of the United States of America.

(7) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, sleeping, standing, sitting, reaching, lifting, bending, reading, concentrating, thinking, communicating, interacting with others, and working. A major life activity also includes the operation of a major bodily function, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(8) "Multifamily" means a residential housing project consisting of five or more rental dwelling units located on a single or multiple tract(s) of land.

(9) "Participant" means a person, natural or otherwise, who is involved in or has a critical influence on or substantive control over a transaction which involves a UHC program, including but not limited to any of the following:

(a) appraisers and inspectors;
(b) real estate agents and brokers;
(c) management and marketing agents;
(d) attorneys;
(e) title insurance companies;
(f) escrow and closing agents;
(g) loan officers or other agents of lenders;
(h) project owners;
(i) developers, builders and contractors involved in the construction or rehabilitation of properties financed by UHC, or receiving UHC funds, or allocations of Federal or State resources directly or indirectly;
(j) individuals who are applicants for or borrowers under UHC mortgage loans, or members of their families;
(k) employees or agents of any of the above.

(10) "Single-Family" means residential housing consisting of one dwelling unit occupied by the fee simple owner of the dwelling unit.

(11) "UHC" means Utah Housing Corporation.

KEY: housing finance
Date of Enactment or Last Substantive Amendment: [~~November 27, 2012~~]2016
Authorizing, and Implemented or Interpreted Law: [~~35A-8-711~~]63H-8-301

Housing Corporation (Utah), Administration
R460-3
Programs of UHC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40018
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of the change to this rule include: 1) removing and adding verbiage to clarify the basis for establishing UHC income and/or acquisition cost limits for all UHC programs; 2) adjusting maximum income limits for all UHC programs for consistency; and 3) updating references to the Utah Code.

SUMMARY OF THE RULE OR CHANGE: Subsection R460-3-1(4) is amended to clarify the basis for establishing UHC income limits and where and to whom that information will be disseminated. Subsection R460-3-1(5) is amended to clarify the basis for establishing UHC acquisition cost limits and where and to whom that information will be disseminated. Subsection R460-3-2(3) is amended for consistency to make the maximum income limit the same as stated in Subsection R460-3-1(4) and to clarify income limits are established using information published by the Department of Housing and Urban Development (HUD). Subsection R460-3-4(4)(d) is amended to clarify the period of time and the calculation of the period of time an individual or entity may be barred from the low-income housing tax credit program for being considered "not in good standing". Subsection R460-3-5(1)(b) is amended for consistency to make the maximum income limit the same as stated in Subsection R460-3-1(4) and to clarify that income limits are calculated using information published by HUD and that applicable information will be incorporated into program documents and disseminated to interested persons.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63H-8-301(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings because Subsection 63H-8-102(3)(b) states that UHC is a "financially independent body" and therefore, receives no state appropriation. Furthermore, the changes made to this rule are clarifying in nature and do not entail any additional requirements.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to any local government because the changes made to this rule are clarifying in nature and do not entail any additional requirements.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because the changes made to this rule are clarifying in nature and do not entail any additional requirements.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small business, business, or local government because the changes made to this rule are clarifying in nature and do not entail any additional requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated additional compliance cost (in excess of existing compliance costs) for affected persons. The reason there is no additional compliance cost is that changes to the rule are clarifying in nature and do not entail any additional compliance-related requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: All changes to this rule are administrative in nature with the intention to provide greater clarity on the basis for the establishment of UHC's income and acquisition cost limits. The changes have been thoroughly reviewed for any fiscal impact on any UHC business partner, and there is no demonstrable fiscal impact on any partner.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY, UT 84120
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at jhanks@uthc.org

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Grant Whitaker, President and CEO

R460. Housing Corporation, Administration.
R460-3. Programs of UHC.
R460-3-1. Single-Family Program.
(1) Eligible mortgage lender.

(a) To be eligible to participate in the single-family program, a mortgage lender must have as one of its principal purposes the origination of mortgage loans in its usual and regular course of business.

(b) UHC may establish criteria that mortgage lenders must meet relating to approved mortgagee status by the Federal Housing Administration, Rural Housing Service or Department of Veterans Affairs, the financial condition of the mortgage lender, the number of mortgage loan originations during a period specified by UHC, the length of time a mortgage loan origination office has been maintained in the state, seller/servicer approval by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and other criteria as UHC deems necessary to maintain a safe and sound program and to establish that mortgage loans are a part of a mortgage lender's usual and regular business activities and that the mortgage lender possesses the capability to make and to have adequate financial resources to fund mortgage loans.

(c) UHC may require that mortgage lenders, from time to time, furnish to UHC evidence as UHC may request to confirm a mortgage lender's eligibility to participate in the single-family program.

(d) A mortgage lender shall employ and maintain qualified personnel to carry out the obligations arising under contracts with UHC.

(e) All transactions between a mortgage lender and UHC shall be subject to the relevant single-family program contract documents which may include the following: participation agreement, selling supplement, mortgage credit certificate program guide, mortgage purchase agreement ("MPA"), mortgage credit certificate request and reservation ("MCC request"), notice of availability of funds, MPA request, and other documents deemed necessary by UHC ("Program Documents").

(2) Mortgage purchase agreement request; mortgage purchase agreement; mortgage credit certificate request and reservation.

(a) UHC may distribute to mortgage lenders via any electronic, digital, or written means, any interest rate and/or program changes affecting the single-family program.

(b) Mortgage lenders may submit one or more mortgage purchase agreement or MCC requests to UHC via electronic, digital or written means as specified by UHC, in which an amount of funds is requested for a specific mortgage loan or MCC that the mortgage lender is processing.

(c) UHC may require that each mortgage purchase agreement or MCC request submitted by a mortgage lender be accompanied by an application or other fee in an amount specified by UHC in its Program Documents. The fee shall not be refunded or accrue interest payable by UHC, unless otherwise specified by UHC in the Program Documents.

(d) Upon receipt of a mortgage purchase agreement or MCC request, UHC may deliver to the mortgage lender 1) a mortgage purchase agreement confirming UHC's commitment to purchase the specified mortgage loan or 2) an MCC reservation confirming UHC's commitment to issue an MCC for the requested amount. The mortgage purchase agreement or MCC request shall terminate automatically if the mortgage lender fails to deliver all necessary Program Documents with respect to the mortgage loan or MCC to UHC on or prior to the date specified in the Program Documents.

(3) Single-family mortgage loans.

(a) From time to time, UHC may develop individualized single-family mortgage programs designed to meet the needs of certain populations. In such cases, UHC shall establish maximum fees that may be charged or collected, final mortgage delivery date, interest rate, and loan term. Fee requirements shall be uniformly applied to all mortgage lenders, without preference of one mortgage lender over another.

(b) All mortgage loans shall be made to finance single-family residential housing located in the state which conform to the requirements of the single-family mortgage program or any other requirements specified in the Program Documents.

(c) UHC may provide priority allocations to make mortgage financing available to persons qualified for any of UHC's single-family programs or in targeted, rural, inner city or other areas experiencing difficulty securing mortgage loans to make housing available to persons of low and moderate income.

(d) Each mortgage loan purchased by UHC shall conform to the credit underwriting, property valuation, hazard insurance, title insurance, mortgage insurance, security and collateralization, and all other requirements of the Program Documents. Closings or deliveries must occur on or before the date established in Program Documents. UHC shall have the right to decline to finance any mortgage loan if, in the reasonable opinion of UHC, the mortgage loan does not meet all requirements of the Program Documents.

(4) Income limits of borrowers.

[~~UHC shall establish and may amend maximum i~~]Income limits for low and moderate income persons eligible as borrowers for UHC financing[~~. The limits~~] are based on area or state median income as determined and published by the U.S. Department of Housing and Urban Development (HUD). UHC's president is authorized to establish income limits of UHC's single family programs and such limits shall not exceed 140% of area or state median income as determined and published by [~~UHC~~]HUD. [~~UHC shall establish and may amend the limits in open public meetings of UHC for which UHC shall give public notice as required by state law.~~] UHC shall [~~make~~]post income limits on its website, incorporate the limits as terms of the Program Documents, and shall make information concerning the limits available to all interested persons.[~~, including potential borrowers, and shall incorporate the limits as terms of the Program Documents.~~] Income limits may vary based on, but not limited to, loan program, household size, county, targeted area, source and availability of funds, and risk to UHC.

(5) Acquisition cost limits.

When loan funding sources have federal regulations that require the establishment of acquisition cost limits, UHC's president is authorized to establish acquisition cost limits in accordance with the requirements detailed in Section 143 of the Internal Revenue Code.

When loan funding sources have no federal regulations requiring acquisition cost limits, UHC may or may not establish acquisition cost limits. UHC's president will establish any acquisition cost limits based on Average Area Purchase Prices as published by the Internal Revenue Service (IRS)[~~UHC shall establish and may amend maximum acquisition cost limits for residential housing qualified for UHC financing~~]. The acquisition cost of residential housing is the cost of acquiring a completed residential housing unit and shall include all amounts paid in cash or in kind for all structures, fixtures, improvements, and land. [~~UHC shall establish and may amend the limits in open public meetings of UHC for which UHC shall give public notice as required by state law.~~] UHC shall post any acquisition

cost limits on its website, incorporate the limits as terms of the Program Documents, and shall make information concerning the limits available to all interested persons[~~UHC shall make information concerning the maximum acquisition cost limits available to interested persons including loan applicants and potential mortgagors, and shall incorporate the limits as terms of the Program Documents~~].

(6) Mortgage Credit Certificates (MCC).

(a) From time to time, UHC may make available amounts to issue mortgage credit certificates to qualified applicants in conjunction with a mortgage loan obtained to purchase residential housing within the state of Utah.

(b) All MCCs issued by UHC shall only be done when an eligible mortgage loan shall be made to finance single-family residential housing in the state which conforms to the requirements of the single-family mortgage program or any other requirements specified in the Program Documents.

(c) UHC may provide priority allocations to make mortgage credit certificates available to persons qualified for any of UHC's single-family loan programs or in targeted, rural, inner city or other areas experiencing difficulty securing mortgage loans to make housing available to persons of low and moderate income. Furthermore, UHC may provide an allocation of MCCs to a particular development subject to certain conditions.

(d) Each MCC request reserved and issued by UHC shall conform to all requirements of the Program Documents. UHC shall have the right to decline to issue an MCC if, in the reasonable opinion of UHC, the MCC request does not meet all requirements of the Program Documents.

(7) Assumption of single-family mortgage loans.

(a) UHC shall establish and may amend conditions and requirements for the assumption of mortgage loans. The conditions and requirements for the assumption of mortgage loans may vary between the different series of bonds and mortgage insurers or guarantors under which the various mortgage loans have been purchased.

(b) Conditions and requirements for the assumption of mortgage loans may include the following: acquisition cost limits for the residential housing; income limits for the assuming purchaser; the establishment of a limit, expressed as a percentage of the assuming purchaser's income, of the purchaser's monthly housing expenses; a requirement that the purchaser not own any other properties financed under any other UHC program; and any other requirements and qualifications deemed necessary or advisable by UHC. Purchasers, who assume mortgage loans, shall generally be required to satisfy the same requirements that applied to the original borrower.

(c) UHC may impose limits on the maximum amount of assumption fees that may be charged in connection with the assumption of mortgage loans.

(d) UHC may require the continuing liability of the original borrowers in connection with the assumption of mortgage loans.

(e) The required documentation for the assumption of mortgage loans may include documents deemed necessary by UHC, applicable to the particular program.

(8) Limitation of frequency of loan applications.

UHC may establish limitations on the frequency with which a Mortgage Lender, on behalf of a particular mortgage applicant or co-applicant, may request a mortgage purchase agreement or otherwise apply for a reservation of mortgage loan funds if UHC deems a limitation to be necessary to ensure the efficient and equitable allocation of funds.

(9) Definitions.

(a) As used herein, "Mortgage Lender" shall mean a mortgage lender that UHC has determined to be an eligible mortgage lender in accordance with this Rule.

(b) As used herein, "Mortgage Loan" shall mean a loan secured by a deed of trust or mortgage on a single-family residence that UHC has determined to be an eligible mortgage loan in accordance with this Rule.

R460-3-2. Multifamily Mortgage Programs.

(1) No Standard Program.

(a) UHC does not have a standard financing program for bond financed multifamily rental housing. It is the developer's responsibility to engage professionals to assist in obtaining adequate bond credit enhancement and in structuring a sale or placement of the bonds. UHC, as issuer, reserves the right to approve or disapprove the terms of any proposed project or the bond financing enhancement or structure.

(b) The sole source of repayment of the bonds, including all interest and any premiums, for a multifamily rental housing project shall be the revenue sources related to the project financed by the bonds. Neither the bonds nor any interest or premium shall constitute a general indebtedness of UHC.

(c) One or more national rating services must rate publicly offered bonds issued by UHC. A minimum rating as determined by UHC is required, unless specifically waived for good cause. A type of credit enhancement backing the bonds must be in place to increase the probability that the bond holders will be repaid even if the project and its underlying mortgage loan defaults. UHC reserves the right to approve all forms of credit enhancement for the bonds. With certain restrictions, UHC may permit bonds privately placed with institutional investors to be unrated.

(d) Publicly offered bonds issued by UHC shall be sold to underwriter(s) with the financial backing and capability to generate cash at closing equal to the amount of the bonds, regardless of whether the bonds have been resold to investors. UHC may appoint underwriters requested by the developer; however, UHC reserves the right to approve any underwriter, and may appoint co-underwriters, as it deems appropriate.

(2) Legal Opinions.

(a) UHC appoints bond counsel to render any opinion with respect to the tax exemption of the interest on the bonds.

(b) Any other opinions regarding UHC that may be required by other parties to a bond transaction will be rendered by counsel appointed by UHC but paid for by the developer.

(3) Income limits of qualifying tenants.

UHC shall establish and may amend maximum income limits for low and moderate income persons eligible as qualifying tenants of multifamily developments. UHC's president is authorized to establish income limits of UHC's multifamily programs and such limits shall not exceed 140% of area or state median income as determined and published by HUD.[~~The limits shall not exceed 130% of median income as determined by UHC. UHC shall establish and may amend the limits in open public meetings of UHC for which UHC shall give public notice as required by state law.~~] UHC shall make information concerning the limits available to interested persons

including potential renters and developers and shall incorporate the limits into appropriate documents. Income limits may vary based on, but not limited to, loan program, household size, county, targeted area, source and availability of funds, and risk to UHC.

(4) Eligible developers/owners.

(a) To be eligible to participate in the multifamily financings, the mortgagor/owner may be an individual, a limited liability company, a partnership or a corporation having the legal capacity and authority to borrow money for the purposes of constructing, owning and operating a multifamily development.

(b) UHC may establish criteria relating to the credit worthiness and the financial, construction and operating capacity of the developer/owner as UHC deems necessary to maintain a secure program and to provide decent, safe and sanitary rental housing. Alternatively, in situations where UHC will be issuing bonds the proceeds of which will be loaned to the developer/owner, UHC may rely on the due diligence of the underwriters or purchasers of the bonds and/or the issuer of the credit enhancement for the bonds in making the determination that the developer/owner possesses sufficient creditworthiness and sufficient financial, construction and operating capacity.

(5) Fees and Expenses.

The developer shall be responsible for all fees and expenses incurred in connection with the issuance of any bonds. UHC may charge a developer a fee for issuing the bonds or for performing any services required by UHC.

R460-3-3. Home Improvement Loan Programs (Reserved).

(1) Reserved.

R460-3-4. Low-Income Housing Tax Credit Program.

(1) Application procedures.

(a) UHC shall prepare a low-income housing tax credit allocation plan that provides the administration procedures, allocation procedures, and compliance monitoring procedures that UHC will follow in administering the low income housing tax credit program for the state. The allocation plan may be amended by UHC as is necessary to comply with amendments to section 42 of the code or as deemed necessary by UHC to maintain a sound program. UHC shall prepare an application form that shall be used to request an allocation of both federal and state low income housing tax credits for a proposed residential housing development. The allocation plan and application form shall be made available electronically via UHC's website or upon request.

(b) UHC may establish and collect fees payable by low income housing tax credit applicants to cover administrative and legal expenses of UHC incurred in processing and reviewing applications, allocating tax credits, monitoring compliance with the provisions of section 42 of the code, and other program requirements.

(2) Reservation of credits.

(a) UHC shall score and rank all applications according to the procedures set forth in the allocation plan. A reservation of low income housing tax credits allocated to an applicant shall be in an amount determined by UHC and shall be based upon the facts, circumstances, and representations made by the applicant in the application.

(b) UHC may condition a reservation of low-income housing tax credits to an applicant upon any restrictions and conditions UHC believes are consistent with the purpose and intent of the program, and those which will ensure the completion of the residential housing development.

(c) No reservation of low-income housing tax credits may be transferred by an applicant unless the specific written approval of UHC is obtained before the proposed transfer. Any transfer shall be made in writing, with copies of all written documents provided to UHC.

(d) Applicants shall provide UHC with any information that may be requested by UHC in performing its duties and responsibilities required under the low-income housing tax credit program and the allocation plan.

(3) Allocation.

(a) UHC shall enter into an agreement for the carry-over allocation of low-income housing tax credits, or make a final allocation of low-income housing tax credits, to applicants who have received a reservation of low-income housing tax credits upon satisfaction to UHC of all of the conditions to the reservation of the low-income housing tax credits and satisfaction of all other requirements under section 42 of the code and the allocation plan.

(b) UHC may disclose the application materials, or any allocating documents, to the Rural Housing Service, Department of Housing and Urban Development or other state or federal agency as is necessary to comply with state or federal law requiring the review of financial subsidies to low-income housing developments.

(c) As a condition to making any allocation of low-income housing tax credits, UHC may require an applicant to make a deposit, or provide other guarantees of performance, in an amount and manner as determined by UHC to ensure the completion of the residential housing development. Circumstances under which deposits or performance guarantees will be returned or forfeited, in whole or in part, shall be made known to applicants in the allocation plan before the collection of the deposit or performance guarantee.

(d) UHC may reserve or allocate low-income housing tax credits in amounts that are less than amounts requested by housing credit applicants. UHC may also forward-reserve credits from the following calendar year to complete the reservation of credits for an applicant that scored well enough to receive a partial reservation of the current year credits.

(4) Compliance monitoring.

(a) UHC shall prepare a compliance monitoring plan which satisfies the requirements of section 42 of the code.

(b) Recipients of low-income housing tax credits shall provide to UHC documentation, certifications and other evidences of compliance with the provisions of section 42 of the code as required in the compliance monitoring plan or other guidance issued by the IRS.

(c) UHC may establish and collect fees payable by recipients of low income housing tax credits to cover administrative and legal expenses of UHC incurred in on-site and/or office-based physical and file compliance reviews, associated documentation review and data input, internal and external reporting of compliance results, maintenance and updating of IT systems which support the program, or other requirements required under section 42 of the code.

(d) If an applicant for low income housing tax credits is considered not in good standing, as detailed in the allocation plan, UHC may disallow any application in which [~~a disqualified~~]that individual or entity is participating in any way. UHC may bar individuals or entities considered not in good standing from submitting low income housing tax credit applications for a period of time not to exceed [~~two~~]five continuous tax-credit cycles which time will be

calculated from the date of notification to the affected individuals or entities of the determination of not in good standing status.

R460-3-5. Housing Development Program.

(1) Financial assistance to housing sponsors.

UHC may provide financial assistance to a housing sponsor for the purpose of financing the construction, development, rehabilitation, purchase or operations of residential housing.

(a) UHC shall determine that the project proposed by the housing sponsor increases or maintains the supply of affordable, well-planned, well-designed, permanent, temporary transitional or emergency housing for low and moderate income persons.

(b) The housing sponsor shall agree to provide a specified number of units of residential housing for persons whose income does not exceed the maximum income limits established by UHC. [~~The limits shall not exceed 120% of area median income as determined by UHC.~~]UHC's president is authorized to establish income limits of UHC's housing development programs and such limits shall not exceed 140% of area or state median income as determined and published by HUD.

UHC shall incorporate the income limits in associated program documents and shall make information concerning the limits available to all interested persons. Income limits may vary based on, but not limited to, program, household size, county, targeted area, source and availability of funds, and risk to UHC. [~~UHC shall establish and may amend the limits in open public meetings of UHC for which UHC shall give public notice as required by state law.~~] UHC may require that the income limits for a project be lower than the maximum income limits.

(c) The amount of the financial assistance shall not exceed the amount required to achieve financial feasibility in providing affordable housing for the intended occupants of the residential housing development.

(d) In determining the amount of financial assistance, UHC shall determine that the costs, including developer fees and reserves, incurred by the housing sponsor with respect to a residential housing development, are not excessively greater than similar housing developments.

(e) The housing sponsor shall agree to the controls and procedures required by UHC to ensure that the financial assistance is used only for the approved purposes.

(f) The housing sponsor shall agree to the continued availability and affordability of the residential housing to low and moderate income persons, pursuant to an enforceable covenant running with the land which is prepared by UHC and recorded with the real estate records of the county in which the residential housing is located.

(g) UHC shall determine that the housing sponsor has the necessary competence, experience and financial capability to complete or operate the residential housing development through an internal review of a sponsor's previous projects and/or through interviews of individuals involved with the sponsor in previous projects.

(h) UHC shall require security for any loan in a form and amount as UHC determines is reasonably necessary to secure repayment. The security shall include a lien on the project property and may also include an irrevocable letter of credit, personal guarantees, security interests in unrelated real or personal property of the developer, assignments of contract rights and interests related to proposed development of the project, and/or power of attorney to replace manager, general partner or other principals of the developer. The lien on the project property may be subordinate to other financing of the project. Loans to non-profit or governmental entities are not required to be secured by personal guarantees.

(i) In the event that UHC makes a loan that is funded by or subject to any federal or state program, the terms of the loan shall be consistent with the requirements of the applicable program, notwithstanding any inconsistency with this Rule.

(j) As used herein, the "amount of financial assistance" means the principal amount of the loan together with the benefit of loan terms that are not typically available in the market, such as low (or no) interest rate, a long maturity date and/or a deferred (or no) amortization period.

(2) Financial assistance to low and moderate income persons.

UHC may provide financial assistance to low and moderate income persons for the purpose of construction, rehabilitation, purchase, and/or financing of residential housing.

