

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed May 03, 2016, 12:00 a.m. through May 16, 2016, 11:59 p.m.

Number 2016-11
June 01, 2016

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

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <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: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. 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.

Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.

I. Utah. Division of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

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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 May 03, 2016, 12:00 a.m., and May 16, 2016, 11:59 p.m. are included in this, the June 01, 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 Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least July 1, 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 September 29, 2016, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

Commerce, Consumer Protection
R152-15-3
Compensated Employees and
Independent Contractors

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40414

FILED: 05/11/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Certain support, advice, or training activities to compensated employees or independent contractors do not constitute a "sales program" or "marketing program" for purposes of defining an "assisted marketing plan" under the Business Opportunity Disclosure Act (BODA). The purpose of this change is to clarify when such support, advice, or training to employees or independent contractors is not a sales or marketing program.

SUMMARY OF THE RULE OR CHANGE: This change provides clarification of the definition of "assisted marketing plan" under BODA. It explains that certain support, advice, or training to compensated employees and independent contractors, unrelated to sales or marketing, does not constitute a sales or marketing plan.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 13-15-2(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule change is not anticipated to result in individuals or businesses changing their BODA filing status with the Division of Consumer Protection, is not anticipated to result in a reduction of the volume of filing fees, and thus is not anticipated to result in a cost or savings to the Utah state budget. If the rule change were to result in some individuals or businesses choosing not to file with the Division of Consumer Protection, the costs would be low at \$200 per business choosing not to file, would be recouped by decreased administrative costs in managing the filings, and would be absorbed by the Division of Consumer Protection's current budget.

◆ **LOCAL GOVERNMENTS:** BODA and its applicable rules do not regulate local government. Therefore, this change will not result in cost or savings to local government.

◆ **SMALL BUSINESSES:** This rule change is not anticipated to result in individuals or businesses changing their BODA filing status with the Division of Consumer Protection, is not anticipated to result in a reduction of the volume of filing fees, and thus, is not anticipated to result in a cost or savings to

small businesses. If the rule change were to result in some businesses choosing not to file with the Division of Consumer Protection, the savings would be low at \$200 per small business choosing not to file.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not anticipated to result in individuals or businesses changing their BODA filing status with the Division of Consumer Protection, is not anticipated to result in a reduction of the volume of filing fees, and thus, is not anticipated to result in a cost or savings to persons other than small businesses or local government entities. If the rule change were to result in some persons choosing not to file with the Division of Consumer Protection, the savings would be low at \$200 per person choosing not to file.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change is not anticipated to result in individuals or businesses changing their BODA filing status with the Division of Consumer Protection, is not anticipated to result in a reduction of the volume of filing fees, and thus, is not anticipated to result in a cost or savings to any person. If the rule were to result in some persons choosing not to file, the savings would be low at \$200 per person choosing not to file.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change clarifies the Business Opportunity Disclosure Act's definition of an "assisted marketing plan". The new rule excludes from the definition of "assisted marketing plan", support, advice, or training that is unrelated to sales and marketing and that is given by a company to its compensated employees. No fiscal impact to businesses is anticipated.

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

COMMERCE
 CONSUMER PROTECTION
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jacob Hart by phone at 801-530-6636, or by Internet E-mail at jfhart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Daniel O'Bannon, Director

R152. Commerce, Consumer Protection.

R152-15. Business Opportunity Disclosure Act Rules.

R152-15-3. Compensated Employees and Independent Contractors.

(1) As used in Utah Code Section 13-15-2(1)(a)(iv), "sales program" or "marketing program" shall not include support, advice, or training that is:

(a) provided by a business to its compensated employee or independent contractor;

(b) unrelated to sales or marketing; and

(c) regarding work performed for the business providing the support, advice, or training.

KEY: franchises, marketing, consumer protection

Date of Enactment or Last Substantive Amendment: [~~August 13, 2002~~2016]

Notice of Continuation: March 22, 2012

Authorizing, and Implemented or Interpreted Law: 13-15-3; 13-2-5

Commerce, Occupational and Professional Licensing

R156-1

General Rule of the Division of Occupational and Professional Licensing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40412

FILED: 05/10/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to amend the Division's umbrella rule to: 1) implement provisions of legislation from the 2016 General Session to include H.B. 185, H.B. 352, S.B. 30, and S.B. 177; and 2) make technical revisions.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-1-109(4), the proposed amendments establish a process for a final order to be entered by the Division Director when the Director refuses to concur with an order of the Construction Services Commission (S.B. 30, 2016). In Section R156-1-308a, the proposed amendments add renewal dates for 1) barber apprentice, cosmetologist/barber apprentice, esthetician apprentice, and nail technologist apprentice (H.B. 352, 2016); 2) deception detection examination administrator (H.B. 185, 2016); and 3) state-certified commercial interior designer (S.B. 117, 2016).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-1-308 and Subsection 58-1-106(1)(a) and Subsection 58-1-501(2)

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 do not affect or impact local government. Any cost or saving impact of new licensure regulation will be described in separate rule filings implementing the new regulation, which is a result from 2016 General Session statutory amendments.

◆ **SMALL BUSINESSES:** The proposed amendments do not affect or impact small business. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation or will be described in separate rule filings more fully implementing the new regulation or both.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments do not affect or impact other persons. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation or will be described in separate rule filings more fully implementing the new regulation or both.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments do not affect compliance cost or savings for affected persons. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation or will be described in separate rule filings more fully implementing the new regulation or both.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change describes the process when the Division Director refuses to concur with a Construction Services Commission order and sets license renewal dates for certain licensees. No fiscal impact to businesses is anticipated.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ W. Ray Walker by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-1. General Rule of the Division of Occupational and Professional Licensing.

R156-1-109. Presiding Officers.

In accordance with Subsection 63G-4-103(1)(h), Sections 58-1-104, 58-1-106, 58-1-109, 58-1-202, 58-1-203, 58-55-103, and 58-55-201, except as otherwise specified in writing by the [d]Director, or for Title 58, Chapter 55, the Construction Services Commission, the designation of presiding officers is clarified or established as follows:

(1) The Division [r]Regulatory and [e]Compliance [o]Officer is designated as the presiding officer for issuance of notices of agency action and for issuance of notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action, provided that if the Division [r]Regulatory and [e]Compliance [o]Officer is unable to so serve for any reason, a replacement specified by the [d]Director is designated as the alternate presiding officer.

(2) Subsections 58-1-109(2) and 58-1-109(4) are clarified with regard to defaults as follows. Unless otherwise specified in writing by the [d]Director, or with regard to Title 58, Chapter 55, by the Construction Services Commission, [the] a department administrative law judge is designated as the presiding officer for entering an order of default against a party, for conducting any further proceedings necessary to complete the adjudicative proceeding, and for issuing a recommended order to the [d]Director or [e]Commission, respectively, determining the discipline to be imposed, licensure action to be taken, relief to be granted, etc.

(3) Except as provided in Subsection (4) or otherwise specified in writing by the [d]Director, the presiding officer for adjudicative proceedings before the Division are as follows:

(a) Director. The [d]Director shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(b), and R156-46b-201(2)(a) through (c), however resolved, including stipulated settlements and hearings; and

(ii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(g), (i)(j), (l), (m), (o), (p), and (q), and R156-46b-202(2)(a), (b)(ii), (c), and (d), however resolved, including memoranda of understanding and stipulated settlements.

(b) Bureau [m]Managers or [p]Program [e]Coordinators. Except for Title 58, Chapter 55, the bureau manager or program coordinator over the occupation or profession or program involved shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsection R156-46b-201(1)(c), for purposes of determining whether a request for a board of appeal is properly filed as set forth in Subsections R156-15A-210(1) through (4); and

(ii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(a) through (d),(f), (h), (j), (n) and R156-46b-202(2)(b)(iii).

(iii) At the direction of a bureau manager or program coordinator, a licensing technician or program technician may sign

an informal order in the name of the licensing technician or program technician provided the wording of the order has been approved in advance by the bureau manager or program coordinator and provided the caption "FOR THE BUREAU MANAGER" or "FOR THE PROGRAM COORDINATOR" immediately precedes the licensing technician's or program technician's signature.

(c) Citation Hearing Officer. The Division [r]Regulatory and [e]Compliance [o]Officer or other citation hearing officer designated in writing by the [d]Director shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1)(k).

(d) Uniform Building Code Commission. The Uniform Building Code Commission shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1) (e) for convening a board of appeal under Subsection 15A-1-207(3), for serving as fact finder at any evidentiary hearing associated with a board of appeal, and for entering the final order associated with a board of appeal. An administrative law judge shall perform the role specified in Subsection 58-1-109(2).

(e) Residence Lien Recovery Fund Advisory Board. The Residence Lien Recovery Fund Advisory Board shall be the presiding officer to serve as the factfinder for formal adjudicative proceedings involving the Residence Lien Recovery Fund.

(4) Unless otherwise specified in writing by the Construction Services Commission, the presiding officers and process for adjudicative proceedings under Title 58, Chapter 55, are established or clarified as follows:

(a) Commission.

(i) The Construction Services [e]Commission shall be the presiding officer for all adjudicative proceedings under Title 58, Chapter 55, except as otherwise delegated by the [e]Commission in writing or as otherwise provided in this rule; provided, however, that all orders adopted by the [e]Commission as a presiding officer shall require the concurrence of the [d]Director.

(ii) Unless otherwise specified in writing by the Construction Services [e]Commission, the [e]Commission is designated as the presiding officer:

(A) for informal adjudicative proceedings described in Subsections R156-46b-202(1)(l), (m), (o), (p), and (q), and R156-46b-202(2)(b)(i), (c), and (d), however resolved, including memoranda of understanding and stipulated settlements;

(B) to serve as fact finder and adopt orders in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed under Title 58, Chapter 55; and

(C) to review recommended orders of a board, an administrative law judge, or other designated presiding officer who acted as the fact finder in an evidentiary hearing involving a person licensed or required to be licensed under Title 58, Chapter 55, and to adopt an order of its own. In adopting its order, the [e]Commission may accept, modify or reject the recommended order.

(iii) If the Construction Services [e]Commission is unable for any reason to act as the presiding officer as specified, it shall designate another presiding officer in writing to so act.

(iv) Orders of the Construction Services [e]Commission shall address all issues before the [e]Commission and shall be based upon the record developed in an adjudicative proceeding conducted by the [e]Commission. In cases in which the [e]Commission has

designated another presiding officer to conduct an adjudicative proceeding and submit a recommended order, the record to be reviewed by the [e]Commission shall consist of the findings of fact, conclusions of law, and recommended order submitted to the [e]Commission by the presiding officer based upon the evidence presented in the adjudicative proceeding before the presiding officer.

(v) The Construction Services [e]Commission or its designee shall submit adopted orders to the director for the [d]Director's concurrence or rejection within 30 days after it receives a recommended order or adopts an order, whichever is earlier. An adopted order shall be deemed issued and constitute a final order upon the concurrence of the [d]Director.

(vi) ~~In accordance with Subsection 58-55-103(10), [H]if the [d]Director or [his]the Director's designee refuses to concur in an adopted order of the Construction Services [e]Commission or its designee, the [d]Director or [his]the Director's designee shall return the order to the [e]Commission or its designee with the reasons set forth in writing for [the nonconcurrence therein]refusing to concur. The [e]Commission or its designee shall reconsider and resubmit an adopted order, whether or not modified, within 30 days of the date of the initial or subsequent return[; provided that unless the director or his designee and the commission or its designee agree to an extension, any final order must be issued]. The Director or the Director's designee shall consider the Commission's resubmission of an adopted order and either concur rendering the order final, or refuse to concur and issue a final order, within 90 days of the date of the initial recommended order[; or the adjudicative proceeding shall be dismissed].~~ Provided the time frames in this subsection are followed, this subsection shall not preclude an informal resolution such as an executive session of the [e]Commission or its designee and the [d]Director or [his]the Director's designee to resolve the reasons for the [d]Director's refusal to concur in an adopted order.

(vii) The record of the adjudicative proceeding shall include recommended orders, adopted orders, refusals to concur in adopted orders, and final orders.

(viii) The final order issued by the Construction Services [e]Commission and concurred in by the [d]Director or the Director's designee, or nonconcurred in by the Director or the Director's Designee, and issued by the Director or the Director's designee, may be appealed by filing a request for agency review with the [e]Executive [d]Director or [his]the Director's designee within the [d]Department.

(ix) The content of all orders shall comply with the requirements of Subsection 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

(b) Director. The [d]Director or the Director's designee is designated as the presiding officer for the concurrence role, except where the Director or the Director's designee refuses to concur and issues the final order as provided by Subsection (a), on disciplinary proceedings under Subsections R156-46b-202(2)(b)(i), (c), and (d) as required by Subsection 58-55-103(1)(b)(iv).

(c) Administrative Law Judge. Unless otherwise specified in writing by the Construction Services [e]Commission, [the]a [d]Department administrative law judge is designated as the presiding officer to conduct formal adjudicative proceedings before the [e]Commission and its advisory boards, as specified in Subsection 58-1-109(2).

(d) Bureau Manager. Unless otherwise specified in writing by the Construction Services [e]Commission, the responsible bureau manager is designated as the presiding officer for conducting informal adjudicative proceedings specified in Subsections R156-46b-202(1)(a) through (d),(h), and (n).

(e) At the direction of a bureau manager, a licensing technician may sign an informal order in the name of the licensing technician provided the wording of the order has been approved in advance by the bureau manager and provided the caption "FOR THE BUREAU MANAGER" immediately precedes the licensing technician's signature.

(f) Plumbers Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Plumbers Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services [e]Commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as plumbers.

(g) Electricians Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Electricians Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services [e]Commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as electricians.

(h) Alarm System Security and Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the [e]Commission, the Alarm System Security and Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services [e]Commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as alarm companies or agents.

R156-1-308a. Renewal Dates.