(a) UHC shall determine that, in order to make homeownership feasible for certain low and moderate income persons, financial assistance is necessary to reduce the cost of constructing, rehabilitating, purchasing and/or financing the residential housing.

(b) UHC [~~shall~~]may establish and [~~may~~]amend maximum income limits for low and moderate income persons eligible to receive the financial assistance. The limits shall not exceed 1[~~2~~]40% of area or state median income as determined and published by [~~UHC~~]HUD. [~~UHC shall establish and may amend the limits in open public meetings of UHC for which UHC shall give public notice as required by state law.~~]UHC shall incorporate the income limits in associated program documents and shall make information concerning the limits available to all interested persons. Income limits may vary based on, but not limited to, loan program, household size, county, targeted area, source and availability of funds, and risk to UHC. UHC may require that the income limits for a project be lower than the maximum income limits.

(c) The financial assistance will be provided only to assist with the construction, rehabilitation, purchase, and/or financing of residential housing which does not exceed the maximum acquisition cost and appraised value limits established by UHC. The acquisition cost of residential housing is the cost of acquiring a completed residential housing unit and shall include all amounts paid in such or in kind for all structures, fixtures, and land. UHC shall establish and may amend the limits in open public meetings of UHC for which UHC shall have given public notice as required by state law.

(d) UHC may condition the financial assistance provided to the home-buyer upon its repayment, with or without interest, to UHC.

(3) UHC may agree to provide any financial assistance pursuant to such additional conditions, terms and restrictions to ensure that the financial assistance is used as specified by UHC.

(4) UHC may establish application procedures and forms of applications and may collect fees payable by housing sponsors and/or low and moderate income persons to cover administrative and legal expenses of UHC incurred in processing and reviewing applications.

(5) UHC may provide financial assistance only if sufficient funds exist for that purpose and the financial assistance can be provided without jeopardizing the financial self-sufficiency of UHC.

(6) UHC may provide financial assistance to any subsidiary of UHC for any of the purposes set forth in this rule provided the applicable conditions for such financial assistance are satisfied.

(7) For financial assistance provided under a program established by the Trustees of UHC, the general terms of the financial assistance shall be consistent with the requirements of the program and the specific terms shall be determined by the President or another officer designated by the President. For all other financial assistance, the general terms shall be determined by the Trustees and the specific terms shall be determined by the President consistent with the terms determined by the Trustees.

R460-3-6. State Low-Income Housing Tax Credit Program.

(1) Application procedures.

(a) UHC shall incorporate in the low-income housing tax credit allocation plan prepared by UHC pursuant to R460-3-4 criteria and allocation procedures that UHC will follow in administering state low-income housing tax credits.

(b) UHC shall designate the form of application which shall be used to request an allocation of state low-income housing tax credits.

(2) Reservation of credits.

(a) UHC shall evaluate all applications according to the procedures set forth in the allocation plan, however, the applications will not be scored and ranked for purposes of reserving state low-income housing tax credits. A reservation of state low-income housing tax credits allocated to an applicant shall be in an amount determined by UHC and shall be based upon the facts, circumstances, and representations contained in the application. UHC may reserve state low-income housing tax credits to projects either in conjunction with the reservation of federal low-income housing tax credits or at a later date to a project not yet placed-in-service that previously received a reservation of federal low-income housing tax credits.

(b) UHC may condition a reservation of state low-income housing tax credits to an applicant upon any restrictions and conditions UHC believes are consistent with the purpose and intent of the program, and those which will ensure the completion of the residential housing development.

(c) No reservation of state low-income housing tax credits may be transferred by an applicant unless the specific written approval of UHC is obtained before the proposed transfer. Any transfer shall be made in writing, with copies of all written documents provided to UHC.

(d) Applicants shall provide UHC with any information that may be requested by UHC in performing its duties and responsibilities required under the low-income housing tax credit program and the allocation plan.

(3) Allocation.

(a) UHC shall enter into an agreement for the carry-over allocation of state low-income housing tax credits, or make a final allocation of state low-income housing tax credits, to applicants who have received a reservation of state low-income housing tax credits upon satisfaction to UHC of all of the conditions to the reservation of the state and federal low-income housing tax credits.

(b) As a condition to making any allocation of state low-income housing tax credits, UHC may require an applicant to make a deposit, or provide other guarantees of performance, in an amount and manner as determined by UHC to ensure the completion of the residential housing development. Circumstances under which deposits or performance guarantees will be returned or forfeited, in whole or in part, shall be made known to applicants before the collection of the deposit or performance guarantee.

(c) UHC may reserve or allocate state low-income housing tax credits in amounts that are less than amounts requested by applicants.

KEY: housing finance
Date of Enactment or Last Substantive Amendment: [~~October 9, 2014~~]2016
Notice of Continuation: September 28, 2012
Authorizing, and Implemented or Interpreted Law: [~~9-4-910~~]63H-8-301; [~~9-4-911~~]63H-8-302

Insurance, Administration
R590-164-6
Electronic Data Interchange Transactions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39998
FILED: 12/17/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change updates the rule's requirements to align with standards that are already being utilized by industry.

SUMMARY OF THE RULE OR CHANGE: This amendment adds four new electronic standards, removes an outdated standard, and updates the remaining standards to the current versions, as reviewed and adopted by the Standards Committee of the Utah Health Information Network.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-22-614.5

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The updates merely bring the rule's requirements up to parity with existing industry standards.

♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The updates merely bring the rule's requirements up to parity with existing industry standards.

♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. The updates are already an industry standard, so the requirements are already in force with affected companies.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to any other persons. The updates merely bring the rule's requirements up to parity with existing industry standards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs or savings to small businesses. The updates are already an industry standard, so the requirements are already in force with affected companies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs or savings to any businesses. The updates are already an industry standard, so the requirements are already in force with affected companies.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Steve Gooch, Information Specialist

R590. Insurance, Administration.
R590-164. Uniform Health Billing Rule.
R590-164-6. Electronic Data Interchange Transactions.

(1) The commissioner shall use the UHIN Standards Committee to develop electronic data interchange standards for use by payers and providers transacting health insurance business electronically. In developing standards for the commissioner, the UHIN Standards Committee shall consult with national standard setting entities including but not limited to Centers for Medicare and Medicaid Services (CMS), the National Uniform Claim Form Committee, ASC X12, NCPDP, and the National Uniform Billing Committee.

(2) Standards developed and adopted by the UHIN Standards Committee shall not be required for use by payers and providers, until adopted by the commissioner by rule.

(3) Payers shall accept the applicable electronic data if transmitted in accordance with the adopted electronic data interchange standard. Payers may reject electronic data if not transmitted in accordance with the adopted electronic data interchange standard.

(4) The following HIPAA+ electronic data interchange standards developed and adopted by the UHIN Standards Committee and adopted by the commissioner are hereby incorporated by reference with this rule and are available for public inspection at the department during normal business hours or at www.insurance.utah.gov.

(a) "999 Implementation Acknowledgement For Health Care Insurance v4.0." Purpose: To detail the standard transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide error. This standard adopts the use of the ASC X12 999 transaction.

(b) "Administrative Transaction Acknowledgements Standard [~~v3.0~~]v4.0." Purpose: To create a process for acknowledging all electronic transactions between trading partners based on the communication, syntax semantic and business process specifications.

([~~b~~]c) "Anesthesia Standard [~~v3.0~~]v3.1." Purpose: to standardize the transmission of anesthesia data for health care services. This standard does not alter any contractual agreement between providers and payers.

([e]d) "Benefits and Enrollment [~~and Maintenance~~] Standard [~~v3.0~~]v3.1." Purpose: To detail the standard transactions for the transmission of health care benefits enrollment and maintenance.

([~~d~~]e) [~~"CMS 1500 Paper Claim Form Box 17 and 17A Standard v3.1." Purpose: To establish a standard approach to reporting referring provider name and identifier number on the claim form. This standard also provides the cross walk to the ASCX12 837 Professional Claim version 005010x222A1.~~

~~(c) "CMS 1500 Paper Claim Form Standard v3.0." Purpose: To clearly describe the standard use of each Box, for print images, and its crosswalk to the HIPAA 837 005010X222A1 Professional implementation guide.~~

~~(f)~~]"Claim Acknowledgement Standard [~~v3.1~~]v3.2." Purpose: To provide a standardized claim acknowledgement in response to a claim submission. This transaction is used to report on the status of a claim/encounter at the pre-adjudication processing stage, for example, before the payer is legally required to keep a history of the claim or encounter.

([~~g~~]f) "Claim Status Inquiry and Response Standard [~~v3.1~~]v3.2." Purpose: To detail the standard transactions for the transmission of health care claim status inquiries and response after January 1, 2012. The transaction is intended to allow the provider to reduce the need for claim follow-up and facilitate the correction of claims.

(g) "CMS 1500 Paper Claim Form Box 17, 17A and 17B Standard v3.2." Purpose: To establish a standard approach to reporting referring provider name and identifier number on the claim form. This standard also provides the cross walk to the ASCX12 837 Professional Claim version 005010x222A1.

([~~g~~]h) "CMS 1500 Paper Claim Form Standard v3.3." Purpose: To clearly describe the standard use of each Box, for print images, and its crosswalk to the HIPAA 837 005010X222A1 Professional implementation guide.

([~~h~~]i) "Coordination of Benefits Standard [~~v3.0~~]v3.1." Purpose: To streamline the coordination of benefits process between payers and providers or payer to payers. The standard is to define the data to be exchanged for coordination of benefits and to increase effective communications.

([~~i~~]j) "Dental Claim Billing Standard -- J400 v3.1." Purpose: To describe the standard use of each item number, for print images, and its crosswalk to the HIPAA 837 005010X0224A1 dental implementation guide. This standards adopts the ADA dental Claim Form J400.

([~~j~~]k) "Dental Claim Billing Standard -- J340 v3.2" Purpose: To describe the standard use of each item number, for print images, and its crosswalk to the HIPAA 837 005010x02241A1 dental

implementation guide. This standard adopts the ADA dental Claim Form J340.

(l) "Electronic Remittance Advice Standard [~~v 3.4~~]v3.5." Purpose: To detail the standard transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide errors. This standard adopts the use of the ASC X12 999 transaction.

([~~k~~]m) "Eligibility Inquiry and Response Standard [~~v3.1~~]v3.2." Purpose: To detail the standard transactions for the transmission of health care eligibility inquiries and responses.

([~~l~~]n) "Health Care Claim Encounter Standard v3.2." Purpose: To detail the standard transactions for the transmission of health care claims and encounters and associated transactions.

([~~m~~]o) "Health Identification Card Standard v1.2." Purpose: To standardize the patient health identification card information. This identification card addresses the human-readable appearance and machine-readable information used by the healthcare industry to obtain eligibility.

(p) "Health Plan Identifier, HPID, and Other Entity Identifier, OEID, Standard v1.1." Purpose: The purpose of the standard is to inform providers of the HIPD and OEID and their usage within the administrative transactions.

([~~n~~]q) "Home Health Standard v3.0." Purpose: To provide a uniform standard of billing for home health care claims and encounters.

([~~o~~]r) [~~"Implementation Acknowledgement For Health Care Insurance v3.2." Purpose: To detail the standard transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide error. This standard adopts the use of the ASC X12 999 transaction.~~]ICD-10 Standard v1.2. Purpose: To create the business requirement for payers and providers to implement the International Classification of Diseases 10th Revisions, ICD-10, within the administrative transaction.

([~~p~~]s) "Individual Name Standard v2.0." Purpose: To provide guidance for entering names into provider, payer or sponsor systems for patients, enrollees, as well as all other people associated with these records.

([~~q~~]t) "Medicaid Enrollment Implementation Guide v3.0." Purpose: This standard establishes the use of the ASC X12 834 enrollment transaction for Medicaid enrollments.

([~~r~~]u) "Metabolic Dietary Products Standard v3.0." Purpose: To provide a uniform standard for billing of metabolic dietary products for those providers and payers using the UB04, the CMS 1500, the NCPDP, or an electronic equivalent.

([~~s~~]v) "National Provider Identifier Standard v3.0." Purpose: To inform providers of the national provider identifier requirements and the usage within the transactions.

([~~t~~]w) "Pain Management Standard [~~v3.0~~]v3.1." Purpose: To provide a uniform method of submitting pain management claims, encounters, pre-authorizations, and notifications.

([~~u~~]x) "Patient Identification Number Standard v3.0." Purpose: To describe the standard for the patient identification number.

([~~v~~]y) "Premium Payment Standard v3.0." Purpose: To detail the standard transactions for the transmission of premium payments.

([~~w~~]z) "Prior Authorization/Referral Standard v3.0." Purpose: To provide general recommendations to payers and providers about handling electronic prior authorization and referrals.

([~~x~~]aa) "Required Unknown Values Standard v[~~-~~]3.0." Purpose: To provide guidance for the use of common data values that can be used within the HIPAA transactions when a required data element is not known by the provider, payer or sponsor for patients, enrollees, as well as all other people associated with these transactions. These data values should only be used when the data is truly not available or known. These values should not to be used to replace known data.

([~~y~~]ab) "Telehealth Standard [~~v3.0~~]v3.1." Purpose: To provide a uniform standard of billing for health care claims and encounters delivered via telehealth.

([~~z~~]ac) "Transparency Administration Performance Standard [~~v 1.0~~]v1.2," Purpose: To establish performance measures that report the average telephone answer time and claim turnaround time.

([~~aa~~]ad) "Transparency Denial Standard [~~v 1.1~~]v1.2." Purpose: To establish performance measures that report the number and cost of an insurer's denied health claims and to provide guidance pertaining to the reporting method and timeline.

([~~bb~~]ae) "UB04 Form Locator Elements Standard v3.0." Purpose: To clearly describe the use of each form locator in the UB04 claim billing form and its crosswalk to the HIPAA 837 005010X223A2 institutional implementation guide.

KEY: insurance law
Date of Enactment or Last Substantive Amendment: [~~February 25, 2013~~]2016
Notice of Continuation: March 10, 2015
Authorizing, and Implemented or Interpreted Law: 31A-22-614.5

Insurance, Administration
R590-212
Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 40005
FILED: 12/24/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule solely affects the title insurance industry. It has been determined that moving it to Title R592 is a more appropriate location. As such, Rule R590-212 is being repealed, and Rule R592-17 will be enacted. (DAR NOTE: The proposed new Rule R592-17 is under DAR No. 40006 in this issue, January 15, 2016, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The rule is being repealed so it can be enacted under Title R592. This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-2-201(1) and Subsection 31A-2-201(3)(a) and Subsection 31A-23a-409(2)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to state budget. The rule is being simultaneously enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. The rule is being simultaneously enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. The rule is being simultaneously enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to any other persons. The rule is being simultaneously enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because there are no changes being implemented. The rule is being simultaneously enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Title and Escrow Commission has approved the Department's repeal of Rule R590-212 and its simultaneous enactment as Rule R592-17. There will be no fiscal impact on businesses because there are no changes and no new requirements. The language in Rule R592-17 is identical to Rule R590-212, except where changes to self-referential passages are necessary.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Steve Gooch, Information Specialist

R590. Insurance, Administration.
[~~R590-212. Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits.~~
~~R590-212-1. Authority.~~
~~This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. Authority to promulgate rules defining the type of accounts to be used for deposited trust funds is provided in Subsection 31A-23a-409(2)(b).~~

~~R590-212-2. Purpose.~~
~~This rule specifies the characteristics of a depository account that may be used by a title insurance agency to deposit trust funds.~~

~~R590-212-3. Scope.~~
~~This Rule applies to all title insurers, title insurance agencies and title insurance producers and all employees, representatives and any other party working for or on behalf of said entities, whether as a full time or part time employee, or as an independent contractor.~~

~~R590-212-4. Definitions.~~
~~For the purpose of this rule the commissioner adopts the definitions as set forth in Section 31A-1-301, 31A-23a-102 and the following:~~
~~(1) "Demand deposit account" refers to a federally insured deposit account from which withdrawals may be made by check and the depositor or a holder of a check drawn on the account has a legal right to immediate payment from the bank upon presentment of the check or other withdrawal request.~~
~~(2) "Depositor" refers to a title insurance agency that has deposited, in a qualifying trust account, funds it holds in trust in connection with a real estate transaction.~~
~~(3) "Repurchase agreement" is an agreement in which a bank agrees to sell to a depositor a security or other asset at a specified price with a commitment to repurchase the security, or other asset, at a later date for a specified price.~~
~~(4) "Sweep account" refers to a demand deposit account subject to an agreement authorizing the bank to withdraw from the account funds exceeding a specified amount and deposit those funds into an interest bearing account, purchase specified securities subject to a repurchase agreement, or purchase shares of a mutual fund, then redeposit those funds into the demand account, when needed, to pay checks presented for payment or other request for withdrawal.~~
~~(5) "Trust account" means an account denominated as a trust account in which the depositor is trustee.~~
~~(6) "Money market mutual fund" means a mutual fund that is registered and authorized under applicable federal and state securities laws to sell its shares to the public and managed to maintain a par value of $1 per share.~~

~~**R590-212-5. Account Requirements.**~~

~~(1) Authority to Retain Earnings on Funds Held in Trust. Subsection 31A-23a-406(1) permits a title insurance agency to retain earnings on funds held in a qualifying trust account if authorized by the contract between the trustee and the person on whose behalf the funds are held.~~

~~(2) Responsibility for Compliance. Each depositor is responsible for determining that the terms and conditions of an account, in which it deposits funds held in trust, comply with the requirements of this rule.~~

~~(3) Records Required. Each title insurance agency must retain adequate records of all deposits in a trust account, including those utilizing a sweep feature, to establish individual account balances for all persons whose funds are held in trust.~~

~~(4) Qualified Accounts. Funds subject to this rule must be deposited or held in:~~

~~(a) a deposit account insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund or any successor federal deposit insurance; or~~

~~(b) a sweep account if it meets all of the following qualifications:~~

~~(i) funds are initially deposited into a federally insured demand deposit account;~~

~~(ii) the bank, in accordance with an agreement with the depositor, withdraws funds exceeding a specific balance in the account to purchase:~~

~~(A) U.S. Government securities on behalf of the depositor that are held in a segregated account in the bank subject to a repurchase agreement with the bank.~~

~~(B) shares in a money market mutual fund that only holds obligations of the U.S. Treasury or Agencies of the U.S. Government, and~~

~~(iii) the bank is obligated and able to repurchase the securities or sell or redeem the shares or interest at any time at par and deposit the funds in the demand deposit account to maintain a minimum balance and pay withdrawals.~~

~~(5) Obligation of Depositor for Losses. A depositor may only deposit funds into a sweep account if it agrees to reimburse a trust beneficiary for any decline in value below par of the funds deposited, regardless of the cause of the decline in value.~~

~~(6) Authorization and Disclosure Obligation. Any depositor who uses an account described in Subsection R590-212-5.(4)(b) must:~~

~~(a) receive written authorization from those persons on whose behalf the funds are deposited stating that the depositor may receive all earnings which may be realized from the trust fund deposit; and~~

~~(b) provide full written disclosure to all persons on whose behalf the funds are deposited, explaining the characteristics of a sweep account deposit as described in U.A.C. Rule R590-212-5(4)(b).~~

~~**R590-212-6. Penalties.**~~

~~Subject to the provisions of the Utah Administrative Procedures Act, violators of this rule shall be subject to forfeitures, suspension or revocation of their insurance license or Certificate of Authority, and any other penalties or measures as are determined by the commissioner in accordance with law.~~

~~**R590-212-7. Severability.**~~

~~If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~

~~**KEY: insurance, title**~~
~~**Date of Enactment or Last Substantive Amendment: July 12, 2002**~~
~~**Notice of Continuation: November 23, 2011**~~
~~**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-409**~~]

Insurance, Title and Escrow Commission
R592-17
Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 40006
FILED: 12/24/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule solely affects the title insurance industry. It is being repealed in Title R590 and enacted under Title R592.

SUMMARY OF THE RULE OR CHANGE: The department determined that this rule (formerly under Title R590) fits more appropriately under Title R592. As such, Rule R590-212 is being repealed and enacted as Rule R592-17. The Title and Escrow Commission has approved the change. (DAR NOTE: The proposed repeal of Rule R590-212 is under DAR No. 40005 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-2-201(1) and Subsection 31A-2-201(3)(a) and Subsection 31A-23a-409(2)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to state budget. The rule is currently active under Title R590 where it is being simultaneously repealed and then enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.

♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. The rule is currently active under Title R590 where it is being simultaneously repealed and then enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. The rule is currently active under Title R590 where it is being simultaneously repealed and then enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to any other persons. The rule is currently active under Title R590 where it is being simultaneously repealed and then enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because there are no changes being implemented. The rule is being simultaneously repealed under Title R590 and then enacted under Title R592 with identical language (aside from necessary changes to self-referential passages). There will be no lapse in the rules, and business will continue as usual.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Title and Escrow Commission has approved the Department's repeal of Rule R590-212 and its simultaneous enactment as Rule R592-17. There will be no fiscal impact on businesses because there are no changes and no new requirements. The language in Rule R592-17 is identical to Rule R590-212, except where changes to self-referential passages are necessary.

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

INSURANCE
TITLE AND ESCROW COMMISSION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Steve Gooch, Information Specialist

R592. Insurance, Title and Escrow Commission.
R592-17. Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits.
R592-17-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-404(2) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. Authority to promulgate rules defining the type of accounts to be used for deposited trust funds is provided in Subsection 31A-23a-409(2)(b).

R592-17-2. Purpose.

This rule specifies the characteristics of a depository account that may be used by a title insurance agency to deposit trust funds.

R592-17-3. Scope.

This rule applies to all title insurers, title insurance agencies and title insurance producers and all employees, representatives and any other party working for or on behalf of said entities, whether as a full time or part time employee, or as an independent contractor.

R592-17-4. Definitions.

For the purpose of this rule the commissioner adopts the definitions as set forth in Section 31A-1-301, 31A-23a-102 and the following:

(1) "Demand deposit account" refers to a federally insured deposit account from which withdrawals may be made by check and the depositor or a holder of a check drawn on the account has a legal right to immediate payment from the bank upon presentment of the check or other withdrawal request.

(2) "Depositor" refers to a title insurance agency that has deposited, in a qualifying trust account, funds it holds in trust in connection with a real estate transaction.

(3) "Repurchase agreement" is an agreement in which a bank agrees to sell to a depositor a security or other asset at a specified price with a commitment to repurchase the security, or other asset, at a later date for a specified price.

(4) "Sweep account" refers to a demand deposit account subject to an agreement authorizing the bank to withdraw from the account funds exceeding a specified amount and deposit those funds into an interest bearing account, purchase specified securities subject to a repurchase agreement, or purchase shares of a mutual fund, then redeposit those funds into the demand account, when needed, to pay checks presented for payment or other request for withdrawal.

(5) "Trust account" means an account denominated as a trust account in which the depositor is trustee.

(6) "Money market mutual fund" means a mutual fund that is registered and authorized under applicable federal and state securities laws to sell its shares to the public and managed to maintain a par value of $1 per share.

R592-17-5. Account Requirements.

(1) Authority to Retain Earnings on Funds Held in Trust. Subsection 31A-23a-406(1) permits a title insurance agency to retain

earnings on funds held in a qualifying trust account if authorized by the contract between the trustee and the person on whose behalf the funds are held.

(2) Responsibility for Compliance. Each depositor is responsible for determining that the terms and conditions of an account, in which it deposits funds held in trust, comply with the requirements of this rule.

(3) Records Required. Each title insurance agency must retain adequate records of all deposits in a trust account, including those utilizing a sweep feature, to establish individual account balances for all persons whose funds are held in trust.

(4) Qualified Accounts. Funds subject to this rule must be deposited or held in:

(a) a deposit account insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund or any successor federal deposit insurance; or

(b) a sweep account if it meets all of the following qualifications:

(i) funds are initially deposited into a federally insured demand deposit account;

(ii) the bank, in accordance with an agreement with the depositor, withdraws funds exceeding a specific balance in the account to purchase:

(A) U.S. Government securities on behalf of the depositor that are held in a segregated account in the bank subject to a repurchase agreement with the bank.

(B) shares in a money market mutual fund that only holds obligations of the U.S. Treasury or Agencies of the U.S. Government, and

(iii) the bank is obligated and able to repurchase the securities or sell or redeem the shares or interest at any time at par and deposit the funds in the demand deposit account to maintain a minimum balance and pay withdrawals.

(5) Obligation of Depositor for Losses. A depositor may only deposit funds into a sweep account if it agrees to reimburse a trust beneficiary for any decline in value below par of the funds deposited, regardless of the cause of the decline in value.

(6) Authorization and Disclosure Obligation. Any depositor who uses an account described in Subsection R592-17-5(4)(b) must:

(a) receive written authorization from those persons on whose behalf the funds are deposited stating that the depositor may receive all earnings which may be realized from the trust fund deposit; and

(b) provide full written disclosure to all persons on whose behalf the funds are deposited, explaining the characteristics of a sweep account deposit as described in Subsection R592-17-5(4)(b).

R592-17-6. Penalties.

Subject to the provisions of the Utah Administrative Procedures Act, violators of this rule shall be subject to forfeitures, suspension or revocation of their insurance license or Certificate of Authority, and any other penalties or measures as are determined by the commissioner in accordance with law.

R592-17-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: insurance, title
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 31A-2-201(3)(a); 31A-2-201(1); 31A-23a-409(2)(b)

Navajo Trust Fund, Trustees
R661-1
Utah Navajo Trust Fund Scope

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40019
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: The scope of the rule being adopted as required by Subsection 51-10-205(4)(a).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: No anticipated cost or savings to state budget as result of this rule because this rule sets out the scope of the rules for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

♦ LOCAL GOVERNMENTS: No anticipated cost or savings to local government because this rule sets out the scope of the rules for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

♦ SMALL BUSINESSES: No anticipated cost or savings to small businesses because this rule sets out the scope of the rules for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated cost or savings to any other individuals or entities because this rule sets out the scope of the rules for the beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs for affected persons because this rule sets out the scope of the rules for beneficiaries of the Utah Navajo

Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses because this rule sets out the scope of the rules for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-1. Utah Navajo Trust Fund Scope.
R661-1-1. Scope.
These rules are adopted pursuant to Subsection 51-10-205(4)(a), and shall be interpreted so as to be consistent with the Navajo Trust Fund Act. These rules shall govern the Board of Trustees, the Trust Administrator, the Trust staff, the Dine' Advisory Committee, as well as all beneficiaries of the Utah Navajo Trust Fund.

KEY: Utah Navajo Trust Fund (UNTF), Board of Trustees, Dine' Advisory Committee
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-2
Utah Navajo Trust Fund Definitions

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 40020
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: Definitions for rules being adopted as required by Subsection 51-10-205(4)(a).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget as a result of this rule because this rule just provides definitions related to procedures for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund. No anticipated cost or savings to state budget.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government as a result of this rule because this rule just provides definitions related to procedures for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund. No anticipated cost or savings to state budget.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses as a result of this rule because this rule just provides definitions related to procedures for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund. No anticipated cost or savings to state budget.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to other individuals or entities as a result of this rule because this rule just provides definitions related to procedures for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund. No anticipated cost or savings to state budget.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs to affected persons as a result of this rule because this rule just provides definitions related to procedures for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses will result from this rule because this rule just provides definitions related to procedures for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

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

ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-2. Utah Navajo Trust Fund Definitions.
R661-2-1. Definitions.

(1) "Act" means the Navajo Trust Fund Act, Utah Code Annotated Title 51 Chapter 10.

(2) "Board of Trustees" means the Board of Trustees of the Utah Navajo Trust Fund created by Utah Code Ann. Section 51-10-202.

(3) "Chapter" means a chapter of the Navajo Nation; with regards to the UNTF, it also means the Blue Mountain Dine' Community.

(4) "College" means any college, university, technical school, or an institution of higher learning after high school (post-secondary) level.

(5) "Dine' Advisory Committee" means the committee established pursuant to Utah Code Ann. Section 51-10-206.

(6) "Financial Assistance" means UNTF financial assistance.

(7) "State" means the state of Utah.

(8) "UNTF" means the Utah Navajo Trust Fund created by Utah Code Ann. Section 51-10-201.

(9) "UNTF employee" means a person who is not a UNTF officer who is employed on a full-time, part-time, or contract basis by UNTF.

(10) "UNTF officer" means members of the Board of Directors and the UNTF Administrator appointed pursuant to Utah Code Ann. Section 51-10-202, 203, and 204.

KEY: definitions, Utah Navajo Trust Fund (UNTF), chapter, Dine' Advisory Committee
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-3
Utah Navajo Trust Fund Residency Policy

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 40021
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: These rules provide a residency policy for applicant eligibility for Utah Navajo Trust Fund program funding.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No aggregate anticipated cost or savings to state budget because this rule sets out the residency requirements for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government because this rule sets out the residency requirements for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ SMALL BUSINESSES: No aggregate anticipated cots or savings to small businesses because this rule sets out the residency requirements for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated costs or savings to any other individuals or entities because this rule sets out the residency requirements for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Minimal cost to beneficiaries of the Trust Fund to obtain documentation necessary to prove residency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses because this rule sets out the residency requirements for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET

SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-3. Utah Navajo Trust Fund Residency Policy.
R661-3-101. Eligibility.

(1) To be eligible for program services from the Utah Navajo Trust Fund, a person must be a Navajo residing in San Juan County, Utah, as required by Public Law 90-306 adopted by Congress on May 17, 1968.

(2) To be considered "a Navajo" for purposes of this policy, a person shall meet the standards adopted by the Navajo Nation Council for membership in the Tribe, and provide proof thereof in the form of a Navajo Nation Certificate of Indian Blood ("CIB")

(3) To be considered a resident of San Juan County, Utah, an individual must provide:

(a) A resolution from a Utah Navajo Chapter, including the Blue Mountain Dine' Community, that the individual is a San Juan County, Utah resident. The Chapter shall obtain documentation in support of a claim of San Juan County, Utah residency such as:

(i). A San Juan County, Utah voter registration;

(ii) Utility bills for three consecutive years preceding residency determination,

(iii) Verification of house location by GPS,

(iv) San Juan County, Utah, School District records;

(v) A homesite lease, or,

(vi) Utah Drivers License

(b) Utah on-Reservation residents who are aboriginal Navajos (meaning descendants of original or earliest known inhabitants of the Utah Portion of the Navajo Reservation) and their dependents (as defined by the U.S. Internal Revenue Code) are considered to be residents eligible for UNTF programs. Each Chapter shall establish a Residency Committee to identify Aboriginal Navajos and their dependents.

(c) Off Reservation Utah residents and their dependents (as defined by the U.S. Internal Revenue Code) shall have a principal place of residence in San Juan County, Utah, for at least five (5) years immediately preceding the date of application for any UNTF program services, and shall have the present intention to continue residency in San Juan County, Utah, permanently or for the indefinite future.

(i) A person's "principal place of residence" is where the person's habitation is fixed and to which, whenever he/she is absent, he/she has the intention of returning daily for at least nine (9) months of the year. A person's habitation shall mean the physical location of his/her own home or the home of the parents or legal guardians, with whom the person resides.

(ii) A person does not become a resident merely because:

(A) he/she is present in San Juan County, Utah; or,

(B) he/she is in San Juan County, Utah temporarily with no intent to make San Juan County, Utah, his/her home.

(d) Upon establishing proof of marriage, a non-San Juan County, Utah spouse shall be deemed a resident qualified to apply for UNTF program services to the extent that his/her spouse qualifies and the couple maintains residency in San Juan County, Utah. Documentation proving marriage includes:

(i) a marriage certificate; or,

(ii) a Navajo Nation Affidavit of Marriage for traditional Navajo marriages; or,

(iii) a Navajo Nation common law marriage certificate.

(e) Adopted children acquire the resident status of their adoptive parents as of the date the decree of adoption is signed and the parents meet the required residency criteria.

(4) An applicant's residency shall be verified by a sworn statement by the applicant that he/she meets the residency standards required herein and shall be certified by Chapter officials of the Utah Chapter where the applicant resides.

R661-3-201. Challenges to Residency.

(1) An applicant's claim of residency may be challenged by any Utah Navajo Chapter official by filing a claim with the Utah Dine' Advisory Committee. The claim shall list with specificity the evidence why the applicant does not meet the residency requirement.

(2) In cases where a person's residency is in dispute, information contained in the population database used and maintained by UNTF in allocating resources between Chapters shall be provided to the Dine' Advisory Committee.

(3) After giving the applicant and the Chapter officer notice and an opportunity to be heard and/or an opportunity to submit written responses, the Dine' Advisory Committee shall determine whether the applicant meets the residency requirements. The decision of the Dine' Advisory Committee is final.

(4) If a person is determined to have been ineligible after he/she has benefited or received a UNTF program service, the person shall be obligated to reimburse UNTF for the cost of such services.

R661-3-301. Additional Documentation.

(1) The Trust Administrator may require additional documentation to meet residency criteria.

KEY: residency, San Juan County, Utah Navajo Trust Fund (UNTF), chapter resolution
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-4
Utah Navajo Trust Fund Chapter Projects

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40022
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: This rule sets forth the intent, general policies, application process, fund disbursement procedures and program effectiveness metrics for chapter projects funded by the Utah Navajo Trust Fund.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No aggregate anticipated cost or savings to state budget because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ SMALL BUSINESSES: No aggregate anticipated cost or savings to small businesses because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated costs or savings to any other individuals or entities because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are minimal compliance costs for chapters applying for Utah Navajo Trust Fund money.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This program may have a positive fiscal impact on San Juan County businesses that obtain contracts from chapters to perform the work being funded by the Utah Navajo Trust Fund.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-4. Utah Navajo Trust Fund Chapter Projects.
R661-4-101. Intent.

(1) Intent of this program is to assist Chapters in meeting the needs of their local community by improving living conditions and responding to general welfare concerns.

(2) It is the Chapter's responsibility to set priorities regarding the development they wish to pursue given the amount of funding they can mobilize.

(a) Chapter projects require some, if not all, of the following elements: planning, site selection and assessments, proper clearances, architectural design and engineering, contract management, and completion of a development project. Additionally, project planning shall include reasonable timeframes and phased budgeting.

(b) Chapters are encouraged to employ long-term planning, including community planning and project specific planning, to anticipate future development needs in their communities.

(c) Chapters shall use a decision process that incorporates community knowledge, experience, and participation.

(3) Chapter projects must serve people determined to be in the greatest need by the Chapter, based on its annual priorities and/or community development planning and must take into consideration:

(a) Individuals 55 years of age or older currently living in hogans and wanting a home without utility services are top priority;

(b) Individuals that are handicapped and meet the IHS and Navajo Nation guidelines for utility and water access assistance.

(c) Low Income families in accordance with State, Federal and Navajo Nation guidelines. "Low income" also means "no income".

(d) Applicants that have not been assisted by the Chapter's Housing Assistance program.

(e) Veterans who have served in military service and are obtaining assistance through Navajo Nation, Federal, or state programs for home construction purposes.

(f) Chapter Officials, Dine' Advisory Committee Representatives, or immediate relatives may have to access to UNTF benefits, as long as they are legitimately in the highest priority need and if the State of Utah and Navajo Nation tribal ethics policies are complied with in accordance with UCA Section 51-10-206(5)(b). In such situations, the Chapter Official or Dine' Advisory Committee Representative will refrain from voting on issues which directly or indirectly may affect them.

(g) Applicants shall designate, in writing, an individual who will be responsible for the property in the event of applicant's death or incapacitation.

(4) UNTF funding shall only be provided to match funding from other sources. A commitment letter must be provided with the proposal to evidence that another agency has committed funding.

R661-4-201. General Policies.

(1) Chapters are required to bid out purchases based on a competitive process pursuant to the State of Utah procurement statutes and rules. At least two bids must be received by the Chapter for evaluation and award of a construction.

(2) All Utah Chapters submitting proposals for Chapter project funding must attach a list of constituents to be served. Only those residents residing in San Juan County, Utah and listed on the UNTF Census shall be considered eligible.

(3) UNTF will periodically review projects, budgets, and balances with Chapter staff and at least one Chapter officer, together with the Dine' Advisory Committee, to determine a Chapter's plans for projects and completion schedules.

(4) UNTF will conduct monitoring visits either on a periodic basis, from time to time, on a random basis, or as needs dictate.

R661-4-301. Application Process.

(1) Completed Chapter proposals must be submitted to the UNTF Administrative office at least five (5) working days prior to the regular monthly Dine' Advisory Committee. If a deadline falls on a holiday, the proposals will be due the business day before the holiday.

(a) Chapters must coordinate with IHS, NTUA, and other service providers to ensure utility plans and match funding are in place.

(b) If requested by the Chapter or other funding entities participating in the Project, UNTF may provide technical assistance for Chapter projects.

(2) Chapter project proposals shall include the following:

(a) Project Description;

(b) Project Scope including identification and quantification of beneficiaries;

(c) Match-funding agencies' roles and expectations;

(d) Description of how project will be achieved, including any manpower needs;

(e) Project Budget indicating estimated amounts; and,

(f) A final executed Chapter Resolution containing needed in compliance with the Navajo Nation policy on Chapter resolution requirements.

(3) The completed proposal is presented to the Dine' Advisory Committee for review and recommendation to the UNTF Board.

(a) If the proposal is incomplete, the proposal will be returned to the originating Chapter for resubmission when complete.

(b) If the proposal receives an approval through Committee and Board action in a duly-called meeting, the proposal will be funded.

(c) A written report on the progress on all projects must be submitted by the Chapter to the UNTF Board and Dine' Advisory Committee at their regularly-scheduled meetings.

R661-4-401. Disbursement of Funds.

(1) The sponsoring Chapter or entity shall provide UNTF with a complete copy of any and all executed contracts for UNTF funded projects. UNTF will not disburse any payments until it receives a copy of the written and executed contract.

(2) UNTF match-funding disbursements

(a) UNTF will make arrangements with co-funding agencies regarding payment requests and drawdown procedures.

(b) If the funding sources agree, a payment request procedure that complies with the State of Utah's accounting process will be used.

(c) The Chapter must submit payment request documents with appropriate signatures.

(3) All payments will be sent directly to the contractor or servicing organization.

(a) UNTF payments must be requested through the standard State of Utah accounting process. Payments shall only be made according to the terms of contract and UNTF procedures.

(b) Chapters requesting reimbursements must provide copies of canceled checks, front and back, and any and all receipts which support the claim request.

(4) The Chapter or sponsoring organization shall:

(a) Provide UNTF with a monthly written activity update on the first day of each month. Reports shall include at a minimum:

(i) a financial update on how funds are being used; and,

(ii) a progress report, including photos, of the project.

(b) Provide UNTF with a Construction Schedule and Schedule of Values for the project.

(i) The Construction Schedule shall be updated monthly to indicate percentage of completion of the Project.

(ii) The Schedule of Values is a breakdown of the different phases of the total project and dollar value of each phase of the project.

(c) Provide a close-out report to UNTF when project funds have been fully expended or the Project is complete, whichever occurs first.

(5) Use of UNTF funds:

(a) Allowed expenditures include:

(i) Project labor, material purchases, equipment rental, professional and technical assistance (for architects, engineers, contractors, surveyors, etc.) or other items needed to complete a project.

(ii) Office equipment is an allowable expenditure in accordance with the UNTF Office Equipment Purchase and Repair Program in the UNTF policies.

(iii) The Blue Mountain Dine' Community (BMDC) may use a portion of their Chapter Project allocation for selective administrative expenses as provided by BMDC policies.

(b) Non-allowed expenditures include administrative expenses such as: Chapter salaries, per diem and travel and/or mileage, utilities, insurance, food, cleaning supplies and office expenses, etc.

R661-4-501. Program Effectiveness Metric.

(1) Percentage of Chapter Projects commenced within two (2) years of UNTF funding.

(2) If it is the opinion of UNTF staff that insufficient progress has been made on an approved Chapter Project within two (2) years of the approval date, UNTF staff will meet with the Chapter staff and Chapter Officials to determine if the funding authorization should be rescinded. UNTF Staff shall recommend to the UNTF Board whether approved funding should or should not be rescinded.

KEY: chapter projects, community needs, Utah Navajo Trust Fund (UNTF)
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-5
Utah Navajo Trust Fund Blue Mountain Dine' Community

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40023
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: This rule provides that the Blue Mountain Dine' Community is similarly situated to the other Navajo Nation Chapters located in Utah.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-20-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No anticipated cost or savings to state budget because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ LOCAL GOVERNMENTS: No anticipated cost or savings to local government because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ SMALL BUSINESSES: No anticipated cost or savings to small businesses because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated costs or savings to other individuals or entities because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are minimal compliance costs to prepare detailed projects proposals for Utah Navajo Trust Fund funding.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: San Juan County businesses may receive positive fiscal impacts from contracts entered into to provide services funded by Utah Navajo Trust Fund money.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-5. Utah Navajo Trust Fund Blue Mountain Dine' Community.
R661-5-101. Project Funding Policy.

(1) The Blue Mountain Dine' Community ("BMDC") receives annual Chapter projects allocation from UNTF based on population data.

(a) BMDC is required to adopt an annual budget and submit it to UNTF for approval prior to obtaining UNTF funds. BMDC administrative expenses shall come from its annual Chapter projects allocation.

(b) For project specific budget allocations, a detailed project proposal must be submitted to UNTF describing how funds will be used.

R661-5-201. Funding Priorities

(1) BMDC adopts the priorities provided for in Rule R661-4. In addition to priorities provided for in Rule R661-4, the BMDC Board of Directors will recommend applicants in the greatest need for assistance and recommend funding amounts.

(2) The priority system provided for in Rule R661-4 may also be used in determining other needs like water hauling, firewood hauling, electric powerline projects, water/sewer line projects, and other community development projects.

KEY: Blue Mountain Dine', chapter, Utah Navajo Trust Fund (UNTF)
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-6
Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40024
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: This rule sets forth the objective, definitions, eligibility, funding procedures, application requirements, recipient obligations, program effectiveness metrics and grievance and appeal procedures for the higher education scholarships funded by the Utah Navajo Trust Fund.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No aggregate anticipated cost or savings to state budget because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ LOCAL GOVERNMENTS: No aggregated anticipated cost or savings to local government because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ SMALL BUSINESSES: No aggregated anticipated cost or savings to small businesses because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the trust fund.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are anticipated savings to San Juan County, Utah Navajo students seeking to attend college or university with financial assistance or scholarships.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a possible minimal cost to applicants to obtain documentation necessary to establish eligibility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is a possible positive fiscal impact on businesses by increasing qualified employees.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-6. Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program.
R661-6-101. Objective.

(1) The Higher Education Financial Assistance Scholarship Program ("the Program") includes both the UNTF Higher Education Scholarship Fund and the UNTF Endowment Fund. The objective of the Program is to assist San Juan County, Utah, Navajo college students with scholarships by matching other college financial assistance or funding sources.

(2) UNTF higher education scholarship funding is available to eligible San Juan County, Utah, Navajo students for studies at institutions of their choice.

(3) The UNTF Endowment Education Fund was established in 1994 to provide college financial assistance to eligible San Juan County, Utah, Navajo College students attending college in San Juan County, Utah, such as Utah State University-Eastern-Blanding Campus. The Endowment Fund was established as a result of a special U. S. Dept. of Education grant which brought together five contributors/partners: UNTF, USU-Eastern, Ute

Mountain Tribe, Calvin Black Foundation, and a U.S. Government grant regarding Native American education.

(a) UNTF continues to participate in the Endowment Fund even though the scheduled twenty (20) year period maturity occurred in 2014 due to the good growth of the Fund.

(b) Funds from the Endowment Fund yearly allocation must be exhausted before regular UNTF funds are utilized. The Endowment Fund allocation to UNTF is based on the Endowment's previous year's earnings from investment.

R661-6-201. Definitions.

(1) "College" means any college, university, technical school, or institution of higher learning after high school (post-secondary) level.

(2) "Financial Assistance" means UNTF financial assistance for college expenses.

(3) "Academic Term" means the period of time that the college uses to begin and end educational sessions such as a semester, quarter, term, etc.

R661-6-301. Eligibility.

(1) Applicants must meet the UNTF residency requirement every two years.

(a) The residency requirement may have to be renewed more often than two years if a name change or record change becomes essential.

(b) The Applicants' Chapter shall require a Certificate of Indian Blood (CIB) for its records in order to establish proof of enrollment with the Navajo tribe and chapter membership as a San Juan County, Utah Navajo resident.