(1) The following standard two-year renewal cycle renewal dates are established by license classification in accordance with the Subsection 58-1-308(1):

Acupuncturist	May 31	even years
Advanced Practice Registered Nurse	January 31	even years
Advanced Practice Registered Nurse-CRNA	January 31	even years
Architect	May 31	even years
Athlete Agent	September 30	even years
Athletic Trainer	May 31	odd years
Audiologist	May 31	odd years
Barber	September 30	odd years
<u>Barber Apprentice</u>	September 30	odd years
Barber School	September 30	odd years
Behavior Analyst and Assistant Behavior Analyst	September 30	even years
Behavior Specialist and Assistant Behavior Specialist	September 30	even years
Building Inspector	November 30	odd years
Burglar Alarm Security	March 31	odd years
C.P.A. Firm	September 30	even years
Certified Court Reporter	May 31	even years
Certified Dietitian	September 30	even years

Certified Medical Language Interpreter	March 31	odd years	Pharmacy Class A-B-C-D-E, Online Contract Pharmacy	September 30	odd years
Certified Nurse Midwife	January 31	even years	Pharmacist	September 30	odd years
Certified Public Accountant	September 30	even years	Pharmacy Technician	September 30	odd years
Certified Social Worker	September 30	even years	Physical Therapist	May 31	odd years
Chiropractic Physician	May 31	even years	Physical Therapist Assistant	May 31	odd years
Clinical Mental Health Counselor	September 30	even years	Physician Assistant	May 31	even years
Clinical Social Worker	September 30	even years	Physician and Surgeon, Online Prescriber	January 31	even years
Construction Trades Instructor	November 30	odd years	Plumber		
Contractor	November 30	odd years	Apprentice, Journeyman, Master, Residential Master, Residential Journeyman	November 30	even years
Controlled Substance License	Attached to primary license renewal		Podiatric Physician	September 30	even years
Controlled Substance Precursor	May 31	odd years	Pre Need Funeral Arrangement		
Controlled Substance Handler	September 30	odd years	Sales Agent	May 31	even years
Cosmetologist/Barber	September 30	odd years	Private Probation Provider	May 31	odd years
<u>Cosmetologist/Barber Apprentice</u>	<u>September 30</u>	<u>odd years</u>	Professional Engineer	March 31	odd years
Cosmetology/Barber School	September 30	odd years	Professional Geologist	March 31	odd years
Deception Detection	November 30	even years	Professional Land Surveyor	March 31	odd years
<u>Deception Detection Examiner,</u>			Professional Structural Engineer	March 31	odd years
<u>Deception Detection Intern,</u>			Psychologist	September 30	even years
<u>Deception Detection Administrator</u>			Radiologic Technologist, Radiology Practical Technician Radiologist Assistant	May 31	odd years
Dental Hygienist	May 31	even years	Recreational Therapy		
Dentist	May 31	even years	Therapeutic Recreation Technician, Therapeutic Recreation Specialist, Master Therapeutic Recreation Specialist	May 31	odd years
Direct-entry Midwife	September 30	odd years	Registered Nurse	January 31	odd years
Dispensing Medical Practitioner			Respiratory Care Practitioner	September 30	even years
Advanced Practice Registered Nurse, Optometrist, Osteopathic Physician and Surgeon, Physician and Surgeon, Physician Assistant	September 30	odd years	Security Personnel	November 30	even years
Dispensing Medical Practitioner			Social Service Worker	September 30	even years
Clinic Pharmacy	September 30	odd years	Speech-Language Pathologist	May 31	odd years
Electrician			<u>State Certified Commercial</u> <u>Interior Designer</u>	March 31	odd years
Apprentice, Journeyman, Master, Residential Journeyman, Residential Master	November 30	even years	Veterinarian	September 30	even years
Electrologist	September 30	odd years	Vocational Rehabilitation Counselor	March 31	odd years
Electrology School	September 30	odd years			
Elevator Mechanic	November 30	even years			
Environmental Health Scientist	May 31	odd years			
Esthetician	September 30	odd years			
<u>Esthetician Apprentice</u>	<u>September 30</u>	<u>odd years</u>			
Esthetics School	September 30	odd years			
Factory Built Housing Dealer	September 30	even years			
Funeral Service Director	May 31	even years			
Funeral Service Establishment	May 31	even years			
Genetic Counselor	September 30	even years			
Health Facility Administrator	May 31	odd years			
Hearing Instrument Specialist	September 30	even years			
Internet Facilitator	September 30	odd years			
Landscape Architect	May 31	even years			
Licensed Advanced Substance Use Disorder Counselor	May 31	odd years			
Licensed Practical Nurse	January 31	even years			
Licensed Substance Use Disorder Counselor	May 31	odd years			
Marriage and Family Therapist	September 30	even years			
Massage Apprentice	May 31	odd years			
Massage Therapist	May 31	odd years			
Master Esthetician	September 30	odd years			
<u>Master Esthetician Apprentice</u>	<u>September 30</u>	<u>odd years</u>			
Medication Aide Certified	March 31	odd years			
Music Therapist	March 31	odd years			
Nail Technologist	September 30	odd years			
<u>Nail Technologist Apprentice</u>	<u>September 30</u>	<u>odd years</u>			
Nail Technology School	September 30	odd years			
Naturopath/Naturopathic Physician	May 31	even years			
Occupational Therapist	May 31	odd years			
Occupational Therapy Assistant	May 31	odd years			
Optometrist	September 30	even years			
Osteopathic Physician and Surgeon, Online Prescriber	May 31	even years			
Outfitter/Hunting Guide	May 31	even years			

(2) The following non-standard renewal terms and renewal or extension cycles are established by license classification in accordance with Subsection 58-1-308(1) and in accordance with specific requirements of the license:

(a) Associate Clinical Mental Health Counselor licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(b) Associate Marriage and Family Therapist licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(c) Certified Advanced Substance Use Disorder Counselor licenses shall be issued for a period of four years and may be extended if the licensee presents satisfactory evidence to the Division and Board that reasonable progress is being made toward completing the required hours of supervised experience necessary for the next level of licensure.

(d) Certified Advanced Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

(e) Certified Substance Use Disorder Counselor licenses shall be issued for a period of two years and may be extended if the licensee presents satisfactory evidence to the Division and Board that reasonable progress is being made toward completing the required hours of supervised experience necessary for the next level of licensure.

(f) Certified Social Worker Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

(g) Certified Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed, whichever occurs first.

(h) Funeral Service [Apprentice]Intern licenses shall be issued for a two year term and may be extended for an additional two year term if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(i) Hearing Instrument Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward passing the qualifying examination, but a circumstance arose beyond the control of the licensee, to prevent the completion of the examination process.

(j) Pharmacy technician trainee licenses shall be issued for a period of two years and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward completing the requirements necessary for the next level of licensure.

(k) Psychology Resident licenses shall be issued for a two year term and may be extended if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(l) Type I Foreign Trained Physician-Educator licenses will be issued initially for a one-year term and thereafter renewed every two years following issuance.

(m) Type II Foreign Trained Physician-Educator licenses will be issued initially for an annual basis and thereafter renewed annually up to four times following issuance if the licensee continues to satisfy the requirements described in Subsection 58-67-302.7(3) and completes the required continuing education requirements established under Section 58-67-303.

KEY: diversion programs, licensing, supervision, evidentiary restrictions

Date of Enactment or Last Substantive Amendment: [~~October 22, 2015~~2016]

Notice of Continuation: January 5, 2012

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(2)

**Commerce, Occupational and
Professional Licensing
R156-17b-614a
Operating Standards - General
Operating Standards, Class A and B
Pharmacy**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40407

FILED: 05/10/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division found a subsection that was not included in the filing that affected this section in DAR No. 40218, which was just made effective on 04/21/2016.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-17b-614a(3)(f)(viii), the following is added: "name of the compounder who approved the preparation".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-17b-101 and Section 58-37-1 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-17b-601(1)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 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 amendment does not apply to local governments. The proposed amendment only applies to licensed Class A and B pharmacies.

♦ **SMALL BUSINESSES:** The proposed amendment will apply only to licensed Class A and B pharmacies which may qualify as "small businesses". The Division does not anticipate any additional costs or savings to the regulated license classifications as a result of this proposed rule amendment beyond those that were identified in the earlier filing under DAR No. 40218.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment will apply only to licensed Class A and B pharmacies. The Division does not anticipate any additional costs or savings to the regulated license classifications as a result of this proposed rule amendment beyond those that were identified in the earlier filing under DAR No. 40218.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment will apply only to licensed Class A and B pharmacies. The Division does not anticipate any

additional costs or savings to the regulated license classifications as a result of this proposed rule amendment beyond those that were identified in the earlier filing under DAR No. 40218.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change corrects an omission that occurred when this rule was amended on 04/21/2016. That amendment left out a phrase, which is now being added to the rule. No fiscal impact to businesses is anticipated by this rule change.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-17b. Pharmacy Practice Act Rule.

R156-17b-614a. Operating Standards - General Operating Standards, Class A and B Pharmacy.

(1) In accordance with Subsection 58-17b-601(1), the following operating standards apply to all Class A and Class B pharmacies, which may be supplemented by additional standards defined in this rule applicable to specific types of Class A and B pharmacies. The general operating standards include:

(a) shall be well lighted, well ventilated, clean and sanitary;

(b) if transferring a drug from a manufacturer's or distributor's original container to another container, the dispensing area, if any, shall have a sink with hot and cold culinary water separate and apart from any restroom facilities. This does not apply to clean rooms where sterile products are prepared. Clean rooms should not have sinks or floor drains that expose the area to an open sewer. All required equipment shall be clean and in good operating condition;

(c) be equipped to permit the orderly storage of prescription drugs and durable medical equipment in a manner to permit clear identification, separation and easy retrieval of products and an environment necessary to maintain the integrity of the product inventory;

(d) be equipped to permit practice within the standards and ethics of the profession as dictated by the usual and ordinary scope of practice to be conducted within that facility;

(e) be stocked with the quality and quantity of product necessary for the facility to meet its scope of practice in a manner consistent with the public health, safety and welfare; and

(f) if dispensing controlled substances, be equipped with a security system to:

(i) permit detection of entry at all times when the facility is closed; and

(ii) provide notice of unauthorized entry to an individual; and

(g) be equipped with a lock on any entrances to the facility where drugs are stored.

(2) The temperature of the pharmacy shall be maintained within a range compatible with the proper storage of drugs. If a refrigerator or freezer is necessary to properly store drugs at the pharmacy, the pharmacy shall keep a daily written or electronic log of the temperature of the refrigerator or freezer on days of operation. The pharmacy shall retain each log entry for at least three years.

(3) Facilities engaged in simple, moderate or complex non-sterile or any level of sterile compounding activities shall be required to maintain proper records and procedure manuals and establish quality control measures to ensure stability, equivalency where applicable and sterility. The following requirements shall be met:

(a) Facilities shall follow USP-NF Chapter 795, compounding of non-sterile preparations, and USP-NF Chapter 797 if compounding sterile preparations.

(b) Facilities may compound in anticipation of receiving prescriptions in limited amounts.

(c) Bulk active ingredients shall:

(i) be procured from a facility registered with the federal Food and Drug Administration; and

(ii) not be listed on the federal Food and Drug Administration list of drug products withdrawn or removed from the market for reasons of safety or effectiveness.

(d) All facilities that dispense prescriptions must comply with the record keeping requirements of their State Boards of Pharmacy. When a facility compounds a preparation according to the manufacturer's labeling instructions, then further documentation is not required. All other compounded preparations require further documentation as described in this section.

(e) A master formulation record shall be approved by a pharmacist or DMP for each batch of sterile or non-sterile pharmaceuticals to be prepared. Once approved, a duplicate of the master formulation record shall be used as the compounding record from which each batch is prepared and on which all documentation for that batch occurs. The master formulation record may be stored electronically and shall contain at a minimum:

(i) official or assigned name;

(ii) strength;

(iii) dosage form of the preparation;

(iv) calculations needed to determine and verify quantities of components and doses of active pharmaceutical ingredients;

(v) description of all ingredients and their quantities;

(vi) compatibility and stability information, including references when available;

(vii) equipment needed to prepare the preparation;

(viii) mixing instructions, which shall include:

(A) order of mixing;

(B) mixing temperatures or other environmental controls;

(C) duration of mixing; and

(D) other factors pertinent to the replication of the preparation as compounded;

(ix) sample labeling information, which shall contain, in addition to legally required information:

(A) generic name and quantity or concentration of each active ingredient;

(B) assigned beyond use date;

(C) storage conditions; and

(D) prescription or control number, whichever is applicable;

(x) container used in dispensing;

(xi) packaging and storage requirements;

(xii) description of final preparation; and

(xiii) quality control procedures and expected results.

(f) A compounding record for each batch of sterile or non-sterile pharmaceuticals shall document the following:

(i) official or assigned name;

(ii) strength and dosage of the preparation;

(iii) Master Formulation Record reference for the preparation;

(iv) names and quantities of all components;

(v) sources, lot numbers, and expiration dates of components;

(vi) total quantity compounded;

(vii) name of the person who prepared the preparation;

(viii) name of the compounder who approved the preparation;

(ix) name of the person who performed the quality control procedures;

(x) date of preparation;

(xi) assigned control, if for anticipation of use or prescription number, if patient specific, whichever is applicable;

(xii) duplicate label as described in the Master Formulation Record means the sample labeling information that is dispensed on the final product given to the patient and shall at minimum contain:

(A) active ingredients;

(B) beyond-use-date;

(C) storage conditions; and

(D) lot number;

(xiv) proof of the duplicate labeling information, which proof shall:

(A) be kept at the pharmacy;

(B) be immediately retrievable;

(C) include an audit trail for any altered form; and

(D) be reproduced in:

(I) the original format that was dispensed;

(II) an electronic format; or

(III) a scanned electronic version;

(xvii) description of final preparation;

(xviii) results of quality control procedures (e.g. weight range of filled capsules, pH of aqueous liquids); and

(xix) documentation of any quality control issues and any adverse reactions or preparation problems reported by the patient or caregiver.