(2) The applicant must be enrolled in at least six (6) credit hours of approved college courses during the regular academic term. Course work must apply towards an approved degree or certificate program from an accredited post-secondary institution.

(a) Repeated and/or audited courses will not be funded by UNTF. If a student changes majors and has to retake lower level courses, only one transition academic term will be paid by UNTF.

(b) The eligible San Juan County, Utah Navajo College student must maintain a 2.0 grade point average on a 4.0 grade point scale. UNTF has the discretion to provide incremental scholarship bonuses to students who obtain a GPA greater than 2.0

(i) Grades from the previous academic term shall be submitted to UNTF following the completed academic term.

(ii) Awards are made on a first-come, first-served basis.

(c) If a student's GPA falls below 2.0, UNTF will provide a warning letter to the student and place the student on probation. If a student's GPA is below 2.0 for two consecutive semesters, the student will be ineligible for any further UNTF assistance unless the student is able to bring their GPA to 2.0 or above using their own resources or non-UNTF resources.

(3) San Juan County, Utah, Navajo Students are eligible for UNTF assistance in obtaining a One-year or two-year Certificate, Associates, Baccalaureate, Masters, or Doctorate degree.

(a) Eligible San Juan County, Utah, Navajo College Students shall declare a major in a given field no later than two (2) years after commencement of higher level education so that proper counseling and academic advice can be provided

(b) Only one bachelor's degree will be funded by UNTF, unless the second degree is closely related to the first degree and if the same prerequisite general education classes can be used.

(c) The limit for Associates Degree is 75 credit hours and 145 credit hours for a Bachelors Degree.

(d) A "degree contract" must be agreed upon between the college and the student and submitted to UNTF to receive funding. A "degree contract" is a list of core of classes required to obtain a degree.

(4) Graduate students must submit a letter of acceptance and be eligible for UNTF Scholarship, and must carry the minimum graduate studies requirement of the College. An exception will be made if the course work is one of a special requirement for the professional track and/or tenure such as a special license or certification.

(5) High School Concurrent Enrollment Program students must meet the eligibility criteria regarding all requirements for the UNTF Higher Education Scholarship & Financial Assistance Program with the following modifications:

(a) Applicant shall provide a letter of recommendation from his/her high school counselor or school officials for concurrent enrollment program participation. The letter should address the student's ability to meet the demands of concurrent enrollment.

(b) Students must maintain at least a 3.0 grade point average (GPA) in their high school studies to be eligible for this program.

(c) The maximum amount of UNTF assistance available annually is determined by the UNTF Board. The UNTF assistance can be increased by the UNTF Board of Directors based on the Utah colleges cost data that is maintained by the State of Utah-Department of Education.

(6) On-line or correspondence courses may be taken as long as earned credits are applied to a degree program or a recognized certification program under UNTF funding guidelines.

(a) All UNTF Higher Education Scholarship eligibility requirements must be met by the applicant before any assistance toward the on-line/correspondence courses will be approved.

(b) Students attending on-line/correspondence courses shall be eligible for UNTF funding if enrolled in at least three (3) credit hours of approved college course work.

R661-6-401. Funding.

(1) UNTF is not a primary funding source, UNTF funds are supplemental to other scholarship and financial aid resources. UNTF will fund a student based on credit hours. The maximum amount of funding available per academic term is determined by the UNTF Board.

(2) The amount of funding afforded to each eligible San Juan County, Utah, Navajo College student per academic term is determined by the number of credit hours and a financial needs analysis. The award amount per credit-hour-group will be determined by UNTF as part of each year's annual budget.

(a) Academic workload incentive: Incremental scholarship amounts shall be awarded based on the workload taken; following credit/unit incremental groups of: 6 to 8; 9 to 11; and 12 hours, or over per academic term.

(i) Should a student drop a class which results in dropping the student to the next lower incremental group, the

student's funding for the next academic term shall be assessed a decreased funding adjustment, unless a refund is properly made by the student.

(ii) In order to qualify for the "workload incentive", first-time students must submit a course registration list by mail, e-mail, or telefax to the UNTF Higher Education Office.

(ii) In order to facilitate the UNTF award on a timely basis toward the student's next academic term with respect to the "workload incentive", the student must submit a list of the courses from pre-registration to the UNTF Education Specialist. The information will help determine the actual award amount based on the number of hours or credit units to be carried in the next academic term.

(b) Financial Needs Analysis

(i) Applicants must file a FAFSA Grant application with the U.S. Department of Education in order to determine their financial aid needs from UNTF.

(ii) It is the responsibility of the institution's Student Financial Aid Office to complete the needs analysis, and to request an award from UNTF based upon the determined need. When the financial needs determination is completed, the student must complete a UNTF financial assistance application which can be obtained from the UNTF Higher Education Scholarship.

(iii) Upon completion of the needs analysis by the Office of Student Financial Aid, the UNTF Education Specialist will evaluate the level of financial assistance requested, matching resources, and make the appropriate award amount.

(iv) Students with a "No Need" determination (as determined by the educational institution) may be awarded UNTF funding if the financial aid officer at the institution determines the parents cannot or are unwilling to provide the family contribution to meet the student's need as determined by the federal financial aid application analysis.

(A) The UNTF "No Need" contribution amount is limited to the Expected Family Contribution (EFC amount) however, the maximum limits will be no more than 75% of the normal scholarship award amounts.

(B) If financial assistance calculates out at less than $40.00 for "No Need" it will not be awarded

(C) The EFC amount is determined by the Federal Student Aid program, an office of the U.S. Department of Education, when a student applies to the FAFSA (Free Application for Financial Student Aid) program.

(v) If the student does not qualify for FAFSA and the EFC cannot be determined; and if the student is otherwise eligible for UNTF assistance an $800.00 grant amount may be awarded for the last academic term prior to graduation for a bachelor's degree or higher degree.

(3) All student applicants must also apply to the Navajo Nation Office of Scholarship & Financial Assistance (ONNSFA). UNTF coordinates with ONNSFA to exchange information regarding match funding with UNTF and other acquired resource funds. All Student applicants to the UNTF funds must sign the UNTF Consent Form that authorizes UNTF to contact ONNSFA to verify funding verification.

(4) The UNTF Education Specialist will process the required and appropriate funding documentation to the UNTF Financial Manager for funding disbursement. The UNTF Financial Manager shall maintain accounts, historical and concurrent, of all UNTF-funded students for proper record keeping and reporting. UNTF check(s) will be mailed to the institution's Student Financial Aid Office. No payment(s) will be made directly to a student.

(5) All Post-Graduate students must abide by appropriate application procedures in accordance with post-graduate study program requirements. Supplemental funding from other sources is a major requirement in participating in the graduate-studies program, including program funds from the Office of Navajo Nation Scholarship and Financial Aid (ONNSFA). Other considerations regarding special studies as applied to the undergraduate program also apply.

(6) UNTF Higher Education Scholarship funds may not be used to pay loans, including education loans; purchase(s) of personal belongings not directly associated with higher education studies; encumbrances from previous year's college/university attendance; and other expenses for which the funds are not intended.

(a) Students withdrawing from classes are required to refund the UNTF awards for that academic term. UNTF reserves the right to adjust awards for any refund amounts that were not paid.

(b) The penalty for misspent or misused UNTF scholarship funds will include placing the student on ineligible status for a one (1) year period. The student may re-establish his/her eligibility for UNTF funding by successfully completing a full academic year without the financial assistance of UNTF.

(c) Misuse or false acquisition of scholarship or emergency assistance funds by the student shall be subject to repayment to UNTF Higher Education Scholarship Program via standard collection procedures, which may include legal action.

R661-6-501. Application Schedule and Requirements.

(1) The UNTF Higher Education Scholarship Program observes and follows a funding schedule compatible with Federal, State, Tribal, and private agencies. Students must carefully observe these schedules to allow for the most timely funding application consideration, especially application deadline dates. Matching funds are critical and essential, since UNTF funding is supplemental.

(2) Students should observe the institution's academic year schedule and early funding application submittal to UNTF to ensure proper funding review and consideration.

R661-6-601. Student Recipient Obligations.

(1) UNTF-funded students must maintain acceptable academic progress in conformance with academic standards set by UNTF and the participating institutions. UNTF requires the funded student to maintain a minimum grade point average (GPA) of 2.0 to be eligible for continued funding consideration.

(2) Official transcripts shall be provided to UNTF at the commencement of the each fall academic term.

(a) If a student fails to provide an official transcript, UNTF funds will be discontinued.

(b) A student's failure to provide required funding documents is not grounds for grievance action on the part of the student.

(3) In order to receive UNTF Funding the Student shall execute all necessary documentation required by the College to

permit the College to release the Student's official transcript and degree information to UNTF.

R661-6-701. Program Effectiveness Metrics.

(1) Scholarship recipient progress shall be tracked by UNTF staff.

(2) UNTF staff shall report to the UNTF Board:

(a) When a recipient completes a certificate or degree program; and

(b) The time it took the recipient to complete the program.

R661-6-801. Grievance and Appeal Procedures.

(1) Grievance and Appeals Procedures: A student applicant may file a grievance with the UNTF Education Specialist if the student disagrees with the decision rendered regarding his/her funding.

(a) The written grievance shall be submitted to the Education Specialist within fourteen (14) calendar days from the date the adverse decision was mailed to the student.

(b) The written grievance statement must contain a justification for re-consideration of the Education Specialist's decision, including attachment of documents which may support such justification.

(2) The Education Specialist shall report receipt of the written grievance to the UNTF Financial Manager for review. The UNTF Financial Manager shall make a determination regarding the substance of the grievance within ten (10) calendar days of receipt of the written grievance.

(a) If the grievant is dissatisfied with the Financial Manager's decision, an appeal may be filed with UNTF.

(i) To appeal the decision of the UNTF Financial Manager, an applicant may submit a written request for a hearing to the UNTF Scholarship Appellate Committee within ten (10) calendar days via the Education Specialist.

(A) The Applicant must include a written justification statement setting forth with specificity the reason(s) why the decisions made by the Higher Education Specialist and the Financial Manager should be reversed.

(B) The Applicant shall include copies of all documentation supporting the justification identified in the Applicant's statement.

(ii) The Appellate Committee must commence a hearing with within fourteen (14) calendar days of the receipt of the request.

(iii) The student shall be notified in writing by certified mail seven (7) calendar days prior to the hearing.

(iv) A decision by the Appellate Committee shall be rendered within (15) calendar days after the Committee hearing.

(3) Appellate Committee

(a) The Appellate Committee is comprised of: 1) two members of the UNTF Dine' Advisory Committee, 2) the UNTF Administrator, 3) a college student, and 4) a representative from another state agency or institution of higher learning.

(b) The Appellate Committee may choose not to hear a case if the grieving party has not submitted a justification in writing with appropriate and necessary supportive documentation.

(4) Appellate Committee Hearing Procedures

(a) Attorneys, court advocates, or any type of legal representation are not allowed in the Appellate Committee Hearing. Family members or other persons are not allowed in the Committee Hearing. The attendees of the hearing will consist of the Appellate Committee members, the UNTF Education Specialist, and the Applicant (Grievant).

(b) A letter will be sent to the UNTF Education Specialist and the Student/Grievant of the Appellate Committee's decision on the matter. This will be the final decision and final step of the UNTF Appeal and Grievance process.

KEY: scholarships, endowment fund, college, Utah Navajo Trust Fund (UNTF)
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-7
Utah Navajo Trust Fund Housing Projects Policy

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40025
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: This rule sets forth how to request housing assistance, types of housing assistance available, eligible purchases using Utah Navajo Trust Fund money, documentation required, purchasing and funding procedures for Housing Projects funded by the Utah Navajo Trust Fund.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: No aggregate anticipated cost or savings to state budget because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the Trust Fund.

♦ LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the Trust Fund.

♦ SMALL BUSINESSES: No aggregate anticipated cost or savings to small businesses because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the Trust Fund.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No aggregate anticipated cost or savings to any other individuals or entities because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the Trust Fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Possible minimal cost for applicants to obtain documentation to prove eligibility or to purchase items prior to receipt of reimbursement from Utah Navajo Trust Fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This program may have a positive fiscal impact on businesses that obtain contracts from Chapters or individuals to perform the work being funded by the Utah Navajo Trust Fund.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-7. Utah Navajo Trust Fund Housing Projects Policy.
R661-7-101. Requesting UNTF Housing Assistance.

(1) Individuals requesting UNTF housing assistance must apply to their respective Chapter and follow the Chapter's procedures for application, required documents, and prioritization. All requests, budget preparation, updates and progress reports will be processed initially through the Chapter.

(a) The requesting Chapter or organization has the primary responsibility to identify clients most in need of housing assistance and shall provide written confirmation that the applicant has not received funding to construct a new home from UNTF, Navajo Royalties Holding Fund, other housing agencies or funding source within the past 20 years.

(b) Chapters are required to maintain housing assistance policies and procedures and submit a copy of the policy to UNTF once every three (3) years, and when updated or amended.

(i) The Chapter policy should include a prioritization system in accordance with the Navajo Housing Services Department numbering system. If not already provided for in the Navajo Housing Services Department numbering system, disabled, elderly and veteran applicants shall be considered first on the housing priority assistance list.

(ii) The Chapter shall have a housing application review committee.

(c) The Chapter must submit an approved resolution along with the Housing priority list that supports the request.

(d) Applicants must meet UNTF residency criteria.

R661-7-201. Types of Housing Assistance.

(1) New House construction from footing to exterior and interior finish.

(2) Completion of construction on houses that were started but not completed.

(3) Additions of a room(s) such as a bedroom, bathroom, or kitchen.

(4) Remodel or Renovation includes:

(a) Renovation or retrofit to accommodate clients for handicapped accessibility, including but not limited to, additions/expansion for large bathrooms, walk-in, roll-in showers, widening of hallways and doorways, expansion of stoop or deck size, exterior ramps leading up to doorways.

(b) Improvement of an existing structure such as roof repair, floor installation or replacement.

(c) Weatherization measures, including replacement of broken windows or
dilapidated doors, and installation of draft-proof windows, sealant, chalking, weather stripping, etc.

(d) Renovation of trailers or modular/manufactured homes, including the stabilization of the foundation with appropriate skirting and/or masonry foundation.

(e) Installation of house wiring, indoor plumbing, plumbing fixtures, kitchen cabinetry .

(f) Financial assistance for housing located off reservation land in San Juan County, Utah, is limited to renovation. The applicant must provide proof of ownership of the property.

R661-7-301. Housing Assistance Not Available.

(1) To fund the purchase of trailers or modular/manufactured housing units.

(2) For down payment assistance or closing costs are not eligible for UNTF funding.

(3) For mortgage funding or payoff

(4) For any type of loan payoffs.

(5) For purchase of appliances such as a refrigerator, range, or microwave oven.

R661-7-401. Housing Assistance Eligible Purchases.

(1) Water heaters if waterline is available and water is about to be turned on or, if the water heater is electric, electricity is functional.

(2) Wood and/or coal stove, stove pad, stove pipe, and through the roof stove pipe kit.

(3) One ceiling fan for distribution of heat.

(4) UNTF staff will determine if the materials proposed to be purchased are reasonably priced quality building materials.

(a) A client who desires a more expensive item than what is approved by UNTF staff must purchase that item using their own funds. UNTF will not pay client the difference between the UNTF staff approved item and the item client desires to purchase.

(b) If the client does not purchase the item in time for construction crew installation the client must to install the item at their own cost.

R661-7-501. Required Documentation for Housing Projects.

(1) A Navajo Nation Homesite Lease will be required of all new house construction and construction completion projects.

(2) For other types of Housing Assistance applicants are strongly encouraged to have a homesite lease available for proof of ownership, utilities and other services.

(3) Matching fund agencies shall be identified and commitment letters from each agency shall be included in the proposal package.

(4) Applicants must provide documentation naming a successor owner/lessee who is permitted to occupy the residence and is obligated to maintain the property.

(5) All new construction must be based on a floor plan showing all components of the dwelling unit to be constructed. Additionally, a specific list of all materials to be used and an estimate of total man-hours for construction is required.

(6) Proof of the applicants contribution towards the construction, addition, or renovation of a dwelling in the form of receipts for the purchase of cement as well as proof of purchase of adequate waterproof material for protection from moisture damage to the bags of cement purchased.

R661-7-601. Purchases Shall Be Made on Separate Invoices for Separate Applicants.

Building materials shall not be purchased and delivered at commencement of construction.

(1) Purchases and deliveries of materials shall be completed in phases according to the following schedule.

Phase 1: Foundation materials for footing, stem wall, piers, rebar, anchor bolts, and redwood or treated lumber

Phase 2: House Shell materials for framing, trusses, OSB plywood, siding, roofing, vents

Phase 3: Exterior Doors and Windows

Phase 4: Rough-in House wiring and Plumbing

Phase 5: Insulation and Drywall

Phase 6: Flooring

Phase 7: Finish Carpentry: Cabinets, Casing & Baseboard, Exterior trim, Soffit, Interior and Exterior Painting

Phase 8: Finish House wiring and Plumbing

(2) Purchases for Stoops, Steps, or Decks can be performed at any point after Phase 1.

(3) All documentation must be submitted to the Chapter

(a) Requests for payment must include all materials receipts as well as verification signed by the homeowner, chapter representative, or UNTF representative picking up the items or signing for the delivery.

(b) The person signing the receipt shall deliver the receipt to the Chapter and/or UNTF office and shall safeguard materials from theft or damage.

(c) Upon receipt of material verification forms by the UNTF Administration, invoices will be processed for payment directly to the vendor.

R661-7-701. Funding.

(1) UNTF preference is to fund projects is on a reimbursement basis. However, in exceptional circumstances the UNTF Administrator has the authority to make advance disbursements up to Five Thousand Dollars ($5,000.00) for mobilization expenses.

(2) UNTF will disburse approved funding directly to Chapters, or identified and approved contractors and/or vendors.

(3) The Chapter or UNTF will retain ten percent (10%) of the approved contractor billings until proof of completion of the housing project is provided to UNTF.

(4) The Chapter shall provide UNTF staff with an annual report identifying percentage of project completion and an explanation of what remains to be completed.

KEY: housing, chapter, Utah Navajo Trust Fund (UNTF), eligible purchases
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-8
Utah Navajo Trust Fund Power Lines and House Wiring Program

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40026
FILED: 12/28/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: This rule sets forth the objective, application process, documentation required, retainage policy, and program effectiveness metrics for funding of power lines and individual house wiring by the Utah Navajo Trust Fund.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No aggregate anticipated cost or savings to state budget because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the Trust Fund.

♦ LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the Trust Fund.
♦ SMALL BUSINESSES: No aggregate anticipated cost or savings to small businesses because this rule sets out the procedure for beneficiaries of the Utah Navajo Trust Fund, Navajos residing in San Juan County, to apply for funding from the Trust Fund.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: May provide cost savings to Utah Navajos in need of power and/or electrical wiring.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Potential costs to applicants/beneficiaries to obtain compliance inspections.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This program may have a positive fiscal impact on businesses which obtain contracts from Chapters or individuals to perform the work being funded by the Utah Navajo Trust Fund.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-8. Utah Navajo Trust Fund Power Lines and House Wiring Program.
R661-8-101. Objective.
(1) Objective of the Power Lines and House wiring program is to provide financial assistance to individuals and entities for development of power line main trunk lines or extensions, and/or house wiring projects.
(2) UNTF match funding will be limited to 50% of the project cost or $400,000, whichever is lower if the project is entirely in the State of Utah. If any power line project extends into other states, UNTF will provide match-funding only for the prorated portion located in Utah.
(3) House wiring work must conform to the requirements of the edition of the National Electrical Code current at the time the wiring work is to be performed.

R661-8-201. Applicants.
Applicants shall work directly with their Chapter to apply for financial assistance.
(1) All requests, budget preparation, updates and progress reports, will be initially processed through the Chapter.
(2) Power line/house wiring projects will follow the regular chapter project guidelines**.**

R661-8-301. Documentation Required.
(1) Power Lines: Main Lines or Extensions
(a) Explanation from power line company regarding feasibility, routing, and preliminary cost information.
(b) Project description, including identification of each phase of the work to be completed and which organization/contractor will be responsible for certain tasks.
(i) A map of the proposed route of the power line shall be included.
(ii) An explanation of the total number of families or individuals that will benefit from the power line distribution and extensions.
(c) Proof that the utility company or a private consultant that Rights-of-Way (ROW) are have been or will be obtained for the project. If a consultant is used for the ROW work, at least two (2) quotations from consultants shall be received.
(d) All appropriate clearances for the specified areas to be served from Navajo
Nation and Bureau of Indian Affairs; submission of a letter from all applicable agencies verifying required clearances have been obtained is required.
(e) Identification of all match-funding sources with their scope of responsibility and contribution.
(f) A Resolution from the Chapter, with a final client listing and a current estimate shall be submitted in support of the request.
(1) Individual house wiring Applications require:
(a) At least two (2) quotes from qualified, licensed electricians specifying the cost associated with installing house wiring.
(b) Proof of licensing, bonding, insurance and warranty for all Contractors or sub-contractors hired by the Chapter to install house wiring.
(c) A project description that includes a listing of the dwelling units included in the proposed project and the detailed cost of each dwelling unit installation.

R661-8-401. Retainage.
(1) Ten percent (10%) of UNTF funding shall be retained until final inspection and approval of the work performed.

R661-8-501. Program Effectiveness Metrics.
(1) The Chapter shall submit documentation that each home to be serviced under the UNTF program has been inspected

and determined in compliance with Navajo Tribal Utility Authority (NTUA) or Rocky Mountain Power (RMP) electrical specifications.

(2) The percentage of power line projects physically completed within three (3) years of UNTF commitment of funds

(3) The percentage of individual house wiring projects completed within 12 months of UNTF commitment of funds.

KEY: power lines, electrical wiring, Utah Navajo Trust Fund (UNTF)
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Public Safety, Administration
R698-8
Local Public Safety and Firefighter Surviving Spouse Trust Fund

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 40001
FILED: 12/22/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish procedures for implementation of the Public Safety Officer and Firefighter Line-of-Duty Death Act, Title 53, Chapter 17.

SUMMARY OF THE RULE OR CHANGE: The rule outlines the process for a law enforcement or fire employer to participate in a cost sharing agreement for reimbursement of health care coverage costs for a spouse and children under the age of 26 in the event of a line-of-duty death. If an employer participates, the costs are reimbursed from the Local Public Safety and Firefighter Surviving Spouse Trust Fund.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-17-301 and Title 53, Chapter 17

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will be administrative costs incurred by the Department of Public Safety for creating and maintaining the trust fund; however, Subsection 53-17-401(5) allows for administrative costs to be reimbursed by the trust fund.
♦ LOCAL GOVERNMENTS: The rule will impact local law enforcement and firefighting agencies that choose to voluntarily participate in the cost sharing agreement as authorized by Section 53-17-301. Agencies that participate will pay an annual premium to the Department of Public Safety for deposit into the Local Public Safety and Firefighter Surviving Spouse Trust Fund. In the event of a line-of-duty death to an employee of the agency, the agency is required to provide health care coverage to the surviving spouse and children under the age of 26. After a 24-month period, an agency that chooses to participate in the cost sharing agreement may be reimbursed for future health care coverages costs from the trust fund.
♦ SMALL BUSINESSES: There will not be a fiscal impact to small businesses because the rule only applies to local law enforcement and firefighting agencies.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will not be a fiscal impact to persons because the rule only applies to local law enforcement and firefighting agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be a compliance cost to persons because the rule only applies to local law enforcement and firefighting agencies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on on businesses. The rule establishes procedures for law enforcement or firefighting agencies to voluntarily participate in a cost sharing agreement for reimbursement of health care coverage costs in the event of a line-of-duty death.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 1ST FLR
SALT LAKE CITY, UT 84119-5994
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/24/2016

AUTHORIZED BY: Keith Squires, Commissioner

R698. Public Safety, Administration.
R698-8. Local Public Safety and Firefighter Surviving Spouse Trust Fund.
R698-8-1. Purpose.

The purpose of this rule is to establish procedures for implementation of the Public Safety Officer and Firefighter Line-of-Duty Death Act.

R698-8-2. Authority.

This rule is authorized by Section 53-17-301.

R698-8-3. Definitions.

(1) The terms used in this rule are defined in Section 53-17-102.

(2) In addition:

(a) "department" means the Utah Department of Public Safety; and

(b) "participating agency" means an employer defined in Section 53-17-102 that has elected to participate in the trust fund.

R698-8-4. Participation Process.

(1) An employer that elects to participate in the trust fund shall submit a cost sharing agreement form approved by the board no later than June 30, 2017.

(2) The cost sharing agreement shall be addressed to the Commissioner's office of the Department of Public Safety, Attn. Trust Fund and shall contain the following:

(a) the name, address and phone number of the employer;

(b) the name and title of each member to be included for reimbursement from the trust fund;

(c) the name, mailing address and signature of the agency administrator completing the cost sharing agreement form; and

(d) the required annual premium amount as determined by the board.

R698-8-5. Annual Payment of Premiums.

(1) A participating agency shall continue to submit annual premium payments to the department in order to continue to participate in the trust fund.

(2) Annual premium payments shall be submitted to the department no later than January 31st of each year.

(3) If a participating agency fails to submit a premium payment as required in this subsection, the department shall notify the agency administrator who completed the cost sharing agreement of the delinquency in premium payments.

(4) If after receipt of a delinquency notice the participating agency fails to submit the annual premium payment within 30 days of the date of the notice, the department shall:

(a) notify the agency administrator who completed the cost sharing agreement that the employer is no longer considered to be a participant in the trust fund; and

(b) include in the notice the total amount of premiums paid by the employer into the trust fund.

R698-8-5. Change of Employment Status of a Member or Agency Administrator.

(1) In the event of a change of employment status of a member or the agency administrator, the agency administrator shall submit notice to the department on a form approved by the board.

R698-8-6. Reimbursement of Health Coverage Costs.

(1) In the event of a line-of-duty death of a member, a participating agency may receive reimbursement for payment of health coverage premiums and contributions made to a health savings account as described in Section 53-17-201.

(2) To receive reimbursement for payments described in Subsection (1), the participating agency shall submit to the department:

(a) a request for reimbursement on a form approved by the board upon initial request; and

(b) a copy of the statement provided by the group health plan that includes the participating agency's costs for coverage upon initial request and each month thereafter.

(3) The request for reimbursement form shall include:

(a) the name of the spouse for whom coverage is provided; and

(b) the name and date or birth for each child under the age of 26 for whom coverage is provided.

(4) If the member did not have a living spouse at the time of death, the request for reimbursement form shall include the name and date of birth for each child under the age of 26 for whom coverage is provided.

R698-8-7. Discontinuation of Reimbursement of Health Coverage Costs.

(1) In the event of the death of a spouse or child for whom coverage is provided under Section 53-17-201, the participating agency shall submit to the department:

(a) a form approved by the board that includes;

(i) the name of the spouse or child that is deceased;

(ii) the individual's date of birth; and

(iii) the date of the individual's death.

(2) Upon receipt of the form described in Subsection (1), the department shall discontinue reimbursement of health coverage costs from the trust fund for the deceased individual.

(3) If reimbursement is being paid from the trust fund for health coverage costs to an employer for a child under the age of 26, reimbursement will be automatically discontinued when the child reaches the age of 26.

KEY: line-of-duty death, cost sharing agreement, surviving spouse trust fund
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 53-17

Technology Services, Administration
R895-5
Acquisition of Information Technology

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40030
FILED: 12/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change of the rule is to remove "training". The department no longer performs this service. Also, the reason for the change of the rule is to remove "delegation of authority to make small purchases". All small purchases must be supervised and controlled by the CIO.

SUMMARY OF THE RULE OR CHANGE: The changes remove the word "training", and remove "delegate authority to

make small technology purchases", and replace with "not require a business case for small purchases".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63F-1-205 and Section 63G-3-201

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because this change does not require additional effort from agencies involved.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this change does not impact local government.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because this change does not impact small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to other persons because this change does not impact others.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons because this change does not require additional effort from agencies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to the rule will have no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Michael Hussey, Executive Director and CIO

R895. Technology Services, Administration.
R895-5. Acquisition of Information Technology.
R895-5-1. Purpose.

The purpose of this rule is to identify the standards under which an agency of the executive branch must obtain approval from the Chief Information Officer before acquiring information technology and technology related services.

R895-5-2. Authority.

The rule is issued by the Chief Information Officer under the authority of Sections 63F-1-205 and 63F-1-206 of the Utah Technology Governance Act, and Section 63G-3-201 of the Utah Rulemaking Act, Utah Code.

R895-5-3. Scope of Application.

All agencies of the Executive Branch of State government, including its administrative sub-units, except the State Board of Education, the Board of Regents and institutions of higher education, and elective constitutional offices, are to be included within the scope of this rule.

R895-5-4. Definitions.

(1) "Hardware" means physical technology (i.e., equipment) used to process, manage, store, transmit, receive, or deliver information. This term also includes telephony products.

(2) "Small technology purchases" means a purchase, lease, or rental of hardware, software, and/or technology services that is estimated to be less than $50,000.

(3) "Software" means non-physical technology used to process, manage, store, transmit, receive, or deliver information. The term also includes all supporting documentation, media on which the software may be contained or stored, related materials, modifications, versions, upgrades, enhancements, updates, or replacements.

(4) "Technology services" means all the services, functions, and activities that facilitate the design, implementation, creation, or use of software, hardware, or telephony products. The term includes data acquisition, seat management, staffing augmentation, [~~training,~~] maintenance, and subscription services.

R895-5-5. Purchase of Hardware, Software, and Technology Services.

(1) The Chief Information Officer (CIO) shall exercise general supervision and control over the purchase of all hardware, software, and technology services.

(2) The CIO may not require a business case for small technology purchases[~~delegate the authority to make small technology purchases. The delegation shall be in writing and may be limited as directed by the CIO~~].

(3) Purchase requirements for hardware, software, and technology services shall not be artificially divided so as to constitute a small technology purchase under this rule.

R895-5-6. Rule Compliance Management.

The CIO may monitor compliance of this rule within the State Executive Branch, and report any findings or violations of this rule to an agency's Executive Director or designee. A State Executive Branch agency's Executive Director, or designee, upon becoming aware of a violation of this rule shall provide the CIO a report of action(s) taken in response to violation of this rule.

KEY: IT standards, IT bid committee, technology best practices, technology purchases
Date of Enactment or Last Substantive Amendment: [~~October 11, 2006~~]2016

Notice of Continuation: April 27, 2011
Authorizing, and Implemented or Interpreted Law: 63F-1-205; 63G-3-201

Workforce Services, Unemployment Insurance
R994-205-106
Exempt Real Estate Sales

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40045
FILED: 12/31/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to allow property managers to be treated under the real estate exemption under certain circumstances.

SUMMARY OF THE RULE OR CHANGE: The department rule currently provides that services performed as a property manager are not exempt under the real estate exemption. Since property managers must be real estate agents, except in certain limited areas, some property managers should be exempt under the department rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-4-205 and Subsection 35A-1-104(4) and Subsection 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.
♦ LOCAL GOVERNMENTS: This is a federally funded program so there are no costs of savings to local government.
♦ SMALL BUSINESSES: There are no costs or savings to any small businesses as there are no fees associated with this program, and it is federally funded.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no costs or savings to any persons other than small businesses, businesses, or local government entities as there are no fees associated with this program, and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program, and it is federally funded. These changes will not impact the contribution rate of any employer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employers contribution tax rate.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Jon Pierpont, Executive Director

R994. Workforce Services, Unemployment Insurance.
R994-205. Exempt Employment.
R994-205-106. Exempt Real Estate Sales.

Employment does not include services as a licensed real estate agent if payment for such services is solely by way of commission.

(1) The "licensed" requirement refers to the license issued by the Utah Division of Real Estate to principal real estate brokers, associate real estate brokers, and real estate sales agents.

(2) The services performed as a real estate agent, as provided in Section 61-2f-201, must be performed pursuant to a written contract and include [~~are those~~]activities generally associated with the sale of real property.[~~—Such services include appraising property, advertising and showing property, closing sales, acquiring a lease to the property, and recruiting, training and supervising other salespersons. The services performed as a real estate agent do not include the management of property.~~]

(3) Services performed by a worker as a licensed real estate agent are exempt if all such services are paid solely by way of commission.

(a) If any part of the payment for real estate sales services is a salary, all of the services are covered employment and the total payment, salary and commission is subject to contribution payments.

(b) If a worker performing real estate sales services is guaranteed a minimum salary for any pay period in which sales commissions are less than the guaranteed minimum, all earnings are

subject to contribution payments when the worker is paid the guaranteed salary. In any pay period in which the commissions equal or exceed the guaranteed salary, the earnings are considered to be solely by way of commission and are not subject to contribution payments.

(c) If a worker performing real estate sales services is given advances against future commissions and is required to repay any advances that exceed the commissions, the advances against future commissions are considered to be payment solely by way of commission.

(4) If a worker performs both commission sales services and other salaried services, such as an accountant, the sales are excluded from employment and the other services are included in covered employment. If the payment for all services is for the same pay period, the "included and excluded" provisions of Subsection 35A-4-205(2) are applied.

KEY: unemployment compensation, employment tests
Date of Enactment or Last Substantive Amendment: [~~July 1, 2007~~]2016
Notice of Continuation: March 25, 2015
Authorizing, and Implemented or Interpreted Law: 35A-4-205

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

After an agency has published a **Proposed Rule** in the *Utah State Bulletin*, it may receive comment that requires the **Proposed Rule** to be altered before it goes into effect. A **Change in Proposed Rule** allows an agency to respond to comments it receives.

As with a **Proposed Rule**, a **Change in Proposed Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **Change in Proposed Rule** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **Change in Proposed Rule**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **Changes in Proposed Rules** published in this issue of the *Utah State Bulletin* ends February 16, 2016.

Following the **Rule Analysis**, the text of the **Change in Proposed Rule** is usually printed. The text shows only those changes made since the **Proposed Rule** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them ([~~example~~]). A row of dots in the text between paragraphs (**. . . . . .**) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **Change in Proposed Rule** is too long to print, the Division of Administrative Rules may include only the **Rule Analysis**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through May 14, 2016, an agency may notify the Division of Administrative Rules that it wants to make the **Change in Proposed Rule** effective. When an agency submits a **Notice of Effective Date** for a **Change in Proposed Rule**, the **Proposed Rule** as amended by the **Change in Proposed Rule** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **Change in Proposed Rule**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **Change in Proposed Rule** in response to additional comments received. If the Division of Administrative Rules does not receive a **Notice of Effective Date** or another **Change in Proposed Rule** by the end of the 120-day period after publication, the **Change in Proposed Rule** filing, along with its associated **Proposed Rule**, lapses.

Changes in Proposed Rules are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

Insurance, Administration
R590-272
Commission Compensation Reporting

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 39755
FILED: 12/17/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes limit the scope to insurance placed with a large customer described in Subsections 31A-23a-501(4)(f)(A), (B), (C) or (D) to be consistent with Utah Code.

SUMMARY OF THE RULE OR CHANGE: The changes clarify that the report applies to insurance offered to a large customer described in Subsections 31A-23a-501(4)(f)(A), (B), (C) or (D). (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the October 1, 2015, issue of the Utah State Bulletin, on page 72. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-2-201(3) and Subsection 31A-23a-501(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to state budget because the change merely limits the rule's scope for consistency with current state law.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because the change merely limits the rule's scope for consistency with current state law.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because the change merely limits the rule's scope for consistency with current state law.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to any other persons because the change merely limits the rule's scope for consistency with current state law.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because the change merely limits the rule's scope for consistency with current state law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no additional fiscal impact because the change merely limits the rule's scope for consistency with current state law.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 02/23/2016

AUTHORIZED BY: Steve Gooch, Information Specialist

R590. Insurance, Administration.
R590-272. Commission Compensation Reporting.
R590-272-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201(3) and 31A-23a-501(4) that authorizes the commissioner to adopt a rule to educate producers, consultants, and affiliates of producers how to provide an annual accounting of commission compensation as a result of the sale or placement of [~~a health benefit plan from an insurer or a third party administrator~~]insurance to a large customer.

R590-272-2. Scope.

This rule applies to all producers, consultants, and affiliates of producers selling or placing [~~a large customer health benefit plan coverage~~]insurance to a large customer described in Subsection 31A-23a-501(4)(f)(A), (B), (C) or (D).

R590-272-3. Purpose.

The purpose of this rule is to create a format to provide an annual reporting of commission compensation from an insurer or a third party administrator associated with the sale or placement of [~~a health benefit plan~~]insurance to a large customer.

R590-272-4. Annual Accounting of All Compensation for Sale or Placement of Insurance to a Large Customer[~~Health Benefit Plan~~].

(1) Any producer, consultant, or affiliate of a producer selling or placing [~~a health benefit plan~~]insurance to a large customer described in Subsection 31A-23a-501(4)(f)(A), (B), (C) or (D), shall provide the large customer an annual accounting of all commission compensation that has been received or shall be received from an insurer or third party administrator as the result of a sale or placement.

(2) The accounting shall be provided within fifteen days following the last day of the plan year.

(3) A copy of this annual accounting must be kept on file from inception until three years after the completion of the contract, and must be made available upon request of the commissioner.

(4) The annual accounting must include, at minimum:

(a) the following:

(i) plan sponsor;

(ii) name of plan;

(iii) name and address of the plan administrator;

(iv) name of the insurance company;

(v) effective date of the plan;

(vi) number of active participants at beginning of the plan year;

(vii) total commission compensation paid or due during the plan year, and shall include on separate reporting lines:

(A) commissions;

(B) overrides;

(C) bonuses;

(D) contingent bonuses; or

(E) contingent commissions; and

(F) the name and address of each producer, consultant or affiliate to whom commissions are paid or due; and

(viii) signature lines for the plan administrator and the employer/plan sponsor for each producer, consultant or affiliate declaration; or

(b) a completed Department of the Treasury Internal Revenue Form 5500(2014), Annual Return / Report of Employee Benefit Plan, version 140124.

(5) Each item listed in R590-272-4(4)(a)(vii) shall be separately identified in the report.

(6) A sample form, The Large Customer Compensation Disclosure Form, is available at the department and online at http://www.insurance.utah.gov/legalresources/currentrules.html.

R590-272-5. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.

R590-272-6. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: agency compensation, agent compensation, insurance, producer compensation
Date of Enactment or Last Substantive Amendment: [~~2015~~]2016
Authorizing, and Implemented or Interpreted Law: 31A-2-201(3); 31A-23a-501(4)

End of the Notices of Changes in Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a **120-Day (Emergency) Rule** when it finds that regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **Proposed Rule**, a **120-Day Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **120-Day Rule** including the name of a contact person, justification for filing a **120-Day Rule**, anticipated cost impact of the rule, and legal cross-references.

Following the **Rule Analysis**, the text of the **120-Day Rule** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

A **120-Day Rule** is effective when filed with the Division of Administrative Rules, or on a later date designated by the agency. A **120-Day Rule** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-Day Rule** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-Day Rules**. However, when an agency files a **120-Day Rule**, it may file a **Proposed Rule** at the same time, to make the requirements permanent.

Emergency or **120-Day Rules** are governed by Section 63G-3-304, and Section R15-4-8.

Administrative Services, Finance
R25-7-10
Reimbursement for Transportation

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 40046
FILED: 12/31/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is because the IRS announced a rate decrease in rate for private vehicle use from 56 cents per mile to 54 cents per mile. The Division has determined that the reimbursement rate for private vehicles should decrease to 54 cents per mile to avoid exceeding federal mileage reimbursements.

SUMMARY OF THE RULE OR CHANGE: The rule decreases the reimbursement rate for mileage on private vehicles. (DAR NOTE: A corresponding proposed amendment is under DAR No. 40042 in this issue, January 15, 2016, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-106 and Section 63A-3-107

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
JUSTIFICATION: The IRS announced a decrease in the reimbursement rate for private vehicle use from 56 cents per mile to 54 cents per mile effective 01/01/2016. If the state continued to pay 56 cents per mile, the extra 2 cents per mile would be taxable to each recipient. The state does not have a cost-effective way to track and record this taxable income. Therefore, reducing the state rate to match the federal rate would prevent the state from violating federal tax law.

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will potentially be a decrease in cost to the state as mileage reimbursements are decreasing. However, the agency cannot determine exactly what the decrease will be because it is impossible to anticipate how much travel state employees will do.
♦ LOCAL GOVERNMENTS: There will not be costs to local governments because the rule only governs reimbursements by the state to individuals traveling on state business.
♦ SMALL BUSINESSES: Because the change deals only with reimbursement rates for mileage for state employees, small businesses are not affected.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Individuals eligible for reimbursement will see a slight

decrease in their mileage reimbursement amounts for travel in private vehicles.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the amendment only changes mileage reimbursement rates and does not require any new action on the part of persons applying for reimbursements, there are not compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed these changes with the Division of Finance Director and believe these changes are warranted. Individuals may see a slight decrease in reimbursement amounts. However we cannot determine exactly what the decrease will be as that depends on the amount of travel by individuals eligible for mileage reimbursement. This rule will have no impact on business.

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

ADMINISTRATIVE SERVICES
FINANCE
ROOM 2110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at rbeckstead@utah.gov

EFFECTIVE: 01/01/2016

AUTHORIZED BY: John Reidhead, Director

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.
R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the department director or designee.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage and because of federal security regulations, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the economy lot parking rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51B for amounts of $20 or more.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 38 cents per mile or [~~56~~]54 cents per mile if a state vehicle is not available to the employee.

(i) To determine which rate to use, the traveler must first determine if their department has an agency vehicle (long-term leased vehicle from Fleet Operations) that meets their needs and is reasonably available for the trip (does not apply to special purpose vehicles). If reasonably available, the employee should use an agency vehicle. If an agency vehicle that meets their needs is not reasonably available, the agency may approve the traveler to use either a daily pool fleet vehicle or a private vehicle. If a daily pool fleet vehicle is not reasonably available, the traveler may be reimbursed at [~~56~~]54 cents per mile.

(ii) If a trip is estimated to average 100 miles or more per day, the agency should approve the traveler to rent a daily pool fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency approves the traveler to take a private vehicle, the employee will be reimbursed at the lower rate of 38 cents per mile.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

(d) Exceptions must be approved in writing by the Director of Finance.

(e) Mileage will be computed using Mapquest or other generally accepted map/route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(f) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51B, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if preapproved by the Department Director or designee.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 38 cents per mile or the airplane

fare, whichever is less, unless otherwise approved by the Department Director or designee.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(d) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director or designee.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the State Travel Office must be approved in advance by the Department Director or designee.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director or designee that the pilot is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, the pilot must certify the existence of at least $500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least $500,000 for liability coverage.

(d) Reimbursement will be made at [~~56~~]54 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 20 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Executive Director of the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowances, state employees, transportation
Date of Enactment or Last Substantive Amendment: January 1, 2016
Notice of Continuation: April 15, 2013
Authorizing, and Implemented or Interpreted Law: 63A-3-107; 63A-3-106

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **Five-Year Notice of Review and Statement of Continuation (Review)**; or amend the rule by filing a **Proposed Rule** and by filing a **Review**. By filing a **Review**, the agency indicates that the rule is still necessary.

A **Review** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at 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.

Agriculture and Food, Plant Industry
R68-8
Utah Seed Law

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 39999
FILED: 12/17/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-16-3 authorizes the department to promulgate rules to regulate the flow of contaminated articles into the state and between counties to prevent the dissemination of noxious weeds or seeds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be needed in order to prevent the spread of noxious weeds in the state. Further, it is necessary to regulate the movement of seed in the state.

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

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 12/17/2015

Human Services, Aging and Adult Services
R510-401
Utah Caregiver Support Program (UCSP)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40002
FILED: 12/23/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Caregiver Support Program is created under authority of the Older Americans Act of 1965, 42 USC Section 3001 and Section 62A-3-104. The purpose of the Utah Caregiver Support Program is to

provide support services, including information and assistance, counseling, support groups, respite and other home and community-based services to family caregivers of frail, older individuals.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Caregiver Support Program is required as part of the Older Americans Act. Utah is required to maintain a level of funding and commitment to the program under the federal act. This rule is needed to continue with the program and provide the structure needed to coordinate state and local agencies.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 12/23/2015

Technology Services, Administration
R895-5
Acquisition of Information Technology

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40029
FILED: 12/29/2015

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: Sections 63F-1-205 and 63F-1-206 of the Utah Technology Governance Act require the Chief Information Officer (CIO) to create rules for the acquisition of IT purchases by agencies.