(g) The label of each batch prepared of sterile or non-sterile pharmaceuticals shall bear at a minimum:

(i) the unique lot number assigned to the batch;

(ii) all active solution and ingredient names, amounts, strengths and concentrations, when applicable;

(iii) quantity;

(iv) beyond use date and time, when applicable;

(v) appropriate ancillary instructions, such as storage instructions or cautionary statements, including cytotoxic warning labels where appropriate; and

(vi) device-specific instructions, where appropriate.

(h) All prescription labels for compounded sterile and non-sterile medications when dispensed to the ultimate user or agent shall bear at a minimum in addition to what is required in Section 58-17b-602 the following:

(i) generic name and quantity or concentration of each active ingredient. In the instance of a sterile preparation for parenteral use, labeling shall include the name and base solution for infusion preparation;

(ii) assigned compounding record or lot number; and

(iii) "this is a compounded preparation" or similar language.

(i) The beyond use date assigned shall be based on currently available drug stability information and sterility considerations or appropriate in-house or contract service stability testing;

(i) sources of drug stability information shall include the following:

(A) references can be found in Trissel's "Handbook on Injectable Drugs", 17th Edition, October 31, 2012;

(B) manufacturer recommendations; and

(C) reliable, published research;

(ii) when interpreting published drug stability information, the pharmacist or DMP shall consider all aspects of the final sterile product being prepared such as drug reservoir, drug concentration and storage conditions; and

(iii) methods for establishing beyond use dates shall be documented; and

(j) There shall be a documented, ongoing quality control program that monitors and evaluates personnel performance, equipment and facilities that follows the USP-NF Chapters 795 and 797 standards.

(4) The facility shall have current and retrievable editions of the following reference publications in print or electronic format and readily available and retrievable to facility personnel:

(a) Title 58, Chapter 1, Division of Occupational and Professional Licensing Act;

(b) R156-1, General Rule of the Division of Occupational and Professional Licensing;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) R156-17b, Utah Pharmacy Practice Act Rule;

(e) Title 58, Chapter 37, Utah Controlled Substances Act;

(f) R156-37, Utah Controlled Substances Act Rule;

(g) Title 58, Chapter 37f, Controlled Substance Database Act;

(h) R156-37f, Controlled Substance Database Act Rule;

(i) Code of Federal Regulations (CFR) 21, Food and Drugs, Part 1300 to end or equivalent such as the USP DI Drug Reference Guides;

(j) current FDA Approved Drug Products (orange book); and

(k) any other general drug references necessary to permit practice dictated by the usual and ordinary scope of practice to be conducted within that facility.

(5) The facility shall maintain a current list of licensed employees involved in the practice of pharmacy at the facility. The list shall include individual licensee names, license classifications, license numbers, and license expiration dates. The list shall be readily retrievable for inspection by the Division and may be maintained in paper or electronic form.

(6) Facilities shall have a counseling area to allow for confidential patient counseling, where applicable.

(7) A pharmacy shall not dispense a prescription drug or device to a patient unless a pharmacist or DMP is physically present and immediately available in the facility.

(8) Only a licensed Utah pharmacist, DMP or authorized pharmacy personnel shall have access to the pharmacy when the pharmacy is closed.

(9) The facility or parent company shall maintain a record for not less than 5 years of the initials or identification codes that identify each dispensing pharmacist or DMP by name. The initials or identification code shall be unique to ensure that each pharmacist or DMP can be identified; therefore identical initials or identification codes shall not be used.

(10) The pharmacy facility shall maintain copy 3 of DEA order form (Form 222) that has been properly dated, initialed and filed and all copies of each unaccepted or defective order form and any attached statements or other documents.

(11) If applicable, a hard copy of the power of attorney authorizing a pharmacist, DMP, or DMP designee to sign DEA order forms (Form 222) shall be available to the Division whenever necessary.

(12) A pharmacist, DMP or other responsible individual shall verify that controlled substances are listed on the suppliers' invoices and were actually received by clearly recording their initials and the actual date of receipt of the controlled substances.

(13) The pharmacy facility shall maintain a record of suppliers' credit memos for controlled substances.

(14) A copy of inventories required under Section R156-17b-605 shall be made available to the Division when requested.

(15) The pharmacy facility shall maintain hard copy reports of surrender or destruction of controlled substances and legend drugs submitted to appropriate state or federal agencies.

(16) If the pharmacy does not store drugs in a locked cabinet and has a drop/false ceiling, the pharmacy's perimeter walls shall extend to the hard deck, or other measures shall be taken to prevent unauthorized entry into the pharmacy.

KEY: pharmacists, licensing, pharmacies

Date of Enactment or Last Substantive Amendment: [April 21, 2016]

Notice of Continuation: January 5, 2015

Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing **R156-86** State Certification of Commercial Interior Designers Act Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40411

FILED: 05/10/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2016 General Session of the Legislature, S.B. 117 passed, which created Title 58, Chapter 86, the "State Certification of Commercial Interior Designers Act". This proposed rule implements the referenced legislation.

SUMMARY OF THE RULE OR CHANGE: Section R156-86-101 establishes a title for this rule. Section R156-86-102 defines terms used within the respective act or rule. Section R156-86-103 references the authority of the Division to administer Title 58, Chapter 86, and rules adopted under Title 58. Section R156-86-104 establishes the relationship of this rule to Rule R156-1. Section R156-86-202 establishes the exam requirements for state certification of commercial interior designers. Section R156-86-203 establishes the renewal cycle and procedures for state certification of commercial interior designers. Section R156-86-204 further defines continuing education requirements for state certification of commercial interior designers. Section R156-86-301 establishes unprofessional conduct.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-86-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds American Society of Interior Designers (ASID) Code of Ethics and Professional Conduct, published by American Society of Interior Designers, December 2013

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 implement state certification requirements established by S.B. 117 (2016). There are no additional costs imposed upon local governments by the proposed rule amendments. The requirements of S.B. 117 may result in additional costs for any local government agency that enlists the services of a

state certified commercial interior designer. However, these costs cannot be quantified by the Division.

♦ **SMALL BUSINESSES:** The proposed rule amendments implement state certification requirements established by S.B. 117 (2016). There are no additional costs or savings imposed upon small business by the proposed rule amendments. The requirements of S.B. 117 upon small business are described below. S.B. 117 applies to those required to be licensed as state certified commercial interior designers. State-certified commercial interior designers may seek to establish their own firms, many of which may be small businesses. Current architectural and engineering firms engaging in the practice of commercial interior design, some of which may be small businesses, may experience a potential loss in commercial interior design work or a downsize in subordinate design staff as commercial interior design work previously done by these firms may now be performed by state-certified commercial interior designers, independent of a licensed architect or engineer. Due to copious variables, the related costs for current firms and future small businesses may increase, remain neutral, or decrease. However, the Division is not able to quantify these costs.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed rule amendments implement state certification requirements established by S.B. 117 (2016). There are no additional costs or savings imposed upon other persons by these proposed amendments. The requirements of S.B. 117 upon other persons are described below. State-certified commercial interior designers may seek to establish their own firms, as commercial interior design work previously done by architectural and engineering firms may now be performed by state-certified commercial interior designers, independent of a licensed architect or engineer. Current architectural and engineering firms engaging in the practice of commercial interior design may experience a potential loss in commercial interior design work or a downsize in subordinate design staff as commercial interior design work previously done by these firms may now be performed by state-certified commercial interior designers, independent of a licensed architect or engineer. The Division is not able to quantify these potential costs. The training required for unlicensed employees, subordinates, associates, or drafters to engage in practice of commercial interior design may be less for those working under the supervision of a state-certified commercial interior designer, as their scope of practice is limited. However, as the practice of commercial interior design is distinct, perhaps even specialized, they may require more training in their area of expertise. As such, the training required for and the remuneration provided to those engaged in such practice may vary. This cost or savings will have a corresponding impact upon employers and clients. The Division is not able to quantify these costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments implement state certification requirements established by S.B. 117 (2016). There are no additional costs or savings imposed upon affected persons by

this rule. The requirements of S.B. 117 upon affected persons are described below. The proposed rule amendments will result in an increase of costs for those applicants seeking state certification as a commercial interior designer. Associated costs include an application fee of \$70, a renewal fee of \$40, a continuing education on average of \$15 to \$30 per continuing education (CE) credit, National Council for Interior Design Qualification (NCIDQ) exam-related fees ranging from \$50 to \$450, and any prerequisite education required to apply for the NCIDQ exams, the cost of which cannot be quantified by the Division.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change corresponds with recently-passed legislation, which made commercial interior designers an occupation now licensed by the Division. This new rule defines terms, references statutory authority for the rule, establishes exam requirements, establishes the renewal cycle and procedures for state certification, defines the continuing education requirements, and describes unprofessional conduct. No fiscal impact to businesses is anticipated by this rule change. Some businesses will be fiscally impacted by the change in state law. But the definitions, procedures, and requirements of this rule will not fiscally impact businesses beyond that of the state law change.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steve Duncombe by phone at 801-530-6235, by FAX at 801-530-6511, or by Internet E-mail at sduncombe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-86. State Certification of Commercial Interior Designers Act Rule.

R156-86-101. Title.

This rule is known as the "State Certification of Commercial Interior Designers Act Rule."

R156-86-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 86, as used in Title 58, Chapters 1 and 86, or this rule:

(1) "ASID" means the American Society of Interior Design.

(2) "IDCEC" means the Interior Design Continuing Education Council.

(3) "NCIDQ" means the National Council for Interior Design Qualification.

(4) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 86, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-86-301.

R156-86-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) and Section 58-86-103 to enable the Division to administer Title 58, Chapter 86.

R156-86-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-86-202. Qualifications for State Certification - Exam Requirement.

In accordance with Subsection 58-86-202(3)(b), the exam requirement for certification under this title is passing all sections of the NCIDQ examination established by the Council for Interior Design Qualification.

R156-86-203. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to certified registrants under Title 58, Chapter 86 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-86-204. Continuing Education for Commercial Interior Designers.

In accordance with Section 58-86-204, continuing education shall be:

(1) limited to continuing education courses offered by IDCEC; and

(2) designated by IDCEC as "Health, Safety, Welfare" courses.

R156-86-301. Unprofessional Conduct.

"Unprofessional conduct" includes failing to conform to the generally accepted and recognized standards of the profession including those established in the December 2013 edition of the "ASID Code of Ethics and Professional Conduct", which is hereby incorporated by reference.

KEY: licensing, commercial interior designers

Date of Enactment or Last Substantive Amendment: 2016

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-86-101

Education, Administration
R277-216
 Surrender of License with UPPAC
 Investigation Pending

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40430

FILED: 05/16/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule provides procedures for an educator to surrender the educator's license permanently rather than participate in the Utah Professional Practices Advisory Commission (UPPAC)'s investigatory process for allegations of misconduct. The rule provides procedures for an educator to submit a petition to UPPAC for submission to the Board to request surrender of the educator's license instead of proceeding with a UPPAC investigation.

SUMMARY OF THE RULE OR CHANGE: This new Rule R277-216 provides procedures for an educator to submit a petition requesting voluntary surrender of the educator's license to UPPAC for submission to the Board with UPPAC investigation pending; provides reporting requirements upon an educator's surrender of the educator's license; and implications to the educator's voluntarily surrender of the educator's license.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This new Rule R277-216 provides procedures for an educator to surrender the educator's license with a UPPAC investigation pending, which may result in a savings to the state budget because investigative resources would not need to be spent on uncontested matters. Any savings are too speculative to determine at this time.

♦ **LOCAL GOVERNMENTS:** This new Rule R277-216 provides procedures for an educator to surrender the educator's license with a UPPAC investigation pending, which likely will not result in a cost or savings to local government.

♦ **SMALL BUSINESSES:** This new Rule R277-216 provides procedures for an educator to surrender the educator's license with a UPPAC investigation pending, which likely will not result in a cost or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This new Rule R277-216 provides procedures for an educator to surrender the educator's license with a UPPAC investigation pending, which likely will not result in a cost or

savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This new Rule R277-216 provides procedures for an educator to surrender the educator's license with a UPPAC investigation pending, which likely will not result in any compliance costs for affected persons.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

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

R277. Education, Administration.
R277-216. Surrender of License with UPPAC Investigation Pending.

R277-216-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures; and
 - (c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish procedures for Board consideration of an educator request to surrender a license in the face of a UPPAC investigation.

(3) The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

R277-216-2. Petition to Surrender.

(1) An educator may surrender an educator license prior to the resolution of a UPPAC investigation.

(2) An educator who requests to surrender an educator license under Subsection (1), shall submit a petition or stipulated agreement to UPPAC for submission to the Board, which shall include:

(a) a brief statement of the procedural history of the investigation leading up to the voluntary surrender;

(b) a statement that the educator is entitled to due process in UPPAC's investigation and that the educator freely and voluntarily waives the educator's due process rights, including:

- (i) a right to a hearing;
- (ii) a right to confront and cross examine witnesses;
- (iii) a right to present witnesses;
- (iv) a right to an impartial decision based upon evidence presented at the hearing; and

(v) a right to subpoena witnesses; and
(c) a statement that the educator surrenders the educator's license freely and voluntarily and without coercion or duress;

(d) a statement that the educator:
(i) is represented by counsel; or

(ii) understands the educator's right to be represented by counsel and knowingly and voluntarily waives the assistance of counsel in UPPAC's investigation;

(e) a statement that the educator is fully aware of the implications of surrendering the educator's license with an investigation pending, including:

(i) that the educator may not work, consult, or volunteer in any K-12 public school in the state of Utah in any capacity;

(ii) that the educator is not eligible for a reinstatement hearing at any time;

(iii) that UPPAC files and case resolution are subject to public disclosure in accordance with state and federal law;

(iv) that notification of the educator's license surrender will be shared with all states through NASDTEC; and

(v) except as provided in Subsection (3), that notification of the educator's license surrender will be:

(A) classified and reported as a voluntary surrender (UPPAC investigation); and

(B) shared with LEAs throughout the state.