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 identify the standards under which an agency of the executive branch must obtain approval from the CIO before acquiring information technology and technology-related services. Therefore, this rule should be continued.

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

AUTHORIZED BY: Michael Hussey, Executive Director and CIO

EFFECTIVE: 12/29/2015

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **Proposed Rules** or **Changes in Proposed Rules** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **Changes in Proposed Rules** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **Notice of Effective Date** within 120 days from the publication of a **Proposed Rule** or a related **Change in Proposed Rule** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

Notices of Effective Date are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Administrative Services
Finance
No. 39903 (AMD): R25-7-6. Reimbursement for Meals
Published: 11/15/2015
Effective: 12/22/2015

Purchasing and General Services
No. 39906 (AMD): R33-26. State Surplus Property
Published: 11/15/2015
Effective: 12/23/2015

Alcoholic Beverage Control
Administration
No. 39907 (AMD): R81-2-10. State Store Hours
Published: 11/15/2015
Effective: 12/24/2015

Commerce
Administration
No. 39894 (AMD): R151-4. Department of Commerce Administrative Procedures Act Rule
Published: 11/15/2015
Effective: 12/28/2015

Occupational and Professional Licensing
No. 39854 (AMD): R156-5a-302c. Qualifications for Licensure - Training Requirements
Published: 11/15/2015
Effective: 12/22/2015

No. 39859 (AMD): R156-40. Recreational Therapy Practice Act Rule
Published: 11/15/2015
Effective: 12/22/2015

No. 39858 (AMD): R156-69-302d. Licensing of Dentist-Educators
Published: 11/15/2015
Effective: 12/22/2015

Real Estate
No. 39776 (AMD): R162-2f. Real Estate Licensing and Practices Rules
Published: 10/15/2015
Effective: 12/16/2015

Governor
Economic Development
No. 39887 (AMD): R357-3. Refundable Economic Development Tax Credit
Published: 11/15/2015
Effective: 12/28/2015

Health
Disease Control and Prevention, Health Promotion
No. 39797 (NEW): R384-415. Electronic-Cigarette Substance Standards
Published: 10/15/2015
Effective: 12/29/2015

Human Resource Management
Administration
No. 39886 (AMD): R477-7. Leave
Published: 11/15/2015
Effective: 01/01/2016

Human Services
Substance Abuse and Mental Health
No. 39860 (NEW): R523-1. General Provisions
Published: 11/15/2015
Effective: 12/22/2015

No. 39862 (NEW): R523-2. Local Mental Health Authorities and Local Substance Abuse Authorities
Published: 11/15/2015
Effective: 12/22/2015

No. 39865 (REP): R523-2. Adult Peer Support Specialist Training and Certification
Published: 11/15/2015
Effective: 12/22/2015

No. 39863 (NEW): R523-3. Screening, Assessment, Education and Treatment Standards for Court-referred Youth Under the Age of 21
Published: 11/15/2015
Effective: 12/22/2015

No. 39867 (REP): R523-3. Child/Family Peer Support Specialist Training and Certification
Published: 11/15/2015
Effective: 12/22/2015

No. 39861 (REP): R523-4. Local Mental Health Authorities and Local Substance Abuse Authorities
Published: 11/15/2015
Effective: 12/22/2015

No. 39864 (NEW): R523-4. Screening, Assessment, Prevention, Treatment and Recovery Support Standards for Adults Required to Participate in Services by the Criminal Justice System
Published: 11/15/2015
Effective: 12/22/2015

No. 39869 (REP): R523-5. Certification of Designated Examiners and Case Managers
Published: 11/15/2015
Effective: 12/22/2015

No. 39866 (NEW): R523-5. Adult Peer Support Specialist Training and Certification
Published: 11/15/2015
Effective: 12/22/2015

No. 39871 (REP): R523-6. Medication, Psychosurgery and Electroshock Procedures for Children, Consumer Rights, Due Process, Family Involvement
Published: 11/15/2015
Effective: 12/22/2015

No. 39868 (NEW): R523-6. Child/Family Peer Support Specialist Training and Certification
Published: 11/15/2015
Effective: 12/22/2015

No. 39870 (NEW): R523-7. Certification of Designated Examiners and Case Managers
Published: 11/15/2015
Effective: 12/22/2015

No. 39874 (REP): R523-8. Evidence-Based Prevention Registry
Published: 11/15/2015
Effective: 12/22/2015

No. 39872 (NEW): R523-8. Medication, Psychosurgery and Electroshock Procedures for Children, Consumer Rights, Due Process, Family Involvement
Published: 11/15/2015
Effective: 12/22/2015

No. 39875 (NEW): R523-9. Evidence-Based Prevention Registry
Published: 11/15/2015
Effective: 12/22/2015

No. 39877 (NEW): R523-10. Standards for Methadone Addiction Treatment Providers
Published: 11/15/2015
Effective: 12/22/2015

No. 39880 (NEW): R523-11. Utah Standards for Approval of Alcohol and Drug Educational Providers and Instructors for Court-Referred DUI Offenders
Published: 11/15/2015
Effective: 12/22/2015

No. 39882 (NEW): R523-12. On-Premise Alcohol Training and Education Seminar Rules of Administration
Published: 11/15/2015
Effective: 12/22/2015

No. 39884 (NEW): R523-13. Off Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration
Published: 11/15/2015
Effective: 12/22/2015

No. 39885 (NEW): R523-14. Suicide Prevention
Published: 11/15/2015
Effective: 12/22/2015

No. 39873 (REP): R523-20. Division Rules of Administration
Published: 11/15/2015
Effective: 12/22/2015

No. 39876 (REP): R523-21. Division of Substance Abuse and Mental Health Rules
Published: 11/15/2015
Effective: 12/22/2015

No. 39878 (REP): R523-22. Utah Standards for Approval of Alcohol and Drug Educational Providers and Instructors for Court-Referred DUI Offenders
Published: 11/15/2015
Effective: 12/22/2015

No. 39881 (REP): R523-23. On-Premise Alcohol Training and Education Seminar Rules of Administration
Published: 11/15/2015
Effective: 12/22/2015

No. 39883 (REP): R523-24. Off Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration
Published: 11/15/2015
Effective: 12/22/2015

Insurance
Administration
No. 39904 (AMD): R590-267. Personal Injury Protection Relative Value Study Rule
Published: 11/15/2015
Effective: 01/01/2016

Labor Commission
Occupational Safety and Health
No. 39855 (AMD): R614-1. General Provisions
Published: 11/15/2015
Effective: 12/28/2015

Public Safety
Criminal Investigations and Technical Services, Criminal Identification
No. 39889 (AMD): R722-310. Regulation of Bail Bond Recovery and Enforcement Agents
Published: 11/15/2015
Effective: 12/22/2015

No. 39890 (AMD): R722-360. Certificate of Removal from the Sex Offender and Kidnap Registry
Published: 11/15/2015
Effective: 12/22/2015

No. 39891 (NEW): R722-390. Certificate of Eligibility for Removal from the Utah White Collar Crime Offender Registry
Published: 11/15/2015
Effective: 12/22/2015

No. 39892 (AMD): R722-900. Access to Bureau Records
Published: 11/15/2015
Effective: 12/22/2015

No. 39893 (NEW): R722-910. Non-Reportable Traffic Offenses
Published: 11/15/2015
Effective: 12/22/2015

End of the Notices of Rule Effective Dates Section

2015 COMPLETE RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

This Rules Index is a complete index that reflects all effective changes to Utah's administrative rules for 2015. The Index lists changes made effective from January 2, 2015 through January 1, 2016. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.utah.gov/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Administrative Rules					
R15-1	Administrative Rule Hearings	39726	5YR	09/11/2015	2015-19/113
R15-2	Public Petitioning for Rulemaking	39727	5YR	09/11/2015	2015-19/113
R15-3	Definitional Clarification of Administrative Rule	39728	5YR	09/11/2015	2015-19/114
R15-4	Administrative Rulemaking Procedures	39729	5YR	09/11/2015	2015-19/115
R15-5	Administrative Rules Adjudicative Proceedings	39730	5YR	09/11/2015	2015-19/115
Facilities Construction and Management					
R23-1	Procurement of Construction	39033	R&R	03/03/2015	2015-2/4
R23-1-1504	Performance Evaluation	39642	NSC	09/30/2015	Not Printed
R23-2	Procurement of Architect-Engineer Services	39061	REP	03/16/2015	2015-3/4
R23-3	Planning and Programming for Capital Projects	39752	AMD	11/09/2015	2015-19/4
R23-7	State Construction Contracts and Drug and Alcohol Testing	39482	5YR	06/30/2015	2015-14/139
R23-7	State Construction Contracts and Drug and Alcohol Testing	39825	AMD	12/11/2015	2015-21/4
R23-32	Rules of Procedure for Conduct of Utah State Building Board Meetings	39826	AMD	12/11/2015	2015-21/6
Finance					
R25-7	Travel-Related Reimbursements for State Employees	39301	AMD	06/22/2015	2015-10/6
R25-7-6	Reimbursement for Meals	39903	AMD	12/22/2015	2015-22/12
R25-7-10	Reimbursement for Transportation	40046	EMR	01/01/2016	Not Printed
R25-10	State Entities Posting of Financial Information to the Utah Public Finance Website	39360	AMD	07/08/2015	2015-11/4
R25-15	Change Date and Set Aside Provisions for Annual Leave II	39942	EMR	11/12/2015	2015-23/57
R25-25-7	Travel-Related Reimbursements for State Employees	39160	AMD	04/21/2015	2015-6/10
Fleet Operations					
R27-1	Definitions	39918	5YR	11/06/2015	2015-23/61
R27-2	Fleet Operations Adjudicative Proceedings	39919	5YR	11/06/2015	2015-23/61
R27-3	Vehicle Use Standards	39920	5YR	11/06/2015	2015-23/62
R27-7	Safety and Loss Prevention of State Vehicles	39921	5YR	11/06/2015	2015-23/62
Purchasing and General Services					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39327	AMD	06/23/2015	2015-10/11

R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39472	AMD	08/21/2015	2015-14/6
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39523	NSC	08/24/2015	Not Printed
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39957	NSC	12/18/2015	Not Printed
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-6-109	Only One Bid Received	39366	AMD	07/09/2015	2015-11/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
R33-7	Request for Proposals	39513	NSC	07/30/2015	Not Printed
R33-7	Request for Proposals	39958	NSC	12/18/2015	Not Printed
R33-7-702	Only One Proposal Received	39365	AMD	07/09/2015	2015-11/6
R33-7-702	Only One Proposal Received	39432	AMD	08/07/2015	2015-13/6
R33-8	Exceptions to Procurement Requirements	39328	AMD	06/23/2015	2015-10/15
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38977	AMD	01/28/2015	2014-24/9
R33-13	General Construction Provisions	39959	NSC	12/18/2015	Not Printed
R33-16	Controversies and Protests	39470	AMD	08/21/2015	2015-14/9
R33-16-401	Protest Officer May Correct Noncompliance, Errors and Discrepancies	38978	AMD	01/28/2015	2014-24/12
R33-26	State Surplus Property	39084	NSC	01/28/2015	Not Printed
R33-26	State Surplus Property	39271	AMD	06/10/2015	2015-9/4
R33-26	State Surplus Property	39906	AMD	12/23/2015	2015-22/13
R33-26-202	Information Technology Equipment	39042	AMD	03/31/2015	2015-2/33
R33-26-202	Disposal of State-Owned Surplus Electronic Data Devices	39454	AMD	08/21/2015	2015-14/11
Records Committee					
R35-1	State Records Committee Appeal Hearing Procedures	39400	AMD	07/31/2015	2015-11/7
R35-2	Declining Appeal Hearings	39401	AMD	07/31/2015	2015-11/9
R35-4	Compliance with State Records Committee Decisions and Orders	39402	AMD	07/31/2015	2015-11/10
R35-5	Subpoenas Issued by the Records Committee	39403	AMD	07/31/2015	2015-11/11
R35-6	Expedited Hearing	39404	AMD	07/31/2015	2015-11/12
AGRICULTURE AND FOOD					
Administration					
R51-1	Public Petitions for Declaratory Rulings	39633	EXD	09/01/2015	2015-18/137
R51-1	Public Petitions for Declaratory Rulings	39636	EMR	09/02/2015	2015-19/109
Animal Industry					
R58-1	Admission, Identification, and Inspection of Livestock, Poultry and other Animals	39423	AMD	08/12/2015	2015-13/7
R58-2	Disease, Inspections, and Quarantines	39422	AMD	08/12/2015	2015-13/14
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	39075	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39073	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39775	AMD	11/23/2015	2015-20/14
R58-12	Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments	39573	5YR	08/12/2015	2015-17/97
R58-12	Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments	39774	AMD	11/23/2015	2015-20/19
R58-13	Custom Exempt Slaughter	39614	EXD	08/25/2015	2015-18/137
R58-13	Custom Exempt Slaughter	39616	EMR	08/25/2015	2015-18/131
R58-15	Collection of Annual Fees for the Wildlife Damage Prevention Act	39602	5YR	08/13/2015	2015-17/97
R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37
R58-22	Equine Infectious Anemia (EIA)	39424	AMD	08/12/2015	2015-13/15

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R63-1	Fee Schedule	39611	5YR	08/24/2015	2015-18/133
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R65-3	Utah Turkey Marketing Order	39762	REP	11/23/2015	2015-20/20
R65-4	Utah Egg Marketing Order	39763	REP	11/23/2015	2015-20/23
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R68-1	Utah Bee Inspection Act Governing Inspection of Bees	39612	5YR	08/24/2015	2015-18/133
R68-1	Utah Bee Inspection Act Governing Inspection of Bees	39773	AMD	11/23/2015	2015-20/25
R68-2	Utah Commercial Feed Act Governing Feed	39471	5YR	06/29/2015	2015-14/139
R68-6	Utah Nursery Act	39548	5YR	07/29/2015	2015-16/79
R68-8	Utah Seed Law	39999	5YR	12/17/2015	Not Printed
R68-10	Quarantine Pertaining to the European Corn Borer	39507	5YR	07/10/2015	2015-15/31
R68-12	Quarantine Pertaining to Mint Wilt	39408	5YR	05/21/2015	2015-12/33
R68-22	Industrial Hemp Research	39148	NEW	04/22/2015	2015-6/14
Regulatory Services					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	39223	5YR	03/16/2015	2015-7/57
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	39407	R&R	07/22/2015	2015-12/6
R70-330	Raw Milk for Retail	39779	AMD	11/23/2015	2015-20/26
R70-610	Uniform Retail Wheat Standards of Identify	39561	5YR	08/05/2015	2015-17/98
R70-620	Enrichment of Flour and Cereal Products	39560	5YR	08/05/2015	2015-17/98
R70-910	Registration of Servicepersons for Commercial Weighing and Measuring Devices	39562	5YR	08/05/2015	2015-17/99
R70-950	Uniform National Type Evaluation	39563	5YR	08/05/2015	2015-17/99
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R81-1-3	General Policies	39156	AMD	04/28/2015	2015-6/16
R81-1-6	Violation Schedule	39158	AMD	04/28/2015	2015-6/18
R81-1-26	Criminal History Background Checks	39329	AMD	06/24/2015	2015-10/17
R81-2-1	Special Orders of Liquor by Public	39154	AMD	04/28/2015	2015-6/22
R81-2-8	Accepting Checks as Payment for Liquor	39476	AMD	08/25/2015	2015-14/13
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R81-2-10	State Store Hours	39907	AMD	12/24/2015	2015-22/20
R81-3-1	Definition	39417	AMD	07/28/2015	2015-12/12
R81-3-5	Special Orders of Liquor by Public	39155	AMD	04/28/2015	2015-6/23
R81-3-14	Type 5 Package Agencies	39418	AMD	07/28/2015	2015-12/14
R81-3-19	Credit Cards	39331	AMD	06/24/2015	2015-10/21
R81-4B	Airport Lounge Licenses	39803	5YR	10/02/2015	2015-21/107
R81-4E	Resort Licenses	39059	5YR	01/08/2015	2015-3/69
R81-7	Single Event Permits	39474	R&R	11/02/2015	2015-14/14
R81-7	Single Event Permits	39474	CPR	11/02/2015	2015-18/128
R81-10A	Recreational Amenity On-Premise Beer Retailer Licenses	39804	5YR	10/02/2015	2015-21/107
R81-10B	Temporary Beer Event Permits	39475	REP	11/02/2015	2015-14/18
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R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39032	AMD	03/26/2015	2015-2/34
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39099	AMD	03/26/2015	2015-4/4

R156-37f-102	Definitions	39020	AMD	02/24/2015	2015-2/84
R156-40	Recreational Therapy Practice Act Rule	39859	AMD	12/22/2015	2015-22/26
R156-41-602	Form of Written Informed Consent	39639	AMD	11/10/2015	2015-19/7
R156-42a	Occupational Therapy Practice Act Rule	39761	AMD	12/01/2015	2015-20/35
R156-44a-609	Standards for Out-of-State Programs Providing Certified Nurse Midwife Clinical Experiences in Utah	39176	AMD	05/11/2015	2015-7/2
R156-46a-502d	Form of Written Informed Consent	39428	AMD	08/17/2015	2015-13/21
R156-46a-502d	Form of Written Informed Consent	39604	NSC	09/11/2015	Not Printed
R156-47b	Massage Therapy Practice Act Rule	38915	AMD	04/21/2015	2014-22/16
R156-47b	Massage Therapy Practice Act Rule	38915	CPR	04/21/2015	2015-6/42
R156-47b-302a	Qualifications for Licensure - Equivalent Education and Training	39238	AMD	05/28/2015	2015-8/7
R156-50	Private Probation Provider Licensing Act Rule	39737	5YR	09/14/2015	2015-19/116
R156-55a	Utah Construction Trades Licensing Act Rule	39461	AMD	11/23/2015	2015-14/21
R156-55a	Utah Construction Trades Licensing Act Rule	39461	CPR	11/23/2015	2015-20/116
R156-55e	Elevator Mechanics Licensing Rule	39736	5YR	09/14/2015	2015-19/116
R156-60	Mental Health Professional Practice Act Rule	39538	AMD	09/21/2015	2015-16/9
R156-60a	Social Worker Licensing Act Rule	38979	AMD	01/22/2015	2014-24/15
R156-60c	Clinical Mental Health Counselor Licensing Act Rule	39519	AMD	09/28/2015	2015-16/11
R156-60d	Substance Use Disorder Counselor Act Rule	38964	AMD	01/22/2015	2014-24/17
R156-61	Psychologist Licensing Act Rule	38957	AMD	06/15/2015	2014-24/19
R156-61	Psychologist Licensing Act Rule	38957	CPR	06/15/2015	2015-9/80
R156-61a	Behavior Analyst Licensing Act Rule	39772	NEW	11/23/2015	2015-20/37
R156-63a	Security Personnel Licensing Act Contract Security Rule	39293	AMD	06/22/2015	2015-10/22
R156-63a	Security Personnel Licensing Act Contract Security Rule	39368	AMD	07/23/2015	2015-11/22
R156-63b	Security Personnel Licensing Act Armored Car Rule	39294	AMD	06/22/2015	2015-10/24
R156-63b	Security Personnel Licensing Act Armored Car Rule	39369	AMD	07/23/2015	2015-11/25
R156-69-302d	Licensing of Dentist-Educators	39858	AMD	12/22/2015	2015-22/28
R156-70a-302	Qualification for Licensure - Examination Requirements	39177	AMD	05/27/2015	2015-7/3
R156-71-202	Naturopathic Physician Formulary	39151	AMD	04/21/2015	2015-6/25
R156-72-102	Definitions	39343	AMD	07/09/2015	2015-11/28
R156-79	Hunting Guides and Outfitters Licensing Act Rule	39350	AMD	07/09/2015	2015-11/29
R156-83	Online Prescribing, Dispensing, and Facilitation Licensing Act Rule	39298	5YR	04/23/2015	2015-10/102
Real Estate					
R162-2a	Utah Housing Opportunity Restricted Account	39575	5YR	08/13/2015	2015-17/100
R162-2a	Utah Housing Opportunity Restricted Account	39576	NSC	08/28/2015	Not Printed
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	39249	5YR	03/31/2015	2015-8/33
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	39477	AMD	09/04/2015	2015-14/26
R162-2c-201	Licensing and Registration Procedures	38999	AMD	02/10/2015	2015-1/8
R162-2e	Appraisal Management Company Administrative Rules	39291	5YR	04/17/2015	2015-10/102
R162-2e-401	Unprofessional Conduct	38971	AMD	01/28/2015	2014-24/26
R162-2f	Real Estate Licensing and Practices Rules	39572	5YR	08/12/2015	2015-17/101
R162-2f	Real Estate Licensing and Practices Rules	39776	AMD	12/16/2015	2015-20/40
R162-2f-206	Certification of Continuing Education Course	38972	AMD	01/21/2015	2014-24/28
R162-2f-401j	Standards for Property Management	39305	AMD	06/22/2015	2015-10/25
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R162-57a	Timeshare and Camp Resort Rules	39292	5YR	04/21/2015	2015-10/103
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R164-15-2	Notice Filings for Rule 506 Offerings	38926	AMD	03/10/2015	2014-22/20
R164-32	Codification of Precedent	39300	NEW	06/22/2015	2015-10/26

COMMUNICATIONS AUTHORITY (UTAH)

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R173-1 (Changed to R174-1)	Utah 911 Advisory Committee	39406	AMD	09/29/2015	2015-11/30

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R251-102	Release of Communicable Disease Information	39541	5YR	07/23/2015	2015-16/79
R251-104	Declaratory Orders	39819	5YR	10/13/2015	2015-21/108
R251-109	Sex Offender Treatment Providers	39539	5YR	07/23/2015	2015-16/80
R251-110	Sex and Kidnap Offender Registration Program	39608	5YR	08/21/2015	2015-18/134
R251-110	Sex Offender Registration Program	39760	NSC	10/20/2015	Not Printed
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
R251-702	Inmate Communication: Telephones	39971	5YR	12/04/2015	2016-1/85
R251-708	Perimeter Patrol	39972	5YR	12/04/2015	2016-1/85
R251-709	Transportation of Inmates	39498	5YR	07/02/2015	2015-15/32
R251-711	Admission and Intake	39973	5YR	12/04/2015	2016-1/86
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R270-1-22	Sexual Assault Forensic Examinations	39463	AMD	08/21/2015	2015-14/38