(3) If an educator surrenders a license during an investigation of allegations described in Subsection 53A-6-501(5)(b), the surrender will be:

(a) classified and reported as a revocation; and
(b) shared with LEAs through the state.

(4)(a) Voluntary surrender of a license as set forth in this section is permanent.

(b) An educator who surrenders a license as set forth in this section is not eligible for a reinstatement hearing at any time.

R277-216-3. Review of Petition to Surrender.

(1)(a) Upon receiving a petition or stipulated agreement as provided in Subsection R277-216-2(2), the Executive Secretary shall review the request for surrender to determine if it meets the requirements set forth in the rule.

(b) If the requirements of Subsection R277-216-2(2) are not met, the Executive Secretary shall notify the educator that the request is insufficient and the reasons why the request is insufficient.

(c) If the requirements of Subsection R277-216-2(2) are met, the Executive Secretary shall notify the Board of the voluntary

surrender and request direction on whether to continue the investigation.

(2) Upon receipt of a voluntary surrender of an educator license, the Executive Secretary shall:

(a) notify the educator:

(i) that the voluntary surrender was received;

(ii) whether the Board required UPPAC to continue the investigation;

(iii) that the voluntary surrender will be reported in the public record as a voluntary surrender with pending UPPAC investigation except as provided in Subsection R277-216-2(3);

(iv) that the voluntary surrender will be reported to NASDTEC and to LEAs throughout the state; and

(v) that the educator's license cannot be reinstated at any time.

(b) update CACTUS to reflect the disposition;

(c) report the disposition to NASDTEC;

(d) notify the educator's last employer of record;

(e) report the disposition to LEAs through the state; and

(f) provide the educator a copy of the report to LEAs described in Subsection (2)(e).

R277-216-4. Applicability of Rule.

This R277-216 does not apply to an educator's voluntary surrender of the educator's license if the educator is not being investigated by UPPAC.

KEY: educators, license surrender, UPPAC

Date of Enactment or Last Substantive Amendment: 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-1-401

Education, Administration

R277-477

Distribution of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40431

FILED: 05/16/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule amendment is to provide updated language to clarify inconsistencies with school funding and nominal student incentives; to clarify overspending; and to provide a process for school community council members to provide a signature to declare the council member's involvement in implementation of the current School Learning and Nurturing Development (LAND) Trust plan and developing the school plan for the upcoming year.

SUMMARY OF THE RULE OR CHANGE: The amendments to Rule R277-477 provide clarification for school funding; create consistency in the amount that can be spent for a nominal student incentive; provide procedures to bring schools and districts into compliance with overspending; and provide a process to ensure school community council members have an opportunity to provide the council member's signature indicating the member's involvement in implementation and development of the school's School LAND Trust plan.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments to this rule clarify funding provisions, student incentives, and a school community council member's involvement in a school's School LAND Trust plan, which likely will not result in a cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** The amendments to this rule clarify funding provisions, student incentives, and a school community council member's involvement in a school's School LAND Trust plan, which likely will not result in a cost or savings to local government.

◆ **SMALL BUSINESSES:** The amendments to this rule clarify funding provisions, student incentives, and a school community council member's involvement in a school's School LAND Trust plan, which likely will not result in a cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to this rule clarify funding provisions, student incentives, and a school community council member's involvement in a school's School LAND Trust plan, which likely will not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to this rule clarify funding provisions, student incentives, and a school community council member's involvement in a school's School LAND Trust plan, which likely will not result in any compliance costs for affected persons.

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

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

EDUCATION

ADMINISTRATION

250 E 500 S

SALT LAKE CITY, UT 84111-3272

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

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

R277. Education, Administration.**R277-477. Distributions of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program.****R277-477-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which ~~places~~ vests general control and supervision ~~of the~~ over public ~~school system under~~ education in the Board;

(b) Subsection 53A-16-101.5(4), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and

(c) ~~S[ub]section 53A-1-401[3]~~, which allows the Board to ~~adopt rules in accordance with its responsibilities~~ make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The Board is the primary beneficiary representative and advocate for the beneficiaries of the School Trust corpus and the School LAND Trust Program.

(3) The purpose of this rule is to:

(a) provide financial resources to a public school to implement a component of a school's improvement plan or charter document in order to enhance and improve student academic achievement;

(b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust Program funds allocated to the school;

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

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

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

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

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

R277-477-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Satellite charter school" has the same meaning as that term is defined in R277-482.

(1[0]1) "School Children's Trust Director" means the Director appointed by the Board under Section 53A-16-101.6.

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

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

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

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

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

(c) an approved exemption under this rule.

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

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

(a) have a charter trust land council;

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

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

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

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

(a) no later than April 1; or

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

(6)(a) An approving entity:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) academic goals;

(ii) specific steps to meet the academic goals described in Subsection (11~~[2]~~)(a)(i);

(iii) measurements to assess improvement; and

(iv) specific expenditures focused on student academic improvement.

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

(c) Prior to approving a School LAND Trust plan, the president or chair of the approving entity shall provide training annually on the requirements of Section 53A-16-101.5 to the members of the approving entity.

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

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

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

(13) If an approving entity fails to comply with Subsection (12)(c), the School Children's Trust Director shall report the failure to the Audit Committee of the Board as described in Section R277-477-9.

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

(1) Parents, teachers, and the principal, in collaboration with an approving entity, shall use School LAND Trust Program funds in data-driven and evidence-based ways to improve educational outcomes.

(2) School LAND Trust Program expenditures are required to have a direct impact on the instruction of students in the particular school's areas of most critical academic need.

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

(a) to cover the fixed costs of doing business;

(b) for construction, maintenance, facilities, overhead, security, or athletics; or

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

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

(5)(a) A council may budget and spend no more than the lesser of the following for in-school civic and character education, including student leadership skills training and positive behavior intervention:

(i) \$5,000; or

(ii) 20% of the school's annual allocation of School LAND Trust Program funds.

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

(c) A school may use a portion of the school's School LAND Trust Program funds to provide digital citizenship training as described in Section 53A-1a-108.

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

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

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

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

(b) The total expenditures each year described in Subsection (1)(a) may not be greater than the total available funds for any school or school district.

(c) A school district shall adjust the current year distribution of funds received from the School LAND Trust Program as described in Section 53A-16-101.5, as necessary to maintain an equal per student distribution within a school district based on school openings and closings, boundary changes, and other enrollment changes occurring after the fall enrollment report.

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

(2)(a) For purposes of this Subsection (2)(a) and Subsection (2)(b), "qualifying charter school" means a charter school that:

(i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection (2)(c); and

(ii) is not a newly opening charter school as described in Subsection (3).

(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection (2).

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

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

(ii) at least 0.4%.

(d) After the Superintendent distributes the amount described in Subsection (2)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

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

(i) the base payment described in Subsection (2)(c); or

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

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

(4) If a school chooses not to apply for funds or does not meet the requirements for receiving funds, the USOE shall retain the funds allocated for that school and include those funds in the statewide distribution for the following school year.

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

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

(2)(a) The principal shall submit a plan amendment authorized by Subsection 53A-16-101.5(6)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) The approving entity shall:

(i) consider the amendment for approval; and

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

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

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

(b) The USOE shall consider a district or school with a consistently large carryover balance over multiple years as not making adequate and appropriate progress on an approved plan.

(c) The Board may take corrective action to remedy excessive carryover balances as outlined in Section R277-477-9.

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

(a) the entity has reviewed the plan; and

(b) the plan meets the requirements of statute and rule.

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

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Section 53A-16-101.5.

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

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

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

(b) The School Children's Trust Section shall create a list of all schools whose final reports indicate that funds from the

School LAND Trust Program were expended inconsistent with the statute, rule, or the school's approved plan.

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

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

(3)(a) The School Children's Trust Director shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, allowable expenses, and the law.

(b) The School Children's Trust Director shall report annually to the Board Audit Committee on compliance review findings and other compliance issues.

(c) After receiving the report described in Subsection (3) (b) and any other relevant information requested by the committee, the Board Audit Committee may make a determination regarding questioned expenditures and corrective action as outlined in Section R277-477-9.

R277-477-8. School Children's Trust Director - Other Provisions.

(1)(a) The School Children's Trust Director is an employee of the Board, pursuant to Section 53A-16-101.6 and Board bylaws.

(b) The School Children's Trust Director shall report to the Board Audit Committee monthly.

(c) The School Children's Trust Director shall report day-to-day to the Superintendent or the Superintendent's designee.

(2)(a) The School Children's Trust Director shall submit a draft section budget to the Board Audit Committee annually, consistent with Subsection 53A-16-101.6(5)(a).

(b) The School Children's Trust Director shall include in the draft budget a proposed School LAND Trust Program and training schedule, as described in Subsection 53A-16-101.6(13).

(3) In addition to the duties established in Section 53A-16-101.6, the School Children's Trust Director shall:

(a) assist the Board as needed as its designee in fulfilling its duties as primary beneficiary representative for school trust lands and funds;

(b) provide independent oversight of an agency managing school trust lands and the permanent State School Fund to ensure the trust assets are managed prudently, profitably, and in the best interest of the beneficiaries;

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

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

(e) review and approve a plan submitted by the USDB governing board as necessary; and

(f) carry out the policy direction of the Board under law and faithfully adhere to the Board-approved budget.

(4) The employees of the School Children's Trust Section report to the School Children's Trust Director.

R277-477-9. Failure to Comply with Rule.

(1) If a local school board, school district, district or charter school, or council fails to comply with the provisions of this rule, the School Children's Trust Director may report the failure to the Audit Committee of the Board.

(2) If the Audit Committee of the Board finds that any local school board, school district, district or charter school, or council failed to comply with statute or rule, the Audit Committee may recommend that the Board take any or all of the following actions:

(a) in cooperation with the local school board or charter school governing board, develop a corrective action plan for the school district, district or charter school, or council;

(b) require the school to reimburse the School LAND Trust Program for any inappropriate expenditures;

(c) reduce, eliminate, or withhold future funding; or

(d) any other necessary and appropriate corrective action.

(3) The Board may, by majority vote, take any of the actions outlined in Subsection (2) to correct or remedy a violation of statute or rule by a local school board, school district, district or charter school, or council.

KEY: schools, trust lands funds, school community councils
Date of Enactment or Last Substantive Amendment:
~~December 8, 2015~~ 2016

Notice of Continuation: August 13, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-16-101.5(~~3~~)(~~4~~)(~~e~~); 53A-1-401(~~3~~)

Education, Administration

R277-491

School Community Councils

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40432

FILED: 05/16/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide reporting requirements related to conflicts of interest that may exist for a school employee who is also a school community council member at the school the employee is employed. The amendments also provide for a school community council and a school district to coordinate on the district Digital Teaching and Learning Grant goals so that there is not a conflict with goals.

SUMMARY OF THE RULE OR CHANGE: The amendments to this rule remove unnecessary language, add provisions clarifying a school community council member's reporting of a conflict of interest, and provide for coordination between a school district and a school community council to prevent a

conflict with the school district's Digital Teaching and Learning Grant goals.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X, Sec 3 and Section 53A-1-401

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The amendments remove unnecessary language and provide provisions clarifying conflict of interest and coordination between a school community council and a school district, which likely will not result in a cost or savings to the state budget.

◆ LOCAL GOVERNMENTS: The amendments remove unnecessary language and provide provisions clarifying conflict of interest and coordination between a school community council and a school district, which likely will not result in a cost or savings to local government.

◆ SMALL BUSINESSES: The amendments remove unnecessary language and provide provisions clarifying conflict of interest and coordination between a school community council and a school district, which likely will not result in a cost or savings to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments remove unnecessary language and provide provisions clarifying conflict of interest and coordination between a school community council and a school district, which likely will not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments remove unnecessary language and provide provisions clarifying conflict of interest and coordination between a school community council and a school district, which likely will not result in any compliance costs for affected persons.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

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

R277. Education, Administration.

R277-491. School Community Councils.

R277-491-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which ~~places~~ vests general control and supervision ~~of the~~ over public ~~school system under~~ education in the Board; and

(b) ~~S[ub]section 53A-1-401[(3)], which allows the Board to [adopt rules in accordance with its responsibilities]~~ make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) provide procedures and clarifying information to a school community council to assist the council in fulfilling school community council responsibilities consistent with Sections 53A-1a-108 and 53A-1a-108.1;

(b) provide direction to a local school board, school, and school district in establishing and maintaining a school community council;

(c) provide a framework and support for improved academic achievement of students that is locally driven from within an individual school;

(d) encourage increased participation of a parent, school employee, and others to support the mission of a school community council;

(e) increase public awareness of:

- (i) school trust lands;
- (ii) the permanent State School Fund; and
- (iii) educational excellence; and

(f) enforce compliance with the laws governing a school community council.

R277-491-2. Definitions.

(1) "Local school board" means the locally elected school board designated in Section 53A-3-101.

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

(b) "Principal" includes a specific designee of the principal.

(3) "School community" means the geographic area a school district designates as the attendance area, with reasonable inclusion of a parent of a student who attends the school but lives outside the attendance area.

(4) "Student" means a child in a public school, grades kindergarten through 12, counted on the audited October 1 fall enrollment report.

R277-491-3. School Community Council Member Election Provisions.

~~_____ (1) If a school holds an election in the spring, the school community council shall:~~

~~(a) attempt to notify a parent of an incoming student about the opportunity to run for the council; and~~

~~_____ (b) provide a parent of an incoming student with an opportunity to vote in the election.]~~

~~([2]1)~~ In addition to the election notice requirements of Subsection 53A-1a-108(5)(c), the principal shall provide notice of:

(a) the location where a ballot may be cast; and

(b) the means by which a ballot may be cast, whether in person, by mail, or by electronic transfer.

~~_____ (3) A parent may vote for a school community council parent member if:~~

~~_____ (a) the parent's child is enrolled at the school; or~~

~~_____ (b)(i) the school holds the election in the spring; and~~

~~_____ (ii) the parent's child will be enrolled at the school in the following school year.]~~

~~([4]2)~~(a) A school community council may establish a procedure that allows a parent to mail a ballot to the school in the event the distance between a parent and the voting location would otherwise discourage parental participation.

(b) A mailed or hand-delivered ballot shall meet the same timeline as a ballot voted in person.

~~([5]3)~~(a) A school, school district, or local school board may allow a parent to vote by electronic ballot.

(b) If allowed, the school or school district shall clearly explain on its website the opportunity to vote by electronic means.

~~([6]4)~~ In the event of a change in statute or rule affecting the composition of a school community council, a council member who is elected or appointed prior to the change may complete the term for which the member was elected.

~~([7]5)~~(a) A public school that is a secure facility, juvenile detention facility, hospital program school, or other small or special school may receive School LAND Trust Program funds without having a school community council if the school demonstrates and documents a good faith effort to:

(i) recruit members;

(ii) have meetings;

(iii) publicize the opportunity to serve on the council; and

(iv) publish election results to the school community.

(b) The local school board shall make the determination whether to grant the exemption.

R277-491-4. School Community Council Principal Responsibilities.

(1) Following an election, the principal shall enter and electronically sign on the School LAND Trust Program website a Principal's Assurance Form affirming:

(a) the school community council's election;

(b) that vacancies were filled by election if necessary;

and

(c) that the school community council's bylaws or procedures comply with Section 53A-1a-108, Rule R277-477, and this rule.

(2) In addition to the requirements of Subsection 53A-1a-108.1(6), each year the principal shall post the following information on the school's website:

(a) an invitation to a parent to serve on the school community council that includes an explanation of how a parent can directly influence the expenditure of the School LAND Trust Program funds; and

(b) the dollar amount the school receives each year from the School LAND Trust Program.

R277-491-5. School Community Council Chair Responsibilities.

(1) After the school community council election, the school community council shall annually elect at the council's first meeting a chair and vice chair in accordance with Subsection 53A-1a-108(5)(j).

(2) The school community council chair shall:

(a) post the information required by Subsection 53A-1a-108.1(5);

(b) set the agenda for every meeting;

(c) conduct every meeting;

(d) keep written minutes of every meeting, consistent with Subsection 53A-1a-108.1(9);

(e) inform council members about resources available on the School LAND Trust Program website; and

(f) welcome and encourage public participation in school community council meetings.

(3) The chair may delegate the responsibilities established in this section as appropriate at the chair's discretion.

R277-491-6. School Community Council Business.

(1)(a) The school community council shall adopt rules of order and procedure to govern a council meeting in accordance with Subsection 53A-1a-108.1(10).

(b) The rules of order and procedure shall outline the process for:

(i) selecting a chair and vice chair; ~~and~~

(ii) removing from office a member who moves away or fails to attend meetings regularly[-]; and

_____ (iii) a member to declare a conflict of interest if required by the local school board's policy.

(2) The school community council shall:

(a) report on a plan, program, or expenditure at least annually to the local school board; and

(b) encourage participation on the school community council by members of the school community and recruit a potential candidate to run for an open position on the council.

(3)(a) The principal shall provide an annual report to the school community council that summarizes current practices used by the school district and school to facilitate the school community council's responsibilities under Subsection 53A-1a-108(3)(a).

(b) The report described in Subsection (3)(a) shall include:

(i) information concerning internet filtering protocols for school and district devices that access the internet;

(ii) local instructional practices, monitoring, and reporting procedures; and

(iii) internet safety training required by Section 53A-1a-108.

(c) A school community council's School LAND Trust Program plan may not conflict with the school district's approved LEA plan related to a digital teaching and learning grant awarded to the school district under Title 53A, chapter 1, Part 14.

(4) A school community council may advise and inform the local school board and other members of the school community regarding the uses of School LAND Trust Program funds.

R277-491-7. Inapplicable to Charter Schools.

This rule does not apply to a charter school.

R277-491-8. Failure to Comply with Rule.

(1) If a local school board, school district, school, or school community council fails to comply with the provisions of this rule, the School Children's Trust Director appointed under Section 53A-16-101.6 may report the failure to the Audit Committee of the Board.

(2)(a) The Audit Committee shall allow the local school board, school district, school, or school community council to present information to the Audit Committee.

(b) The Audit Committee of the Board may recommend to the Board a reduction or elimination of School LAND Trust funds for a school district or school if the Audit Committee finds that the local school board, school district, school, or school community council has not complied with statute or rule.

(3) Before the Board takes action on the Audit Committee's recommendation, the Board shall allow the local school board, school district, school, or school community council to present information to the Board.

KEY: school community councils

Date of Enactment or Last Substantive Amendment: [~~October 8, 2015~~]**2016**

Notice of Continuation: August 13, 2015

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

Education, Administration

R277-707

Enhancement for Accelerated Students Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40429

FILED: 05/16/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule has been updated to conform to the Office of Administrative Rules' style manual and to provide clarification regarding expenditures in gifted and talented programs.

SUMMARY OF THE RULE OR CHANGE: The amendments to this rule provide technical and conforming changes and update the rule for clarification purposes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X, Sec 3 and Section 53A-1-401 and Section 53A-17a-165

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments to this rule provide technical and conformation changes and minor

changes for clarification purposes, which likely will not result in a cost or savings to the state budget.

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

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

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

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to this rule provide technical and conformation changes and minor changes for clarification purposes, which likely will not result in any compliance costs for affected persons.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

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

R277. Education, Administration.

R277-707. Enhancement for Accelerated Students Program.

R277-707-[2]1. Authority and Purpose.

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

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

~~_____ (b) Section 53A-17a-165, which allows the Board to adopt rules for the expenditure of funds appropriated for Enhancement for Accelerated Students Program; [Section 53A-17a-165(5) which authorizes the Board to develop a funding formula and performance criteria to measure the effectiveness of the Enhancement for Accelerated Students Program;] and~~

~~_____ (c) Section 53A-1-401[(3)], which [permits]allows the Board to [adopt]make rules [in accordance with its responsibilities]to execute the Board's duties and responsibilities under the Utah Constitution and state law.~~

~~[B-](2)(a) The purpose of this rule is to specify the procedures for distributing funds appropriated under Section 53A-17a-165 to LEAs.~~

~~_____ (b) The intent of this appropriation is to enhance the academic growth of students whose academic achievement is accelerated.~~

R277-707-[1]2. Definitions.

~~[_____ A. "Board" means the Utah State Board of Education.]~~

~~[B-](1) "Accelerated students" means children and youth whose superior academic performance or potential for accomplishment requires a differentiated and challenging instructional model[that may include the following:]~~

~~[(1)2] Advanced placement" or "AP" courses means rigorous courses developed by the College Board[-] where:~~

~~_____ (a) [E]each course is developed by a committee composed of college faculty and AP teachers, and covers the breadth of information, skills, and assignments found in the corresponding college course[-]; and~~

~~_____ (b) [S]students who perform well on the AP exam may be:~~

~~_____ (i) granted credit; [and/]or~~

~~_____ (ii) advanced standing at participating colleges or universities.~~

~~[(2)3] "Gifted and talented programs" means[-] programs to:~~

~~_____ (a) assist individual students to develop their high potential and enhance their academic growth; and~~

~~_____ (b) identify students with outstanding abilities who are capable of high performance in the following areas:~~

~~[(a)i] general intellectual ability;~~

~~[(b)ii] specific academic aptitude; and~~

~~[(e)iii] creative or productive thinking.~~

~~[(3)4] "International Baccalaureate" or "(IB)" Program[-] a means one of the following programs established by the International Baccalaureate Organization[-];~~

~~_____ (a) [F]the Diploma Program[-] is a rigorous pre-university course of study. Students who perform well on the IB exam may be granted credit and/or advanced standing at participating colleges or universities[-];~~

~~_____ (b) [F]the Middle Years Program[-(MYP) and]; or~~

~~_____ (c) the Primary Years Program[-(PYP) emphasize an inquiry learning approach to instruction].~~

~~[_____ C. "Local Education Agency (LEA)" means a public-school district or charter school, primarily intended to serve students grade K through 12.]~~

~~[D-](5) "Weighted Pupil Unit[-(WPU)]" means the basic state funding unit.~~

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

~~[F-](6) "Utah Consolidated Application" or "[{UCA}]" means the web-based grants management tool employed by the [USOE]Board through which [local education agencies]LEAs submit plans and budgets for [USOE-]approval by the Superintendent.~~

R277-707-3. Eligibility, Application, Distribution and Use of Funds.

~~[A-](1) All LEAs are eligible to apply for the Enhancement for Accelerated Students Program funds using the UCA.~~

~~[B-](2)(a) An LEA[s] shall have a process for identifying students whose academic achievement is accelerated based upon multiple assessment instruments.~~

~~_____ (b) These instruments shall not be solely dependent upon English vocabulary or comprehension skills and shall take into consideration abilities of culturally diverse students and students with disabilities.~~

~~[C-](3) The distribution formula includes an allocation of money for:~~

~~[(1)a] Advanced Placement courses:~~

~~[(a)i] The designated funds for the [A]advanced [P]placement [P]program equal 0.38 multiplied by the difference between the funds appropriated for the Enhancement for Accelerated Students Program less the allotment under Subsection 53A-17a-165(3).~~

~~[(b)ii(A) The total funds designated for the [A]advanced [P]placement [P]program are divided by the total number of Advanced Placement exams passed with a grade of 3 or higher by students.~~

~~_____ (B) This calculation results in a fixed amount per exam passed[-E] with each participating LEA [shall-]receiv[e]ing that amount for each exam successfully passed by one of its students.~~

~~[(2)b] Gifted and Talented programs:~~

~~[(a)i] The designated funds for the Gifted and Talented Program equal 0.62 multiplied by the difference between the funds appropriated for the Enhancement for Accelerated Students Program less the allotment under Subsection 53A-17a-165(3).~~

~~[(b)ii] Each LEA shall receive its share of funds in the proportion that the LEA's number of weighted pupil units for kindergarten through grade twelve bears to the state total.~~

~~_____ (iii) An LEA shall expend Gifted and Talented program funds in accordance with the UCA guidelines.~~

~~[(3)c] [international baccalaureate programs]IB: LEAs shall have an IB authorized program to qualify for funds.~~

~~(i) Fifty percent of the total funds designated for IB consistent with Subsection 53A-17a-165(3) shall be equally distributed among all authorized IB programs in the state.~~

~~(ii) The remaining fifty percent of allocation shall be distributed to LEAs with Diploma Programs where students scored a grade of 4 or higher on IB exams, resulting in a fixed amount of dollars per exam passed.~~

R277-707-4. Performance Criteria and Reports.

~~[A-](1) An LEA[s] receiving funds, as set forth in Section R277-707-3, shall be required to submit an annual evaluation report to the [USOE]Superintendent consistent with Section 53A-17a-165.~~

The report shall include the following performance criteria related to the identified students whose academic achievement is accelerated:

- (1)a) [N]number of identified students disaggregated by subgroups;
 - (2)b) [G]graduation rates for identified students;
 - (3)c) [N]number of AP classes taken, completed, and exams passed with a score of 3 or above by identified students;
 - (4)d) [N]number of IB classes taken, completed, and exams passed with a score of 4 or above by identified students;
 - (5)e) [N]number of Concurrent Enrollment classes taken and credit earned by identified students;
 - (6)f) ACT or SAT data, including the [{}number of students participating, at or above the college readiness standards{}];
 - (7)g) [G]gains in proficiency in language arts; and
 - (8)h) [G]gains in proficiency in mathematics.
- [B-](2) The [USOE]Superintendent shall submit an annual report on program effectiveness to the Public Education Appropriations Subcommittee of the Utah State Legislature consistent with Subsection 53A-17a-165(6).

KEY: accelerated learning, enhancement programs
Date of Enactment or Last Substantive Amendment: [~~August 8, 2011~~2016
Notice of Continuation: May 16, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-17a-165; 53A-17a-165(5); 53A-1-401[3]

Environmental Quality, Air Quality **R307-101-3** Version of Code of Federal Regulations Incorporated by Reference

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 40423
 FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended so that state air quality rules are up-to-date and consistent with federal regulations.

SUMMARY OF THE RULE OR CHANGE: This rule change updates the version of the Code of Federal Regulations (CFR) that is incorporated by reference throughout the Utah Air Quality rules. This rule does not cover rules that specify its own date for the version of the CFR they incorporate by reference, for example, Rules R307-210 and R307-214. There were no substantive changes to any specific portions of the CFR outside of the Code sections incorporated by Rules R307-210 and R307-214. A summary of every federal rule that is being incorporated by Section R307-101-3 can be found at http://www.deq.utah.gov/boards/airquality/docs/05May/May_4_2016_Packet.pdf (pgs. 56-57).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 40 CFR, published by U.S. Government Printing Office, 07/01/2015

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on the state budget because they are already federal law.
- ◆ **LOCAL GOVERNMENTS:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on local government because they are already federal law.
- ◆ **SMALL BUSINESSES:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on small businesses because they are already federal law.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons because any changes are already federal law that must be complied with.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Section R307-101-3 will not have a fiscal impact on Utah businesses. The changes in federal law will have to be complied with by Utah businesses regardless of whether the state incorporates them into its air quality rules. By incorporating the federal rules into state law, it makes the rules enforceable on a state level. It does not create additional requirements for businesses.

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

ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout R307 is dated July 1, [~~2014~~2015].

KEY: air pollution, definitions

Date of Enactment or Last Substantive Amendment: [~~March 3~~, 2016

Notice of Continuation: May 8, 2014

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

**Environmental Quality, Air Quality
R307-210
Stationary Sources**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40424

FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended so that state air quality rules are up-to-date and consistent with federal regulations.