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R277-99	Definitions for Utah State Board of Education (Board) Rules	39488	NEW	08/26/2015	2015-14/40
R277-100	Rulemaking Policy	39770	5YR	09/28/2015	2015-20/129
R277-100	Rulemaking Policy	39785	R&R	11/23/2015	2015-20/49
R277-107	Educational Services Outside of Educator's Regular Employment	39462	5YR	06/25/2015	2015-14/140
R277-107	Educational Services Outside of Educator's Regular Employment	39489	AMD	08/26/2015	2015-14/41
R277-111	Sharing of Curriculum Materials by Public School Educators	39077	5YR	01/15/2015	2015-3/71
R277-111	Sharing of Curriculum Materials by Public School Educators	39078	AMD	03/10/2015	2015-3/13
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	39335	5YR	05/01/2015	2015-10/104
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	39285	R&R	06/08/2015	2015-9/10
R277-116	Utah State Board of Education Internal Audit Procedure	39584	R&R	10/08/2015	2015-17/10
R277-116-1	Definitions	39218	AMD	05/08/2015	2015-7/7
R277-118	LEA Post-employment Benefits Plans	39836	REP	12/08/2015	2015-21/15
R277-200	Utah Professional Practices Advisory Commission (UPPAC), Definitions	39382	NEW	07/08/2015	2015-11/33
R277-200	Utah Professional Practices Advisory Commission (UPPAC), Definitions	39585	AMD	10/08/2015	2015-17/15
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
R277-203	Request for Licensure Reinstatement and Reinstatement Procedures	39385	NEW	07/08/2015	2015-11/47
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
R277-404	Requirements for Assessments of Student Achievement	39838	AMD	12/08/2015	2015-21/19
R277-406	K-3 Reading Improvement Program and the State Reading Goal	39592	AMD	10/08/2015	2015-17/39
R277-410	Accreditation of Schools	39485	5YR	07/01/2015	2015-14/140
R277-410	Accreditation of Schools	39490	AMD	08/26/2015	2015-14/43
R277-417	Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation	39372	NEW	07/08/2015	2015-11/55
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
R277-419	Pupil Accounting	39374	AMD	07/08/2015	2015-11/58
R277-419-9	Provisions for Maintaining Student Membership and Enrollment Documentation and Documentation of Student Education Services Provided by Third Party Vendors	39080	EMR	01/15/2015	2015-3/63
R277-438	Dual Enrollment	39839	AMD	12/08/2015	2015-21/24
R277-444	Distribution of Funds to Arts and Science Organizations	39578	5YR	08/13/2015	2015-17/101
R277-444	Distribution of Funds to Arts and Science Organizations	39791	R&R	12/01/2015	2015-20/56
R277-459	Classroom Supplies Appropriation	39336	5YR	05/01/2015	2015-10/104
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
R277-474	School Instruction and Human Sexuality	39337	5YR	05/01/2015	2015-10/105
R277-474	School Instruction and Human Sexuality	39287	AMD	06/08/2015	2015-9/13
R277-475	Patriotic, Civic and Character Education	39338	5YR	05/01/2015	2015-10/105
R277-475	Patriotic, Civic and Character Education	39288	AMD	06/08/2015	2015-9/16
R277-477	Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program	39579	5YR	08/13/2015	2015-17/102
R277-477	Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program	39593	R&R	10/08/2015	2015-17/41
R277-477	Distributions of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program	39840	AMD	12/08/2015	2015-21/27
R277-487	Public School Data Confidentiality and Disclosure	38956	AMD	01/07/2015	2014-23/6
R277-487	Public School Data Confidentiality and Disclosure	39375	AMD	07/08/2015	2015-11/67
R277-490	Beverley Taylor Sorenson Elementary Arts Learning Program	39376	AMD	07/08/2015	2015-11/72
R277-491	School Community Councils	39580	5YR	08/13/2015	2015-17/102
R277-491	School Community Councils	39594	R&R	10/08/2015	2015-17/49

R277-494	Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities	39831	5YR	10/15/2015	2015-21/109
R277-494	Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities	39841	AMD	12/08/2015	2015-21/31
R277-497	School Grading System	39007	AMD	02/09/2015	2015-1/11
R277-497	School Grading System	39581	5YR	08/13/2015	2015-17/103
R277-497	School Grading System	39595	AMD	10/08/2015	2015-17/53
R277-498	Grant for Math Teaching Training	39582	5YR	08/13/2015	2015-17/103
R277-498	Grant for Math Teaching Training	39596	AMD	10/08/2015	2015-17/56
R277-500	Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks	39486	5YR	07/01/2015	2015-14/141
R277-500	Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks	39491	AMD	08/26/2015	2015-14/46
R277-502	Educator Licensing and Data Retention	39378	AMD	07/08/2015	2015-11/75
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	39008	AMD	02/09/2015	2015-1/13
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	39219	AMD	05/08/2015	2015-7/8
R277-514	Board Procedures: Sanctions for Educator Misconduct	39597	REP	10/08/2015	2015-17/58
R277-515	Utah Educator Standards	39598	AMD	10/08/2015	2015-17/60
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
R277-516	Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees	39599	AMD	10/08/2015	2015-17/64
R277-516-3	Licensed Public Education Employee Personal Reporting of Arrests	39289	AMD	06/08/2015	2015-9/18
R277-517	Board and UPPAC Disciplinary Definitions and Actions	39600	REP	10/08/2015	2015-17/67
R277-517-5	Board Disciplinary Actions	39290	AMD	06/08/2015	2015-9/19
R277-520	Appropriate Licensing and Assignment of Teachers	39371	5YR	05/15/2015	2015-11/185
R277-520	Appropriate Licensing and Assignment of Teachers	39379	AMD	07/08/2015	2015-11/80
R277-533	District Educator Evaluation Systems	39788	NEW	11/23/2015	2015-20/62
R277-602	Special Needs Scholarships - Funding and Procedures	39583	5YR	08/13/2015	2015-17/104
R277-602	Special Needs Scholarships - Funding and Procedures	39601	AMD	10/08/2015	2015-17/70
R277-606	Dropout Recovery Program	39787	NEW	11/23/2015	2015-20/66
R277-609	Standards for LEA Discipline Plans	39493	AMD	09/03/2015	2015-14/54
R277-611	Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools	39834	5YR	10/15/2015	2015-21/110
R277-611	Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools	39842	AMD	12/08/2015	2015-21/34
R277-616	Education for Homeless and Emancipated Students	39771	5YR	09/28/2015	2015-20/129
R277-616	Education for Homeless and Emancipated Students	39786	AMD	11/23/2015	2015-20/68
R277-700	The Elementary and Secondary School Core Curriculum	39487	5YR	07/01/2015	2015-14/141
R277-700	The Elementary and Secondary School Core Curriculum	39494	AMD	08/26/2015	2015-14/59
R277-705	Secondary School Completion and Diplomas	39935	5YR	11/10/2015	2015-23/63
R277-726	Statewide Online Education Program	39993	5YR	12/15/2015	2016-1/86
R277-920	Implementation of the School Turnaround and Leadership Development Act	39789	NEW	11/23/2015	2015-20/70
R277-921	Strengthening College and Career Readiness Program	39843	NEW	12/08/2015	2015-21/36

Rehabilitation					
R280-200	Rehabilitation	39220	AMD	05/08/2015	2015-7/13
R280-203	Certification Requirements for Interpreters for the Hearing Impaired	38930	AMD	01/02/2015	2014-22/22
R280-203	Certification Requirements for Interpreters/Transliterators for the Hearing Impaired	39790	AMD	11/23/2015	2015-20/73
ENVIRONMENTAL QUALITY					
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R305-5	Health Reform - Health Insurance Coverage in DEQ State Contracts - Implementation	39135	5YR	02/09/2015	2015-5/101
R305-7	Administrative Procedures	39720	AMD	11/20/2015	2015-19/8
Air Quality					
R307-101-2	Definitions	39751	AMD	12/15/2015	2015-19/17
R307-101-2	Definitions	39823	AMD	12/15/2015	2015-21/38
R307-101-3	General Requirements. Version of Code of Federal Regulations Incorporated by Reference	39352	AMD	09/25/2015	2015-11/85
R307-102-1	Air Pollution Prohibited; Periodic Reports Required	39750	AMD	12/15/2015	2015-19/25
R307-103	Administrative Procedures	39109	5YR	02/05/2015	2015-5/101
R307-104	Conflict of Interest	39740	NEW	12/15/2015	2015-19/26
R307-110-10	Section IX. Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	39733	AMD	12/03/2015	2015-19/26
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits	39167	AMD	06/04/2015	2015-7/14
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits	39735	AMD	12/03/2015	2015-19/28
R307-110-28	Regional Haze	39166	AMD	06/04/2015	2015-7/15
R307-110-28	Regional Haze	39554	AMD	10/09/2015	2015-16/13
R307-120	General Requirements: Tax Exemption for Air Pollution Control Equipment	38998	AMD	03/05/2015	2015-1/17
R307-121	General Requirements: Clean Air and Efficient Vehicle Tax Credit	39353	AMD	09/03/2015	2015-11/86
R307-122	General Requirements: Heavy Duty Vehicle Tax Credit	39354	NEW	09/03/2015	2015-11/89
R307-122	General Requirements: Heavy Duty Vehicle Tax Credit	39637	NSC	09/30/2015	Not Printed
R307-150	Emission Inventories	39749	AMD	12/15/2015	2015-19/29
R307-165	Emission Testing	39110	5YR	02/05/2015	2015-5/102
R307-201	Emission Standards: General Emission Standards	39111	5YR	02/05/2015	2015-5/103
R307-201-3	Visible Emissions Standards	39748	AMD	12/15/2015	2015-19/31
R307-202	Emission Standards: General Burning	39113	5YR	02/05/2015	2015-5/103
R307-203	Emission Standards: Sulfur Content of Fuels	39112	5YR	02/05/2015	2015-5/104
R307-204	Emission Standards: Smoke Management	39114	5YR	02/05/2015	2015-5/104
R307-205	Emission Standards: Fugitive Emissions and Fugitive Dust	39115	5YR	02/05/2015	2015-5/105
R307-206	Emission Standards: Abrasive Blasting	39116	5YR	02/05/2015	2015-5/105
R307-206	Emission Standards: Abrasive Blasting	39747	AMD	12/15/2015	2015-19/32
R307-207	Residential Fireplaces and Solid Fuel Burning Devices	39117	5YR	02/05/2015	2015-5/106
R307-210	Stationary Sources	39168	AMD	06/04/2015	2015-7/17
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R307-230	NOx Emission Limits for Natural Gas-Fired Water Heaters	39355	NEW	11/03/2015	2015-11/90
R307-230	NOx Emission Limits for Natural Gas-Fired Water Heaters	39355	CPR	11/03/2015	2015-19/106
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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
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	39349	5YR	05/06/2015	2015-11/185
R307-303	Commercial Cooking	39746	AMD	12/15/2015	2015-19/34
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R307-305-3	Visible Emissions	39743	AMD	12/15/2015	2015-19/35
R307-306	PM10 Nonattainment and Maintenance Areas: Abrasive Blasting	39119	5YR	02/05/2015	2015-5/107
R307-306	PM10 Nonattainment and Maintenance Areas: Abrasive Blasting	39744	AMD	12/15/2015	2015-19/36
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R309-300	Certification Rules for Water Supply Operators	39206	5YR	03/13/2015	2015-7/63
R309-305	Certification Rules for Backflow Technicians	39207	5YR	03/13/2015	2015-7/63
R309-400	Water System Rating Criteria	39208	5YR	03/13/2015	2015-7/64
R309-405	Compliance and Enforcement: Administrative Penalty	39209	5YR	03/13/2015	2015-7/64
R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	39184	5YR	03/13/2015	2015-7/65
R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	39076	AMD	07/15/2015	2015-3/16
R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	39076	CPR	07/15/2015	2015-11/166
R309-500-6	Plan Approval Procedure	39640	AMD	11/16/2015	2015-19/50
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R309-520	Facility Design and Operation: Disinfection	39641	AMD	11/16/2015	2015-19/52
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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
R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	CPR	02/17/2015	2014-24/40
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	38907	AMD	02/17/2015	2014-21/18
R313-19-13	Exemptions	39280	AMD	08/26/2015	2015-9/27
R313-19-13	Exemptions	39280	CPR	08/26/2015	2015-14/114
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R313-21-22	General Licenses*--Radioactive Material Other Than Source Material	39278	AMD	08/26/2015	2015-9/34
R313-21-22	General Licenses*--Radioactive Material Other Than Source Material	39278	CPR	08/26/2015	2015-14/118
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R313-35	Requirements for X-Ray Equipment Used for Non-Medical Applications	39017	CPR	05/22/2015	2015-8/30
R313-36-3	Clarifications or Exceptions	39276	AMD	06/16/2015	2015-9/52
R313-37	Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material	38908	NEW	06/29/2015	2014-21/21
R313-37	Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material	38908	CPR	06/29/2015	2015-5/98

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R315-15-18	Polychlorinated Biphenyls (PCBs)	39459	AMD	11/12/2015	2015-14/65
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R317-2	Standards of Quality for Waters of the State	39397	CPR	11/30/2015	2015-20/117
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R343-10	Title Lenders Registration with the Nationwide Database	39503	NSC	08/17/2015	Not Printed
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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
R357-3	Refundable Economic Development Tax Credit	39887	AMD	12/28/2015	2015-22/29

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R357-7	Utah Capital Investment Board	39532	NSC	08/17/2015	Not Printed
R357-8	Allocation of Private Activity Bond Volume Cap	39263	NEW	07/08/2015	2015-9/53
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R357-10	Small Business Jobs Act or Utah New Market Tax Credit	39346	NEW	07/08/2015	2015-11/105
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R357-11	Technology Commercialization and Innovation Program (TCIP)	39534	NSC	08/17/2015	Not Printed
R357-12	Fiscal Emergency Contingent Management of Federal Lands	38945	NEW	03/20/2015	2014-23/17
R357-14	Electronic Meetings	39510	NEW	09/10/2015	2015-15/13
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R428-1	Health Data Plan and Incorporated Documents	39766	AMD	11/30/2015	2015-20/86
R428-2	Health Data Authority Standards for Health Data	39405	AMD	07/30/2015	2015-11/112
R428-2	Health Data Authority Standards for Health Data	39767	AMD	11/30/2015	2015-20/87
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	39415	AMD	10/01/2015	2015-12/18
R428-12	Health Data Authority Survey of Enrollees in Health Plans	39768	AMD	11/30/2015	2015-20/91
R428-15	Health Data Authority Health Insurance Claims Reporting	39247	NSC	04/07/2015	Not Printed
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R381-60	Hourly Child Care Centers	39130	NEW	05/01/2015	2015-5/16
R381-70	Out of School Time Programs	39129	NEW	05/01/2015	2015-5/25
R381-100	Child Care Centers	39128	NEW	05/01/2015	2015-5/36
Children's Health Insurance Program					
R382-10	Eligibility	39102	AMD	04/01/2015	2015-4/15
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R392-600	Illegal Drug Operations Decontamination Standards	39159	EXD	02/26/2015	2015-6/49
R392-600	Illegal Drug Operations Decontamination Standards	39161	NEW	05/01/2015	2015-6/27
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R386-703	Injury Reporting Rule	39170	AMD	05/15/2015	2015-7/24
R386-703	Injury Reporting Rule	39765	5YR	09/23/2015	2015-20/130
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R434-100	Physician Visa Waivers	39342	5YR	05/04/2015	2015-11/187
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R414-1-5	Incorporations by Reference	39248	AMD	06/01/2015	2015-8/8
R414-1-5	Incorporations by Reference	39460	AMD	09/16/2015	2015-14/70
R414-1-5	Incorporations by Reference	39781	EMR	10/01/2015	2015-20/123
R414-1-5	Incorporations by Reference	39800	AMD	12/01/2015	2015-20/80
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R414-1-12	Utilization Review	39452	AMD	09/22/2015	2015-14/74
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R414-11	Podiatric Services	38952	AMD	01/13/2015	2014-23/22
R414-14A	Hospice Care	39142	AMD	04/07/2015	2015-5/53
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R414-19A	Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility	39264	5YR	04/07/2015	2015-9/84
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R414-38	Personal Care Service	39131	AMD	04/07/2015	2015-5/54
R414-40	Private Duty Nursing Service	39515	5YR	07/16/2015	2015-16/81
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R414-53	Eyeglasses Services	39357	AMD	07/16/2015	2015-11/111
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R414-59	Audiology Services	39516	5YR	07/16/2015	2015-16/81
R414-61-2	Incorporation by Reference	39782	EMR	10/01/2015	2015-20/125
R414-61-2	Incorporation by Reference	39453	AMD	11/02/2015	2015-14/75
R414-61-2	Incorporation by Reference	39793	AMD	11/25/2015	2015-20/84
R414-302-8	Application for Other Possible Benefits	39483	AMD	09/01/2015	2015-14/76
R414-303-6	12-Month Transitional Medicaid	39413	AMD	08/01/2015	2015-12/15
R414-303-8	Foster Care, Former Foster Care Youth and Independent Foster Care Adolescents	39165	AMD	05/08/2015	2015-7/26
R414-304	Income and Budgeting	39484	AMD	09/01/2015	2015-14/77
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R414-307	Eligibility for Home and Community-Based Services Waivers	39629	AMD	11/01/2015	2015-18/70
R414-307-13	Home and Community-Based Services Waiver for Medically Complex Children	39558	AMD	10/01/2015	2015-16/16
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R477-3-1	Job Classification Applicability	39316	AMD	07/01/2015	2015-10/47
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R495-820	Institutional Review Board	39270	NEW	06/18/2015	2015-9/57
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R495-878	Americans With Disabilities Act Grievance Procedures	39325	R&R	06/22/2015	2015-10/68
R495-878	Americans With Disabilities Act Grievance Procedures	39480	AMD	08/25/2015	2015-14/101
R495-883	Children in Care Support Services	39500	5YR	07/06/2015	2015-15/33
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R501-4	Certified Local Inspectors	39333	REP	06/29/2015	2015-10/76
R501-12	Foster Care Services	39358	EMR	05/12/2015	2015-11/178
R501-12	Foster Care Services	39638	EMR	09/04/2015	2015-19/110
R501-12	Foster Care Services	39617	AMD	10/23/2015	2015-18/77
R501-12	Foster Care Services	39888	NSC	11/19/2015	Not Printed
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R510-401	Utah Caregiver Support Program (UCSP)	40002	5YR	12/23/2015	Not Printed
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R512-1	Description of Division Services, Eligibility, and Service Access	39284	AMD	06/15/2015	2015-9/71

R512-2	Title IV-B Child Welfare/Family Preservation and Support Services and Title IV-E Foster Care, Adoption, and Independent Living	39764	AMD	11/23/2015	2015-20/94
R512-11	Accommodation of Moral and Religious Beliefs and Culture	39535	5YR	07/22/2015	2015-16/83
R512-11	Accommodation of Moral and Religious Beliefs and Culture	39625	AMD	10/22/2015	2015-18/87
R512-200	Child Protective Services, Intake Services	39542	AMD	09/22/2015	2015-16/54
R512-201	Child Protective Services, Investigation Services	39626	AMD	10/22/2015	2015-18/88
R512-202	Child Protective Services, General Allegation Categories	39627	AMD	10/22/2015	2015-18/90
R512-203	Child Protective Services, Significant Risk Assessments	39536	5YR	07/22/2015	2015-16/83
R512-300	Out-of-Home Services	39409	AMD	07/22/2015	2015-12/20
R512-308	Out-of-Home Services, Guardianship Services and Placements	39537	5YR	07/22/2015	2015-16/84
R512-500	Kinship Services, Placement and Background Screening	39499	AMD	09/08/2015	2015-15/16
Child Protection Ombudsman (Office of)					
R515-1	Processing Complaints Regarding the Utah Division of Child and Family Services	39478	5YR	06/30/2015	2015-14/143
Juvenile Justice Services					
R547-11	Guidelines for the Transfer to the Department of Corrections of a Youthful Prisoner Provisionally Housed in a Juvenile Justice Services Secure Care Facility	39759	NEW	11/24/2015	2015-20/95
Recovery Services					
R527-34	Non-IV-A Services	39947	5YR	11/16/2015	2015-23/70
R527-35	Non-IV-A Fee Schedule	39948	5YR	11/16/2015	2015-23/70
R527-231	Review and Adjustment of Child Support Order	39908	5YR	11/03/2015	2015-23/71
R527-254	Limitations on Collection of Arrears	39262	NEW	06/09/2015	2015-9/74
R527-800	Acquisition of Real Property, and Medical Support Cooperation Requirements	39949	5YR	11/16/2015	2015-23/71
R527-936	Third Party Liability, Medicaid	39909	5YR	11/03/2015	2015-23/72
Substance Abuse and Mental Health					
R523-1	General Provisions	39860	NEW	12/22/2015	2015-22/67
R523-2	Local Mental Health Authorities and Local Substance Abuse Authorities	39862	NEW	12/22/2015	2015-22/69
R523-2	Adult Peer Support Specialist Training and Certification	39865	REP	12/22/2015	2015-22/75
R523-3	Screening, Assessment, Education and Treatment Standards for Court-referred Youth Under the Age of 21	39863	NEW	12/22/2015	2015-22/77
R523-3	Child/Family Peer Support Specialist Training and Certification	39867	REP	12/22/2015	2015-22/82
R523-4	Local Mental Health Authorities and Local Substance Abuse Authorities	39861	REP	12/22/2015	2015-22/84
R523-4	Screening, Assessment, Prevention, Treatment and Recovery Support Standards for Adults Required to Participate in Services by the Criminal Justice System	39864	NEW	12/22/2015	2015-22/90
R523-5	Adult Peer Support Specialist Training and Certification	39866	NEW	12/22/2015	2015-22/97
R523-5	Certification of Designated Examiners and Case Managers	39869	REP	12/22/2015	2015-22/95
R523-6	Child/Family Peer Support Specialist Training and Certification	39868	NEW	12/22/2015	2015-22/104
R523-6	Medication, Psychosurgery and Electroshock Procedures for Children, Consumer Rights, Due Process, Family Involvement	39871	REP	12/22/2015	2015-22/100
R523-7	Certification of Designated Examiners and Case Managers	39870	NEW	12/22/2015	2015-22/106