SUMMARY OF THE RULE OR CHANGE: This rule change updates the version of the Code of Federal Regulations (CFR) that is incorporated by reference throughout the Utah Air Quality rules. The rules that are being incorporated by reference include rules dealing with the startup and shutdown provisions of EPA's final Mercury Air Toxics Standards rule, minor changes to the new source performance standards for the oil and natural gas sector, and updates to the rules for new residential wood heaters. These changes are described in more detail at http://www.deq.utah.gov/boards/airquality/docs/05May/May_4_2016_Packet.pdf (pg. 66-67).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 40 CFR, published by U.S. Government Printing Office, 07/01/2015

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on the state budget because they are already federal law.

◆ **LOCAL GOVERNMENTS:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on local government because they are already federal law.

◆ **SMALL BUSINESSES:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on small businesses because they are already federal law.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons because any changes are already federal law that must be complied with.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rule R307-210 will not have a fiscal impact on Utah businesses. Utah businesses will already have to comply with federal law, despite any changes made to the state rule. By incorporating the federal rules into state law, the rules become enforceable at the state level. It does not create additional requirements for businesses.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-210. Stationary Sources.

R307-210-1. Standards of Performance for New Stationary Sources (NSPS).

The provisions of 40 Code of Federal Regulations (CFR) Part 60, effective on July 1, [2014]2015, except for Subparts Cb, Cc, Cd, Ce, BBBB, DDDD, and HHHH, are incorporated by reference into these rules with the exception that references in 40 CFR to "Administrator" shall mean "director" unless by federal law the authority referenced is specific to the Administrator and cannot be delegated.

KEY: air pollution, stationary sources, new source review

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

Notice of Continuation: April 6, 2011

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

**Environmental Quality, Air Quality
R307-214
National Emission Standards for
Hazardous Air Pollutants**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40425

FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended so that state air quality rules are up-to-date and consistent with federal regulations.

SUMMARY OF THE RULE OR CHANGE: This rule change updates the version of the Code of Federal Regulations (CFR) that is incorporated by reference found in Rule R307-214. These changes were mostly minor changes that have no direct impact on Utah. The changes that do have an impact on Utah relate to EPA's promulgation of new emissions standards for source categories of certain hazardous air pollutants, final amendments regarding particulate matter standards for certain electric furnaces, metal oxygen refining processes, crushing and screening operations, changes to opacity limits, new emissions limits for previously unregulated hazardous air pollutants, and new reporting requirements for the Mercury Air Toxics Standards rule. A description of all of the changes to the federal rules can be found here: http://www.deq.utah.gov/boards/airquality/docs/05May/May_4_2016_Packet.pdf (pg. 77-76). The webpage also has a citation for each Federal Register Notice pertaining to each amendment or new federal rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 40 CFR, published by U.S. Government Printing Office, 07/01/2015

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on the state budget because they are already federal law.
- ◆ **LOCAL GOVERNMENTS:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on local government because they are already federal law.
- ◆ **SMALL BUSINESSES:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality rules. None of the changes incorporated into the state rules will have an impact on small businesses because they are already federal law.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule updates the version of the CFR that is incorporated into the Utah Air Quality Rules. None of the changes incorporated into the state rules will have an impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons because any changes are already federal law that must be complied with.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rule R307-214 will not have a fiscal impact on Utah businesses. Utah businesses will already have to comply with federal law, despite any changes made to the state rule. By incorporating the federal rules into state law, the rules become enforceable at the state level. It does not create additional requirements for businesses.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-214. National Emission Standards for Hazardous Air Pollutants.

R307-214-1. Pollutants Subject to Part 61.

The provisions of Title 40 of the Code of Federal Regulations (40 CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, effective as of July 1, [2014]2015, are incorporated into these rules by reference. For pollutant emission standards delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the director.

R307-214-2. Sources Subject to Part 63.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, [2014]2015, are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the director, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).
- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- (6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- (7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.
- (8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.
- (9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- (10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- (11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.
- (12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- (13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- (14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

(15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicemical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

(31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).

(32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).

(33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).

(35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.

(37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

(41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.

(42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.

(44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

(45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).

(48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.

(50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.

(55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.

(56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products.

(57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).

(58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.

(59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

(60) 40 CFR Part 63, Subpart HHHH, National Emission Standards for Wet-Formed Fiberglass Mat Production.

(61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.

(62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.

(63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.

(64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(65) 40 CFR Part 63, Subpart NNNN, National Emission Standards for Large Appliances Surface Coating Operations.

(66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.

(67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.

(69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.

(70) 40 CFR Part 63, Subpart SSSS, National Emission Standards for Metal Coil Surface Coating Operations.

(71) 40 CFR Part 63, Subpart TTTT, National Emission Standards for Leather Tanning and Finishing Operations.

(72) 40 CFR Part 63, Subpart UUUU, National Emission Standards for Cellulose Product Manufacturing.

(73) 40 CFR Part 63, Subpart VVVV, National Emission Standards for Boat Manufacturing.

(74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

(75) 40 CFR Part 63, Subpart XXXX, National Emission Standards for Tire Manufacturing.

(76) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(79) 40 CFR Part 63, Subpart BBBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.

(82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

(84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.

(85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(97) 40 CFR Part 63, Subpart UUUUU, National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired Electric Utility Steam Generating Units.

(98) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.

(99) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.

(100) 40 CFR Part 63, Subpart ZZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(101) 40 CFR Part 63 Subpart BBBBBB National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

(102) 40 CFR Part 63 Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

(103) 40 CFR Part 63, Subpart DDDDDD, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(104) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(105) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(106) 40 CFR Part 63, Subpart GGGGGG, National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.

(107) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources.

(108) 40 CFR Part 63, Subpart LLLLLL, National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(109) 40 CFR Part 63, Subpart MMMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(110) 40 CFR Part 63, Subpart NNNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.

(111) 40 CFR Part 63, Subpart OOOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(112) 40 CFR Part 63, Subpart PTTTTT, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.

(113) 40 CFR Part 63, Subpart QQQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(114) 40 CFR Part 63, Subpart RRRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

(115) 40 CFR Part 63, Subpart SSSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.

(116) 40 CFR Part 63, Subpart VVVVVV, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.

(117) 40 CFR Part 63, Subpart TTTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

(118) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

(119) 40 CFR Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

(120) 40 CFR Part 63, Subpart YYYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.

(121) 40 CFR Part 63, Subpart ZZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

(122) 40 CFR Part 63, Subpart AAAAAA, National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.

(123) 40 CFR Part 63, Subpart BBBB BB, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.

(124) 40 CFR Part 63, Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

(125) 40 CFR Part 63, Subpart DDDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.

(126) 40 CFR Part 63, Subpart EEEEEEE, National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.

KEY: air pollution, hazardous air pollutant, MACT, NESHAP
Date of Enactment or Last Substantive Amendment: [June 4, 2015]2016

Notice of Continuation: November 8, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104(1) (a)

Governor, Economic Development
R357-16
Utah Outdoor Recreation Infrastructure Grant

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40434

FILED: 05/16/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is created as a requirement from the 2016 General Session under H.B. 52. The new legislation requires the office to create rules governing the Outdoor Recreation Infrastructure Grant program.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the eligibility and reporting criteria for an entity to receive an infrastructure grant under Section 63N-9-201 et seq. including: 1) the form and process of submitting an application to the outdoor recreation office for an

infrastructure grant; 2) which entities are eligible to apply for an infrastructure grant; 3) specific categories of projects that are eligible for an infrastructure grant; 4) the method and formula for determining grant amounts; and 5) the reporting requirements of grant recipients.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-9-203

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule does not cost or save any money from the state budget outside of the money appropriated to the office for the program itself, which was \$1,000,000.

◆ **LOCAL GOVERNMENTS:** This rule could impact local governments only in that it provides the criteria for which a local government entity could apply and qualify for a grant for recreation infrastructure projects.

◆ **SMALL BUSINESSES:** This rule does not impact small business because all private businesses are foreclosed by statute from participation in this program. There could be some ancillary benefits to businesses hired to work on a project funded by this program. But, this rule does not govern those processes.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Tribal governments may be impacted only in that it provides the criteria for which a tribal entity could apply and qualify for a grant for recreation infrastructure projects.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some minor compliance costs in terms of grant writing expenses and reporting requirements for those who are awarded a grant under this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no likely impacts on businesses because the statute does not allow private businesses to participate in this program.

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 Office 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 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Val Hale, Executive Director

R357. Governor, Economic Development.

R357-16. Utah Outdoor Recreation Infrastructure Grant.

R357-16-1. Authority.

(1) Subsection 63N-9-203 requires the office to make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant.

R357-16-2. Definitions.

(1) Terms in these rules are defined in Utah Code Section 63N-9-102.

R357-16-3. Application Form and Submission Procedure.

(1) The application will be provided by the Office and contain the following content:

- (a) General submission instructions;
 - (b) Grants available to be claimed including tiered amounts;
 - (c) Criteria for qualification of a grant;
 - (d) Instructions regarding a project description including timeline;
 - (e) Instructions for providing an outlined budget for total project cost, highlight of funds already procured for the project, and an itemized budget showing planned use of the grant funds being requested;
 - (f) Instructions for reporting project impacts including community and economic impacts;
 - (g) The application scoring system and grant tiers;
 - (h) Any required deadlines, reports, and relevant timelines; and
 - (i) All required documents and information necessary for verification and approval of the application.
- (2) The application shall be created in an electronic form available to the public at business.utah.gov
- (3) The application shall also be available in paper form for any person or entity that requests it.
- (4) Applications must be submitted to Office of Outdoor Recreation staff on or before the specified deadline in the application.
- (5) Staff will review final applications for completeness and the director of the Office of Outdoor Recreation will verify that the documentation is complete and that it meets the program criteria as outlined in statute and this rule.
- (6) All completed documentations will be reviewed and awardees selected via the criteria and method as outlined in R357-16-5 and R357-16-6.

R357-16-4. Eligible Entities.

- (1) Grants may be awarded to the following entities within the state of Utah:
- (a) Non-profit corporations physically located within the State with a 501(c)(3) status;
 - (b) Municipalities;
 - (c) Counties; and
 - (d) Tribal governments.

R357-16-5. Infrastructure Project Eligibility Criteria.

(1) Budget/Costs/Matching Requirements: The Office will not fund more than 50% of the proposed project's eligible costs. A

minimum of 25% of the total project costs must be a cash match from the applicant and/or partners.

(a) The maximum grant request is dependent on available funds and will be outlined in the grant application.

(b) Matching requirements, eligible and ineligible matching costs, and other matching funding requirements will be provided in the grant application.

(c) At least 75% of the matching funds for the project must be secured in order to apply.

(2) County Endorsement: The infrastructure project must have county approval and endorsement in writing at the time of application.

(a) An agreement signed with the county appointing a party who will maintain the recreational infrastructure may be required by the Office as a condition to receiving a grant.

(3) Public Lands: If the project is located on public lands, it must have approval from the appropriate public entity.

(a) The applicant may be required to show approval from the agency that follows the National Environmental Policy Act (NEPA) process as a condition to receiving the grant.

(4) Property Ownership: All projects must be located on land that is owned by or under the control of the applicant (e.g. local government or conservancy.)

(a) If the project crosses private property, as in the case of a trail, an agreement must be reached with the property owners.

(5) Economic Development Endorsement: The infrastructure project must have an endorsement from the local economic development office stating that the project will have the ability to attract growth and retention in the community/area and/or have the potential for increased visitation to the area.

(6) Sensitive Wildlife Areas: Applicant must verify that they have checked with the Utah Division of Wildlife Resources (DWR) to ensure the project is not in a special management area for endangered species such as the Sage Grouse.

(a) If the project is in or near a Sage Grouse Management Area (SGMA) it must first secure approval from the DWR.

(7) Eligible infrastructure projects may include but are not limited to:

(a) New construction of trails and trail infrastructure (e.g. bridge or tunnel);

(b) Restroom facilities near popular recreation areas;

(c) Trail facilities (e.g. trail or way finding signage, trailhead parking, kiosks, etc.);

(d) Ramp/launch site to improve water access areas along rivers for non-motorized boats (e.g. a proposed National Water trail system.);

(e) Infrastructure for wildlife viewing areas;

(f) Whitewater parks;

(g) Outdoor amphitheaters; or

(h) Yurts.

(8) Ineligible Infrastructure projects may include but are not limited to:

(a) A private business such as outdoor service concession, amusement park, ice-skating rink, tubing park, etc.;

(b) Outdoor education programming;

(c) Outdoor swimming pools;

(d) Golf Courses; or

(e) Athletic fields or courts.

R357-16-6. Outdoor Recreation Youth Program Grants Eligibility Criteria.

(1) The Office may award grants for outdoor recreation youth programs.

(2) The program must provide outdoor recreation activities for youth 18 years old or younger and include physical activities that have an element of fitness.

(3) Budget/Costs/Matching Requirements: The Office will not fund more than 50% of the proposed program's eligible costs. A minimum of 25% of the total project costs must be a cash match from the applicant and/or partners.

(a) The maximum grant request is dependent on available funds and will be outlined in the grant application.

(b) Matching requirements, eligible and ineligible matching costs, and other matching funding requirements will be provided in the grant application.

(c) At least 75% of the matching funds for the program must be secured in order to apply.

(d) Staff salaries may only allowed as matching costs as outlined in the application.

(4) Applicant must demonstrate that the program increases participation in outdoor recreation among young people.

(5) The program must have clear and measurable outcomes including an action plan with clear measures to evaluate success.

(6) Applicant must outline in the application a budget of how the grant would be utilized for the program.

(7) All other found in Utah Code 63N-9, R357-16-3, and R357-16-5(3)-(8) apply to the outdoor recreation youth program grants.

R357-16-7. Method and Formula for determining grant amounts.

(1) The Office shall use a weighted scoring system to analyze and award grant and grant amounts.

(a) The scoring system shall be made available in the application;

(b) The scoring system will assess and value general categories including:

i. Community need;

ii. Economic impact;

iii. Recreation value;

iv. Project readiness;

v. Improved physical and recreational access; and

vi. Location in an underserved population or area.

(2) The Office will use the scores to create a prioritization matrix ranking the applications in ascending order.

(3) The Office will give grant awards in a tiered manner with a certain number of grants available at each tier level utilizing the prioritization matrix.

(a) The Office will provide the tiered amounts and the available number of grants in each tier level in the application.

(b) The Office may collapse tier levels if there are no applicants that score within that tier level and there is an oversubscription in other tier levels.

R357-16-8. Reporting and Cooperation Requirements.

(1) Grant recipient will cooperate with reasonable requests for site visits during and after completion of the Project.

(2) Grant recipient will provide any additional financial records related to the grant project upon the Office's request.

(3) Grant recipient will provide economic development information and supporting documentation of economic development goals achieved at minimum on an annual basis or upon the Office's request.

(a) Such information shall be provided for up to five years following completion of the Project.

(4) Grant recipient shall provide a description and an itemized report detailing the expenditure of the grant or the intended expenditure of any grant funds that has not been spent.

(5) Grant recipient shall provide the Office with a final written itemized report when the entire grant is spent.

(6) The reports referenced in (4) and (5) shall be provided at least annually, and no later than 60 days after the grant agreement has expired.

(a) Each report shall include:

i. an accounting of project expenditures; and

ii. assurances that all monies paid to the grant recipient were used for planning, construction, or improvements as describe in the recipient's grant application and grant agreement.

R357-16-9. Appeal of Application Denial

(1) A denial of an applicant's request for a grant may be appealed by written request pursuant to Utah Code Section 63G-4-201, and in accordance with this rule.

(2) Hearings must be requested within 30 calendar days from the date that the Office sends written notice of its denial of grant.

(3) Failure to submit a timely request for a hearing constitutes a waiver of due process rights. The request must explain why the party is seeking agency relief, and the party must submit the request on the "Request for Hearing/Agency Action" form. The party must mail or email a scanned copy of the form to the address or email address contained on the denial.

(4) The Office considers a hearing request that a recipient sends via mail to be filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the Office considers the request to be filed on the date that the Office receives it, unless the sender can demonstrate through convincing evidence that it was mailed before the date of receipt.

(5) The Office shall hold informal adjudicative proceedings in accordance with Utah Code Section 63G-4-202 and 203. The Office shall notify the petitioner and Office representative of the date, time and place of the hearing at least ten days in advance of the hearing. Continuances of scheduled hearings are not favored, but may be for good cause shown. Failure by any party to appear at the hearing after notice has been given shall be grounds for default and shall waive both the right to contest the allegations and the right to the hearing.

(6) The Petitioner named in the notice of agency action and the Office shall be permitted to testify, present evidence, and comment on the issues. Formal rules of evidence shall not apply; however,

(a) Testimony may be taken under oath.

(b) All hearings are open to all parties.

(c) Discovery is prohibited; informal disclosures will be ruled on at the pre-hearing conference.

(d) A respondent shall have access to relevant information contained in the Office's files and to material gathered in the investigation of respondent to the extent permitted by law.

(e) The Office may cause an official record of the hearing to be made, at the Office's expense.

(7) Within a reasonable time, not to exceed 60 days after the close of the informal proceeding, the Office shall issue a signed decision in writing that includes a findings of fact and conclusions of law, and time limits for appeals rights, and administrative or judicial review in accordance with Utah Code Section 63G-4-203(i).

KEY: Outdoor Recreation Infrastructure Grant, outdoor recreation, grants

Date of Enactment or Last Substantive Amendment: 2016

Authorizing, Implemented, or Interpreted Law: 63N-9-203

Governor, Energy Development (Office
of)
R362-4
High Cost Infrastructure Development
Tax Credit Act

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40433

FILED: 05/16/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Pursuant to the "High Cost Infrastructure Development Tax Credit Act" at Section 63M-4-601 et seq. (the Act), and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, this rule clarifies requirements and establishes procedures for implementation by the Utah Governor's Office of Energy Development (OED) of the Act.

SUMMARY OF THE RULE OR CHANGE: This rule clarifies eligibility requirements for high cost infrastructure tax credits; establishes procedures for eligible taxpayers to follow when applying for high cost infrastructure tax credits; clarifies approval, certification and reporting requirements; and provides clarification on how high cost infrastructure tax credits will be calculated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63M-4-601

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** It is expected that the majority of incentives provided under this rule will have a positive impact on the state budget. The tax credit incentive will generally target infrastructure investments that create new state revenues, or retain state revenues that would otherwise be lost. As a new incentive program, it is uncertain how many projects will apply for and receive these incentives, and therefore, the office cannot forecast the amount of new state

revenues that may be generated. Projects that expand or create new industrial, mining, manufacturing, or agricultural activity where the infrastructure investment will be 10% or more of the cost of the project or \$10,000,000 or more of infrastructure investment will be considered for the non-refundable tax credit. Infrastructure investment that is certified by OED and approved by the Board will generally receive a non-refundable tax credit of 30% of qualifying infrastructure-related state revenue generated during a qualifying tax period. The total tax credit available will be capped at 50% of the cost of the infrastructure construction unless it is a fuel standard compliance project, which will be capped at 30%. The tax credit will generally only apply to new state revenues that are directly attributable to new infrastructure investment. For non-refinery projects, tax credits will be calculated from state revenues generated after the completion of a fuel standard compliance project.

♦ **LOCAL GOVERNMENTS:** This incentive recognizes the crucial role new infrastructure investment plays in advancing economic development, especially in rural Utah. In particular, new infrastructure investment provides greater access to Utah's abundant natural resources that in turn promotes affordable and abundant energy and resources to advance Utah's economy. It is expected that this incentive will encourage greater investment in infrastructure that will grow local economies and grow local tax base.

♦ **SMALL BUSINESSES:** This incentive will be available to qualifying small businesses. Generally, projects that expand or create new industrial, mining, manufacturing, or agricultural activity where the infrastructure investment will be 10% or more of the cost of the project will qualify. The tax credit incentive will support investment in infrastructure projects needed by some small businesses to expand.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Projects that expand or create new industrial, mining, manufacturing, or agricultural activity where the infrastructure investment will be 10% or more of the cost of the project or \$10,000,000 or more of infrastructure investment will be considered for the non-refundable tax credit. Infrastructure investment that is certified by OED and approved by the Board will generally receive a non-refundable tax credit of 30% of qualifying infrastructure-related state revenue generated during a qualifying tax period. The total tax credit available will be capped at 50% of the cost of the infrastructure construction unless it is a fuel standard compliance project, which will be capped at 30%. The tax credit will generally only apply to new state revenues that are directly attributable to new infrastructure investment. For non-refinery projects, tax credits will be calculated from state revenues generated after the completion of a fuel standard compliance project.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As an incentive, any compliance costs for qualifying entities will be minimal compared to the tax benefit received. Nevertheless, annual reporting requirements which must be completed by an independent certified public accounts, will cost an estimated \$500 to \$5,000, depending on the size of the reporting entity.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The High Cost Infrastructure Tax Credit will support qualifying businesses' ability to make strategic infrastructure investments that will promote business expansion. In particular, one of the main focuses of the incentive will be encouraging infrastructure investments in rural Utah that provide greater access to Utah's abundant natural resources, which in turn provides the affordable and abundant energy and resources needed to advance Utah's economy. This incentive also protects Utah taxpayers since it only provides non-refundable tax credits for infrastructure investments.

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

GOVERNOR
ENERGY DEVELOPMENT (OFFICE OF)
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Robert Simmons by phone at 801-657-2867, or by Internet E-mail at rsimmons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/15/2016

AUTHORIZED BY: Jeffrey Barrett, Infrastructure and Incentives Manager

R362. Governor, Energy Development (Office of).

R362-4. High Cost Infrastructure Development Tax Credit Act.

R362-4-1. Purpose.

(1) Pursuant to the High Cost Infrastructure Development Tax Credit Act at Utah Code Section 63M-4-601 et seq. ("the Act"), and in accordance with Utah Code Title 63G, Chapter 3, Utah Administrative Rulemaking Act, this Rule clarifies requirements and establishes procedures for implementation by the Utah Governor's Office of Energy Development ("OED") of the Act.

(2) This Rule clarifies eligibility requirements for high cost infrastructure tax credits; establishes procedures for eligible taxpayers to follow when applying for high cost infrastructure tax credits; clarifies approval, certification and reporting requirements, and provides clarification on how high cost infrastructure tax credits will be calculated.

R362-4-2. Authority.

Pursuant to Utah Code Section 63M-4-6 et seq., OED has authority to establish requirements and procedures for awarding tax credits to qualifying entities.

R362-4-3. Definitions.

(1) Terms in this Rule are defined in Utah Code Section 63M-4-602. The definitions below are in addition to or serve to

clarify those found in Utah Code Section 63M-4-602, 63M-4-603, and 63M-4-604.

(a) "Infrastructure" includes an energy delivery project designed to transmit, deliver or otherwise increase the capacity for the delivery of energy to a user.

(b) "Infrastructure-related revenue" means an amount of tax revenue for an entity creating a high cost infrastructure project in a taxable year that is directly attributable to the high cost infrastructure project, under:

(i) Utah Code Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Utah Code Title 59, Chapter 10, Individual Income Tax Act; and,

(aa) Utah Code Title 59, Chapter 10, Individual Income Tax Act revenue shall be calculated by taking 75% of the employer state tax wage withholdings for the qualifying entity claiming a tax credit in the same taxable year for which the tax credit is being claimed.

(iii) Utah Code Title 59, Chapter 12, Sales and Use Tax Act.

(iv) For a fuel standard compliance project, as defined under Utah Code Section 63M-4-602(2), infrastructure-related revenue means state revenues generated by an applicant after the completion of a fuel standard compliance project under: Title 59, Chapter 7, Corporate Franchise and Income Taxes; Title 59, Chapter 10, Individual Income Tax; and Title 59, Chapter 12, Sales and Use Tax Act.

(c) "Office" means the Governor's Office of Energy Development created under Utah Code Section 63M-4-401.

(d) "Board" means the Utah Energy Infrastructure Authority Board created under Utah Code Section 63H-2-202.

(e) "Tax credit" means a certificate issued by the Office and recognized by the Utah State Tax Commission to an infrastructure cost-burdened entity under Utah Code Section 59-7-619 or Utah Code Section 59-10-1034.

R362-4-4. Eligibility for Tax Credit.

(1) Requirements for establishing tax credit eligibility, include:

(a) Meeting the definition of a high cost infrastructure project under Utah Code Section 63M-4-602;

(i) All high cost infrastructure projects, including fuel standard compliance projects, must be physically located in the State of Utah.

(b) Completing an application approved by the Office, including providing sufficient information to determine applicant eligibility;

(c) Office determination that that applicant meets all eligibility requirements and referral to the Board for Board approval;

(d) Receiving a favorable Board recommendation for granting tax credits to the applicant based on the Board's evaluation of the applicant project's benefit to the State of Utah based on factors described in Utah Code Section 63M-4-603(2); and,

(i) The Board may find the applicant's project benefits the State even if the project does not satisfy one or more of the factors described in Utah Code Section 63M-4-603(2).

(e) Entering into an agreement with the Office described in Utah Code Section 63M-4-603(3) authorizing a post-

performance, non-refundable tax credit calculated in accordance with Utah Code 63M-4-603 and Utah Administrative Rules R362-4-5.

R362-4-5. Calculation of Tax Credit.

(1) An eligible applicant that has a qualifying high cost infrastructure project shall be granted a tax credit, on an annual basis, equal to 30% of the applicant's infrastructure-related revenues reported to the Utah State Tax Commission for the same tax year for which the tax credit is being claimed.

(a) An eligible applicant may continue to receive tax credits for infrastructure-related revenues on an annual basis, as described above, until it has received tax credits totaling 50% of the cost of the infrastructure construction associated with the high cost infrastructure project, unless or until any other time period described in Utah Code Section 63M-4-603(4) has occurred.

(2) An eligible applicant that has completed a fuel standard compliance project shall be granted a tax credit, on an annual basis, not to exceed 30% of applicant's infrastructure-related revenues reported to the Utah State Tax Commission for the same tax year for which the tax credit is being claimed. The exact percentage of the tax credit will be determined by the Board based on criteria described in Utah Code Section 63M-4-603.

(a) An eligible applicant that has completed a fuel standard compliance project may continue to receive tax credits for infrastructure-related revenues on an annual basis, as described above, until it has received tax credits totaling 30% of the cost of the infrastructure construction associated with the high cost infrastructure project, unless or until any other time period described in Utah Code Section 63M-4-603(4) has occurred.

(3) An independent certified public accountant, paid for by the infrastructure cost-burdened entity, shall certify applicant's infrastructure-related revenues reported to the Utah State Tax Commission for the same tax year for which the tax credit is being claimed

R362-4-6. Application Process.

(1) The Office is responsible for certifying the high cost infrastructure project and authorizing any tax credit certificate.

(2) Applications for tax credits are to be made on forms developed by the Office to gather information necessary to certify the high cost infrastructure project and authorize tax credits based on the applicant's infrastructure related revenues.

(3) The Office will evaluate each application according to the definitions and criteria established by statute and by this Rule. If the information contained within an application is inadequate to determine eligibility according to this Rule, the Office reserves the right to request additional information from the applicant. If an applicant is unable or unwilling to provide adequate information needed to determine eligibility, the Office may deny the application until sufficient information is provided.

(4) In order to verify the information submitted in the application and provided to the Board, the applicant may be required to supply additional information at the request of the Office.

(5) All applicants for a tax credit under this Rule shall provide the following information:

(a) The legal name of the person or entity seeking a tax credit.