R523-8	Evidence-Based Prevention Registry	38917	NEW	01/06/2015	2014-22/33
R523-8	Medication, Psychosurgery and Electroshock Procedures for Children, Consumer Rights, Due Process, Family Involvement	39872	NEW	12/22/2015	2015-22/110
R523-8	Evidence-Based Prevention Registry	39874	REP	12/22/2015	2015-22/109
R523-9	Evidence-Based Prevention Registry	39875	NEW	12/22/2015	2015-22/115
R523-10	Standards for Methadone Addiction Treatment Providers	39877	NEW	12/22/2015	2015-22/116
R523-11	Utah Standards for Approval of Alcohol and Drug Educational Providers and Instructors for Court-Referred DUI Offenders	39880	NEW	12/22/2015	2015-22/118
R523-12	On-Premise Alcohol Training and Education Seminar Rules of Administration	39882	NEW	12/22/2015	2015-22/121
R523-13	Off Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration	39884	NEW	12/22/2015	2015-22/124
R523-14	Suicide Prevention	39885	NEW	12/22/2015	2015-22/127
R523-20	Division Rules of Administration	39873	REP	12/22/2015	2015-22/128
R523-21	Division of Substance Abuse and Mental Health Rules	39876	REP	12/22/2015	2015-22/129
R523-22	Utah Standards for Approval of Alcohol and Drug Educational Providers and Instructors for Court-Referred DUI Offenders	39878	REP	12/22/2015	2015-22/130
R523-23	On-Premise Alcohol Training and Education Seminar Rules of Administration	39881	REP	12/22/2015	2015-22/133
R523-24	Off Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration	39883	REP	12/22/2015	2015-22/136

INSURANCE

Administration

R590-130	Rules Governing Advertisements of Insurance	39651	5YR	09/04/2015	2015-19/117
R590-130-7	Advertisements of Benefits Payable, Losses Covered or Premiums Payable	39029	NSC	01/15/2015	Not Printed
R590-140	Reference Filings of Rate Service Organization Prospective Loss Costs	39147	5YR	02/18/2015	2015-6/46
R590-142	Continuing Education Rule	38934	AMD	01/12/2015	2014-23/25
R590-154	Unfair Marketing Practices Rule	39603	AMD	10/08/2015	2015-17/82
R590-162-3	Scope	39443	AMD	08/26/2015	2015-13/26
R590-164	Uniform Health Billing Rule	39174	5YR	03/10/2015	2015-7/74
R590-173	Credit For Reinsurance	39030	NSC	01/15/2015	Not Printed
R590-194	Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism	39038	NSC	01/15/2015	Not Printed
R590-198-5	General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves	39444	AMD	08/26/2015	2015-13/27
R590-198-5	General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves	39444	CPR	08/26/2015	2015-14/133
R590-199	Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans	39398	5YR	05/15/2015	2015-11/187
R590-205	Privacy of Consumer Information Compliance Deadline	39969	5YR	12/04/2015	2016-1/87
R590-220	Submission of Accident and Health Insurance Filings	39312	AMD	09/23/2015	2015-10/79
R590-220	Submission of Accident and Health Insurance Filings	39312	CPR	09/23/2015	2015-16/68
R590-226-14	Responses	39031	NSC	01/15/2015	Not Printed
R590-231	Workers' Compensation Market of Last Resort	39313	5YR	04/29/2015	2015-10/106
R590-233	Health Benefit Plan Insurance Standards	39970	5YR	12/04/2015	2016-1/88
R590-238	Captive Insurance Companies	39555	AMD	09/25/2015	2015-16/56
R590-244	Individual and Agency Licensing Requirements	38935	AMD	01/12/2015	2014-23/31
R590-246-4	Initial and Renewal Licensing Process	39769	NSC	10/20/2015	Not Printed
R590-256	Health Benefit Plan Internet Portal Solvency Rating	39175	5YR	03/10/2015	2015-7/75
R590-258	Email Address Requirement	39650	5YR	09/04/2015	2015-19/118
R590-260	Utah Defined Contribution Risk Adjuster Plan of Operation	39754	AMD	11/09/2015	2015-19/71

R590-267	Personal Injury Protection Relative Value Study Rule	39904	AMD	01/01/2016	2015-22/139
R590-268	Small Employer Stop-Loss Insurance	39805	AMD	12/09/2015	2015-21/90
R590-269	Individual Open Enrollment Period	39520	AMD	09/23/2015	2015-16/61
R590-271	Data Reporting for Consumer Quality Comparison	39103	NEW	06/22/2015	2015-4/19
R590-271	Data Reporting for Consumer Quality Comparison	39103	CPR	06/22/2015	2015-10/98
Title and Escrow Commission					
R592-1	Title Insurance Licensing	39652	5YR	09/04/2015	2015-19/118
R592-2	Title Insurance Administrative Hearings and Penalty Imposition	39653	5YR	09/04/2015	2015-19/119
R592-2	Title Insurance Administrative Hearings and Penalty Imposition	39801	REP	12/09/2015	2015-20/97
R592-6	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	39412	AMD	08/11/2015	2015-12/23
R592-11	Title Insurance Producer Annual and Controlled Business Reports	39631	AMD	11/02/2015	2015-18/93
R592-15	Submission of a Schedule of Minimum Charges for Escrow Services	39632	AMD	11/02/2015	2015-18/95
JUDICIAL CONDUCT COMMISSION					
Administration					
R595-1	General Provisions	39048	5YR	01/02/2015	2015-3/71
R595-2	Administration	39049	5YR	01/02/2015	2015-3/72
R595-3	Procedure	39050	5YR	01/02/2015	2015-3/72
R595-4	Sanctions	39051	5YR	01/02/2015	2015-3/73
JUDICIAL PERFORMANCE EVALUATION COMMISSION					
Administration					
R597-2	Administration of the Commission	39268	5YR	04/13/2015	2015-9/85
R597-3-2	Survey	39244	AMD	05/27/2015	2015-8/13
R597-3-3	Courtroom Observation	39243	AMD	05/27/2015	2015-8/15
LABOR COMMISSION					
Adjudication					
R602-1-4	Filing of Documents	39567	AMD	10/09/2015	2015-17/85
R602-2-4	Attorney Fees	39380	AMD	07/08/2015	2015-11/117
Antidiscrimination and Labor, Antidiscrimination					
R606-6	Regulation of Practice and Procedure on Employer Reports and Records	39245	5YR	03/30/2015	2015-8/36
Boiler and Elevator Safety					
R616-3-3	Safety Codes for Elevators	39296	AMD	06/22/2015	2015-10/86
R616-4	Coal Mine Safety	39138	5YR	02/12/2015	2015-5/112
Industrial Accidents					
R612-100-4	Designation as Informal Proceedings	39829	AMD	12/08/2015	2015-21/91
R612-200-1	Reporting and Investigating Injuries	39830	AMD	12/08/2015	2015-21/92
R612-300-4	General Method For Computing Medical Fees	39832	AMD	12/08/2015	2015-21/94
R612-300-5	Fees for Specific Procedures	39833	AMD	12/08/2015	2015-21/95
R612-400-1	Policy Reporting by Workers' Compensation Insurance Carriers	39835	AMD	12/08/2015	2015-21/97
R612-400-5	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	39822	AMD	12/08/2015	2015-21/98
Occupational Safety and Health					
R614-1	General Provisions	39855	AMD	12/28/2015	2015-22/141
R614-1-7	Inspections, Citations, and Proposed Penalties	39381	AMD	07/08/2015	2015-11/119

LIEUTENANT GOVERNOR

Elections					
R623-1-4	Registration/License Application Procedure	39457	AMD	08/24/2015	2015-14/103
R623-4	Processing Partisan Candidate Nomination Petitions	39824	NEW	12/08/2015	2015-21/99

MONEY MANAGEMENT COUNCIL

Administration					
R628-4	Bonding of Public Treasurers	39810	5YR	10/05/2015	2015-21/110
R628-11	Maximum Amount of Uninsured Public Funds Allowed to be Held by Any Qualified Depository	39818	5YR	10/09/2015	2015-21/111
R628-12	Certification of Qualified Depositories for Public Funds	39899	EXT	10/30/2015	2015-22/163
R628-13	Collateralization of Public Funds	39900	EXT	10/30/2015	2015-22/163
R628-15	Certification as an Investment Adviser	39347	EXD	05/06/2015	2015-11/191
R628-15	Certification as an Investment Adviser	39348	EMR	05/06/2015	2015-11/180
R628-15	Certification as an Investment Adviser	39396	NEW	07/13/2015	2015-11/126
R628-16	Certification as a Dealer	39901	EXT	10/30/2015	2015-22/163

NATURAL RESOURCES

Forestry, Fire and State Lands					
R652-70	Sovereign Lands	39314	AMD	07/06/2015	2015-10/88
R652-160	Department of Natural Resources Wilderness Rules	38942	NEW	01/27/2015	2014-23/36
Oil, Gas and Mining; Oil and Gas					
R649-3	Drilling and Operating Practices	39028	AMD	02/26/2015	2015-2/95
Parks and Recreation					
R651-101	Adjudicative Proceedings	39139	5YR	02/12/2015	2015-5/112
R651-206	Carrying Passengers for Hire	39624	AMD	10/22/2015	2015-18/99
R651-207	Registration Fee	39006	AMD	02/11/2015	2015-1/25
R651-214	Temporary Registration	38970	AMD	01/22/2015	2014-24/34
R651-223	Vessel Accident Reporting	39090	5YR	01/23/2015	2015-4/38
R651-409	Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race	39140	5YR	02/12/2015	2015-5/113
R651-412	Curriculum Standards for OHV Education Programs Offered by Non-Division Entities	39088	5YR	01/22/2015	2015-4/38
R651-602	Aircraft and Powerless Flight	39497	AMD	08/28/2015	2015-14/105
R651-634	Nonresident OHV User Permits and Fees	39089	5YR	01/22/2015	2015-4/39
R651-635	Commercial Use of Division Managed Park Areas	39141	5YR	02/12/2015	2015-5/113
R651-637	Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt	39814	5YR	10/06/2015	2015-21/111
Water Resources					
R653-2	Financial Assistance from the Board of Water Resources	39799	R&R	11/23/2015	2015-20/99
Water Rights					
R655-14	Administrative Procedures for enforcement Proceedings Before the Division of Water Rights	39153	5YR	02/24/2015	2015-6/47
R655-16	Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights	39152	5YR	02/24/2015	2015-6/47
Wildlife Resources					
R657-3	Collection, Importation, Transportation, and Possession of Animals	39217	AMD	05/08/2015	2015-7/29
R657-3	Collection, Importation, Transportation, and Possession of Animals	39719	AMD	11/10/2015	2015-19/74
R657-5	Taking Big Game	38996	AMD	02/09/2015	2015-1/26

R657-5	Taking Big Game	39062	AMD	03/16/2015	2015-3/30
R657-5	Taking Big Game	39808	5YR	10/05/2015	2015-21/112
R657-6	Taking Upland Game	39431	5YR	06/08/2015	2015-13/63
R657-6	Taking Upland Game	39717	AMD	11/10/2015	2015-19/78
R657-9	Taking Waterfowl, Common Snipe and Coot	39435	AMD	08/07/2015	2015-13/29
R657-9	Taking Waterfowl, Common Snipe and Coot	39718	AMD	11/10/2015	2015-19/79
R657-10	Taking Cougar	39712	AMD	11/10/2015	2015-19/81
R657-11	Taking Furbearers	39509	5YR	07/13/2015	2015-15/34
R657-11	Taking Furbearers	39713	AMD	11/10/2015	2015-19/85
R657-15	Closure of Gunnison, Cub and Hat Islands	39162	5YR	03/03/2015	2015-7/75
R657-17	Lifetime Hunting and Fishing License	39809	5YR	10/05/2015	2015-21/112
R657-19	Taking Nongame Mammals	39215	AMD	05/08/2015	2015-7/33
R657-21	Cooperative Wildlife Management Units for Small Game and Waterfowl	39163	5YR	03/03/2015	2015-7/76
R657-24	Compensation for Mountain Lion, Bear, Wolf or Eagle Damage	39559	5YR	08/03/2015	2015-17/105
R657-33	Taking Bear	39063	AMD	03/16/2015	2015-3/31
R657-38	Dedicated Hunter Program	39064	AMD	03/16/2015	2015-3/39
R657-38	Dedicated Hunter Program	39807	5YR	10/05/2015	2015-21/113
R657-39	Wildlife Board and Regional Advisory Councils	39975	5YR	12/07/2015	2016-1/89
R657-40	Wildlife Rehabilitation	39974	5YR	12/07/2015	2016-1/89
R657-41	Conservation and Sportsman Permits	39065	AMD	03/16/2015	2015-3/40
R657-41	Conservation and Sportsman Permits	39362	AMD	07/09/2015	2015-11/129
R657-41	Conservation and Sportsman Permits	39811	5YR	10/05/2015	2015-21/113
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	39066	AMD	03/16/2015	2015-3/42
R657-43	Landowner Permits	38995	AMD	02/09/2015	2015-1/33
R657-45	Wildlife License, Permit, and Certificate of Registration Forms and Terms	39715	AMD	11/10/2015	2015-19/87
R657-55	Wildlife Convention Permits	39067	AMD	03/16/2015	2015-3/43
R657-55	Wildlife Expo Permits	39345	5YR	05/05/2015	2015-11/188
R657-55	Wildlife Expo Permits	39739	AMD	11/10/2015	2015-19/89
R657-56	Recreational Lease of Private Lands for Free Public Walk-in Access	39806	5YR	10/05/2015	2015-21/114
R657-57	Division Variance Rule	39068	AMD	03/16/2015	2015-3/48
R657-59	Private Fish Ponds	39069	AMD	03/16/2015	2015-3/50
R657-60	Aquatic Invasive Species Interdiction	39714	AMD	11/10/2015	2015-19/93
R657-62	Drawing Application Procedures	39070	AMD	03/16/2015	2015-3/52
R657-63	Self Defense Against Wild Animals	39716	AMD	11/10/2015	2015-19/97
R657-65	Urban Deer Control	39434	AMD	08/07/2015	2015-13/33
R657-68	Trial Hunting Authorization	39071	AMD	03/16/2015	2015-3/54
R657-69	Turkey Depredation	38949	AMD	01/08/2015	2014-23/39
R657-70	Taking Utah Prairie Dogs	39216	NEW	05/08/2015	2015-7/36
R657-70	Taking Utah Prairie Dogs	39436	AMD	08/07/2015	2015-13/36

PARDONS (BOARD OF)

Administration

R671-104	Language Access	39796	NEW	11/30/2015	2015-20/106
R671-201	Original Parole Grant Hearing Schedule and Notice	39093	AMD	03/24/2015	2015-4/20
R671-201	Original Parole Grant Hearing Schedule and Notice	39419	AMD	10/15/2015	2015-13/41
R671-201	Original Parole Grant Hearing Schedule and Notice	39419	CPR	10/15/2015	2015-17/94
R671-204	Hearing Continuances	39544	EMR	07/27/2015	2015-16/77
R671-204	Hearing Continuances	39545	NEW	10/01/2015	2015-16/63
R671-205	Credit for Time Served	39420	AMD	08/11/2015	2015-13/43
R671-205	Credit for Time Served	39547	NSC	08/17/2015	Not Printed
R671-303-1	Information Received, Maintained or Used by the Board	39107	AMD	04/07/2015	2015-5/90
R671-305-1	Board Decisions and Orders	39137	AMD	04/07/2015	2015-5/91
R671-311	Special Attention Hearings and Decisions Reviews	39570	AMD	10/15/2015	2015-17/86
R671-311	Special Attention Reviews, Hearings and Decisions	39722	NSC	11/30/2015	Not Printed
R671-314	Compassionate Release	39606	NEW	10/22/2015	2015-18/107

R671-316	Redetermination	39421	AMD	10/15/2015	2015-13/44
R671-316	Redetermination	39421	CPR	10/15/2015	2015-17/95
R671-403	Restitution	39756	AMD	11/30/2015	2015-20/107
R671-405	Parole Termination	39794	EMR	10/01/2015	2015-20/126
R671-405	Parole Termination	39795	AMD	11/30/2015	2015-20/110

PROFESSIONAL PRACTICES ADVISORY COMMISSION

Administration

R686-100	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	39389	REP	07/08/2015	2015-11/134
R686-100-7	Default Procedures	39221	AMD	05/08/2015	2015-7/42
R686-101	UPPAC Hearing Procedures and Reports	39390	REP	07/08/2015	2015-11/139
R686-101-14	Default	39222	AMD	05/08/2015	2015-7/43
R686-102	Request for Licensure Reinstatement and Reinstatement Procedures	39391	REP	07/08/2015	2015-11/146
R686-103	Utah Professional Practices Advisory Commission Review of Licensure Due to Background Check Offenses	39392	REP	07/08/2015	2015-11/149
R686-104	Alcohol Related Offenses	39393	REP	07/08/2015	2015-11/152
R686-105	Drug Related Offenses	39394	REP	07/08/2015	2015-11/153

PUBLIC SAFETY

Administration

R698-6	Honoring Heroes Restricted Account	39549	5YR	07/29/2015	2015-16/84

Criminal Investigations and Technical Services, 911 Committee (Utah)

R720-1 (Changed to R173-1)	Utah 911 Committee	39022	AMD	05/06/2015	2015-2/98

Criminal Investigations and Technical Services, Criminal Identification

R722-300	Concealed Firearm Permit and Instructor Rule	39359	5YR	05/12/2015	2015-11/188
R722-310	Regulation of Bail Bond Recovery and Enforcement Agents	39057	5YR	01/07/2015	2015-3/73
R722-310	Regulation of Bail Bond Recovery and Enforcement Agents	39889	AMD	12/22/2015	2015-22/148
R722-330	Licensing of Private Investigators	38947	AMD	01/07/2015	2014-23/40
R722-330	Licensing of Private Investigators	39058	5YR	01/07/2015	2015-3/74
R722-330	Licensing of Private Investigators	39410	AMD	07/22/2015	2015-12/27
R722-350	Certificate of Eligibility	39758	5YR	09/17/2015	2015-20/131
R722-360	Certificate of Removal from the Sex Offender and Kidnap Registry	39890	AMD	12/22/2015	2015-22/152
R722-370	Firearm Safety Program	39019	NEW	02/24/2015	2015-2/100
R722-380	Firearm Background Check Information	39091	NEW	03/24/2015	2015-4/22
R722-380	Firearm Background Check Information	39411	AMD	07/22/2015	2015-12/31
R722-390	Certificate of Eligibility for Removal from the Utah White Collar Crime Offender Registry	39891	NEW	12/22/2015	2015-22/153
R722-900	Access to Bureau Records	39892	AMD	12/22/2015	2015-22/155
R722-910	Non-Reportable Traffic Offenses	39893	NEW	12/22/2015	2015-22/159

Driver License

R708-7	Functional Ability in Driving: Guidelines for Physicians	39072	AMD	03/10/2015	2015-3/55
R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	39236	AMD	05/26/2015	2015-8/17
R708-32	Uninsured Motorist Identification Database	39179	5YR	03/10/2015	2015-7/77
R708-36	Disclosure of Personal Identifying Information in MVRs	39178	5YR	03/10/2015	2015-7/77
R708-37	Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests	39180	5YR	03/10/2015	2015-7/78
R708-40	Driving Simulators	39181	5YR	03/10/2015	2015-7/78
R708-41	Requirements for Acceptable Documentation, Storage and Maintenance	39182	5YR	03/10/2015	2015-7/79

R708-50	Vehicle Impound Fee Reimbursement	39003	NEW	02/09/2015	2015-1/38
R708-51	Mobility Vehicle Permit	39043	NEW	02/25/2015	2015-2/97
Emergency Management					
R704-1	Search and Rescue Financial Assistance Program	39783	AMD	12/01/2015	2015-20/112
Fire Marshal					
R710-6	Liquefied Petroleum Gas Rules	39812	5YR	10/05/2015	2015-21/114
R710-10	Rules Pursuant to Fire Service Training, Education, and Certification	39813	5YR	10/05/2015	2015-21/115
Peace Officer Standards and Training					
R728-409	Suspension, Revocation, or Relinquishment of Certification	39738	AMD	11/12/2015	2015-19/98
R728-506	Canine Body Armor Restricted Account	38983	NEW	01/26/2015	2014-24/36
PUBLIC SERVICE COMMISSION					
Administration					
R746-100-3	Pleadings	39234	AMD	05/27/2015	2015-8/19
R746-100-3	Pleadings	39566	AMD	10/08/2015	2015-17/88
R746-100-11	Decisions and Orders	39235	AMD	05/27/2015	2015-8/21
R746-200-7	Termination of Service	39246	AMD	05/27/2015	2015-8/22
R746-312	Electrical Interconnection	39311	5YR	04/29/2015	2015-10/107
R746-341	Lifeline Rule	39851	5YR	10/19/2015	2015-22/161
R746-341-5	Duties of ETCs	38936	AMD	01/07/2015	2014-23/43
R746-360	Universal Public Telecommunications Service Support Fund	39367	AMD	07/08/2015	2015-11/155
R746-407	Annualization of Test-Year Data	39852	5YR	10/19/2015	2015-22/162
R746-510	Funding for Speech and Hearing Impaired Certified Interpreter Training	39568	5YR	08/11/2015	2015-17/105
REGENTS (BOARD OF)					
Administration					
R765-571	Delegation of Purchasing Authority	39010	NEW	04/28/2015	2015-1/39
R765-609	Regents' Scholarship	39157	5YR	02/25/2015	2015-6/48
R765-611	Veterans Tuition Gap Program	39023	NEW	02/25/2015	2015-2/101
R765-649	Utah Higher Education Assistance Authority (UHEAA) Privacy Policy	39605	5YR	08/18/2015	2015-18/135
University of Utah, Commuter Services					
R810-1	University of Utah Parking Regulations	39224	AMD	05/19/2015	2015-7/44
R810-2	Parking Meters	39225	AMD	05/19/2015	2015-7/46
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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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