(b) The tax identification number of the person or entity seeking the tax credit.

(c) The physical address, plat number, or global positioning satellite coordinates of the property where the high cost infrastructure project will be constructed, or such other information necessary to permit the Office staff to locate the site for on-site verification of the information in the application.

(d) A description of the high cost infrastructure project, including timeline. This description is to be accompanied by an itemized summary of all projected and/or actual costs to be incurred during construction of the high cost infrastructure project.

(e) The documentation provided shall be sufficient to allow the Office to identify the cost of the infrastructure construction associated with the high cost infrastructure project, both realized and/or anticipated.

(6) Those applicants seeking a tax credit for the development of a fuel standard compliance project shall also include:

(a) A description of their current operation, including the current fuel standards being met by their existing operation.

(b) A description of the fuel standard compliance project to be undertaken by the company to produce fuel at a Utah refinery that will meet Tier 3 gasoline standards under 40 C.F.R. Section 79.54 and 80.1603.

(7) If, after evaluating an application, the Office determines that it meets all eligibility requirements, then it will be referred to the Board for Board approval.

(a) If, after evaluating an application, the Office determines that applicant is not eligible, the Office shall provide the applicant with a letter including an explanation for the denial.

(8) The Board shall consider the application for approval of tax credits at the next regularly scheduled Board meeting.

(9) An eligible applicant who has received a favorable recommendation from the Board for approval of tax credits shall enter into an agreement described in Utah Code Section 63M-4-603(3) with the Office.

R362-4-7. Tax Credit Approval & Certification.

(1) The Office is responsible for certifying high cost infrastructure tax credits.

(2) After receiving a complete application, including all requested documents supporting an applicant's tax credit eligibility, the Office shall determine whether the applicant has met the eligibility requirements described in Utah Code Section 63M-4-603(1) and in this Rule.

(3) If, after evaluating an application, the Office determines that an applicant is eligible for a tax credit, the Office shall refer the applicant to the Board for Board approval of tax credits based on the Board's evaluation of the project's benefit to Utah based on considerations described in Utah Code Section 63M-4-603(1) and in this Rule.

(a) The Board may find the applicant's project benefits the State even if the project does not satisfy all of the factors described in Utah Code Section 63M-4-603.

(4) If an eligible applicant receives a favorable recommendation from the Board as described in Utah Code Section 63M-4-603(3) and this Rule, the Office will enter into an agreement described in Utah Code Section 63M-4-603(3).

(a) The agreement may include a tax credit authorization based upon the projected cost of the high cost infrastructure project as submitted in the completed application. Nevertheless, the Applicant may only claim a tax credit with a tax credit certificate based on the applicant's actual infrastructure-related revenues reported to the Utah State Tax Commission for the same tax year for which the tax credit is being claimed.

(b) The agreement may contain other terms and conditions necessary to administer the tax credit and satisfy the requirements of the Act, including requiring the Applicant to provide the actual cost to complete the high cost infrastructure project when available to allow the Office to correctly adjust the tax credit authorization.

(c) The agreement may also include conditions under which the agreement and/or the tax credit may be modified or withdrawn, including addressing substantive changes to the Applicant's project not included in the application.

(d) As part of the agreement, applicant must provide the Office annual reports prepared by an independent certified public accountant verifying the high cost infrastructure project's infrastructure-related revenue during the taxable year for which a tax credit is being claimed, as well as granting the Office access to relevant tax records.

(5) Subject to the Act, Rule and agreement, the Office will deliver a tax credit certificate for each qualifying tax year to the applicant or the legal entity the applicant has assigned the tax credit to in accordance with Utah Administrative Rules R362-4-7(6), and provide a copy of the certificate to the Utah State Tax Commission.

(6) Applications for tax credits authorized under this chapter must state the legal entity who will claim the tax credit if other than the Applicant. As part of the tax credit application and approval process, the Office and Board must approve the assignment of the tax credit to the stated recipient.

(a) Any additional assignments and/or transfers of the tax credit are prohibited without the express consent of the Office and Board.

(7) Tax credits authorized by the Office can only be used to offset the applicant's Utah State tax liability under Title 59, Chapter 7, Corporate Franchise and Income Taxes; and, Title 59, Chapter 10, Individual Income Tax.

(8) High Cost Infrastructure tax credits are non refundable and cannot be used in conjunction with any refundable state tax credits.

R362-4-8. Tax Credit Period and Reporting Requirements.

(1) The first reporting period shall begin on the commencement date of the tax credit period, which will be determined by the Office, and shall continue through December 31 of that calendar year. The remaining tax credit & reporting periods shall each span consecutive calendar years from January 1 until December 31. The final tax credit and reporting period will start on January 1 of the calendar year and end on the tax credit termination date as determined when any time period described in Utah Code Section 63M-4-603(4) has occurred.

(2) Within 300 days of the end of each reporting period, the infrastructure cost-burdened entity shall provide the Office an annual report. Reasonable extensions to the 300 day reporting requirement may be granted by the Office.

(a) The report must be prepared by an independent certified public accountant.

(b) The report shall include the amount of infrastructure-related revenue that has been generated during the taxable year for which the tax credit will be claimed, the total amount of tax credit that the infrastructure cost burdened entity has received, and the projected economic life of the high cost infrastructure project.

R362-4-9. Confidentiality.

(1) In accordance with requirements laid out in Utah Code Section 63M-4-604, the Office will treat applicant documents as protected records under Utah Code Section 63G-2-305 and 309. Notwithstanding this policy, applicant will be responsible for providing the Office a business confidentiality form for documents submitted to the Office that it wants protected from public disclosure and clearly marking those documents confidential.

(2) Applicant understands and agrees to provide the Office sufficient information to determine eligibility, and the Board sufficient information to make a recommendation, as well as disclose sufficient information for the Office to meet its statutory reporting requirements.

(3) As part of the duties assigned to the Office in administering the tax credit, the Office is required to report to the Revenue and Taxation Interim Committee of the Utah State Legislature information related to the amount of tax credits granted, and the amount of infrastructure-related revenue generated by the high cost infrastructure projects receiving those tax credits.

(4) In accordance with the Utah Open and Public Meetings Act, Board meetings where voting on the approval of tax credits takes place will be open to the public.

R362-4-10. Appeals Procedure.

(1) A denial of an applicant's request for a tax credit may be appealed by written request pursuant to Utah Code Section 63G-4-201, and in accordance with this Rule.

(2) Hearings must be requested within 30 calendar days from the date that the Office sends written notice of its denial of tax credit.

(3) Failure to submit a timely request for a hearing constitutes a waiver of due process rights. The request must explain why the party is seeking agency relief, and the party must submit the request on the "Request for Hearing/Agency Action" form. The party must then mail or fax the form to the address or fax number contained on the denial.

(4) The Board considers a hearing request that a recipient sends via mail to be filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the Board considers the request to be filed on the date that the Board receives it, unless the sender can demonstrate through convincing evidence that it was mailed before the date of receipt.

(5) The Board shall hold informal adjudicative proceedings in accordance with Utah Code Section 63G-4-202 and 203. The Board shall notify the petitioner and Board representative of the date, time and place of the hearing at least ten days in advance of the hearing. Continuances of scheduled hearings are not favored, but may be for good cause shown. Failure by any party to appear at the hearing after notice has been given shall be grounds for default and shall waive both the right to contest the allegations and the right to the hearing.

(6) The Petitioner named in the notice of agency action and the Board shall be permitted to testify, present evidence, and comment on the issues. Formal rules of evidence shall not apply; however,

(a) Testimony may be taken under oath.

(b) All hearings are open to all parties.

(c) Discovery is prohibited; informal disclosures will be ruled on at the pre-hearing conference.

(d) A respondent shall have access to relevant information contained in the Board's files and to material gathered in the investigation of respondent to the extent permitted by law.

(e) The Board may cause an official record of the hearing to be made, at the Board's expense.

(7) Within a reasonable time, not to exceed 60 days after the close of the informal proceeding, the Board shall issue a signed decision in writing that includes a findings of fact and conclusions of law, and time limits for appeals rights, and administrative or judicial review in accordance with Utah Code Section 63G-4-203(i).

KEY: incentives

**Date of Enactment or Last Substantive Amendment: 2016
Authorizing, Implemented, or Interpreted Law: 63M-4-601**

**Health, Family Health and
Preparedness, Children with Special
Health Care Needs
R398-15
Autism Treatment Account**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 40402

FILED: 05/03/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The statute (Title 26, Chapter 52) that authorizes the rule was repealed in S.B. 50 during the 2016 General Session.

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 52

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division may incur minimal cost of approximately \$50 to delete and repeal the rule out of publications. The proposed repeal does not have costs affiliated with it. The deletion of the rule cuts costs for the Division. The left over funds from the Autism Treatment

Account (ATA) transferred to the Medicaid plan increases funds available for the autism spectrum disorder patients.

♦ **LOCAL GOVERNMENTS:** No funding was provided to local government and therefore none will be affected by this repeal.

♦ **SMALL BUSINESSES:** Contracts to four small businesses from the Autism Treatment Account expired June 2014. No further impact on small businesses will be experienced.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Contracts to provide services to children with autism expired in June 2014. No further services have been provided since that date. No further impact will be experienced.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No funding has been appropriated since fiscal year 2014. There are no ongoing programs or compliance cost associated with the Autism Treatment Account.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There may be fiscal impact on business in that any funds remaining in the ATA are to be deposited into the state Medicaid plan and used for the autism spectrum disorder program including payment for services from Medicaid providers.

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

HEALTH

FAMILY HEALTH AND PREPAREDNESS,

CHILDREN WITH SPECIAL HEALTH CARE NEEDS

44 N MARIO CAPECCHI DR

SALT LAKE CITY, UT 84113

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Joyce McStotts by phone at 801-584-8239, by FAX at 801-584-8488, or by Internet E-mail at jmcstotts@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/13/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

[R398-15. Autism Treatment Account.

R398-15-1. Purpose and Authority.

~~The purpose of this rule is to identify criteria and procedures for selecting children who may qualify for assistance from the account and identify qualifications, criteria, and procedures for selecting service and treatment providers that receive disbursements from the Autism Treatment Restricted Account.~~

~~_____ This rule is authorized by Section 26-52-202(4) which provide that the Autism Treatment Account Advisory Committee, hereafter known as the "Committee", may make rules governing the Committee's activities.~~

~~**R398-15-2. Qualification Criteria and Procedures for Selecting Children Who May Qualify for Assistance from the Account.**~~

- ~~_____ (1) Qualification Criteria~~
 - ~~_____ a. Child who is at least two but younger than seven years of age upon enrollment;~~
 - ~~_____ b. Resident of Utah;~~
 - ~~_____ c. Diagnosed by a qualified professional as having an autism spectrum disorder; and~~
 - ~~_____ d. Have a need that can be met within the requirements of UCA 26-52;~~
 - ~~_____ i. Must need and be able to receive a minimum of six months of applied behavior analysis (ABA) therapy; and~~
 - ~~_____ ii. Cannot be receiving formal ABA therapy services from other state funded sources under this law (Medicaid Waiver or PEHP) or ABA therapy for a minimum of 20 hours per week covered at 80 percent or more of cost of treatment by other insurance while receiving services funded through this account.~~

- ~~_____ (2) Procedures for selecting children~~
 - ~~_____ a. Providers selected through the request for application (RFA) process are responsible for enrollment and determining if a child meets qualification criteria utilizing UDOH enrollment forms for children.~~
 - ~~_____ b. If applications for enrollment of children exceeds capacity of this funding, providers shall select children using a random process.~~

~~**R398-15-3. Qualifications, Criteria and Procedures for Evaluating Service and Treatment Providers to Include in the Program.**~~

- ~~_____ (1) Providers are qualified to receive funds if:~~
 - ~~_____ a. They utilize ABA for treatment alone or in conjunction with other proven effective treatments as outlined in an RFA process;~~
 - ~~_____ b. Treatment is provided by or supervised by a board-certified behavior analyst or licensed psychologist with equivalent university training and supervised experience who is working toward board certification in ABA;~~
 - ~~_____ c. They are willing to collaborate with existing telehealth networks to reach children in rural and underserved areas of the state;~~
 - ~~_____ d. They utilize methods to engage family members in the treatment process; and~~
 - ~~_____ e. They agree to serve and treat only eligible children with this funding.~~

- ~~_____ (2) Procedures for evaluating providers~~
 - ~~_____ a. Funding requests to the Committee from providers will be made on a standard RFA which will be developed and authorized by the Committee and made available by the Department.~~
 - ~~_____ b. Providers that meet the minimum requirements in Subsection 3.1., will be evaluated for funding by a review committee.~~
 - ~~_____ c. Criteria used to select providers for funding will include:~~
 - ~~_____ i. Per eligible child cost for treatment proposed by provider;~~
 - ~~_____ ii. Provider or organization's background and qualifications;~~
 - ~~_____ iii. Description of treatment and services to be provided;~~
 - ~~_____ iv. Additional consideration will be given to those with existing connections to telehealth or evidence of written policies and procedures for providing ABA services via telehealth; and~~

~~_____ v. Additional consideration will be given to those who show evidence of providing services in rural and underserved communities.~~

~~_____ (3) Funded providers will submit required reports as outlined in the RFA to UDOH/Committee on use of funds, two of which shall include:~~

- ~~_____ a. Detailed description of how provider will report evaluation of benefits and outcomes for children receiving services; and~~
- ~~_____ b. Monthly invoice and justification of expenditures consistent with uses as specified in UCA 26-52.~~
- ~~_____ (4) RFAs will be authorized contingent on funds available.~~

~~**R398-15-4. Conflict of Interest within the Advisory Committee.**~~

~~_____ (1) Committee members will sign a conflict of interest form identifying affiliations with providers that apply for funding from the Autism Treatment Account, and/or known family members that may receive treatment or evaluation services directly funded through the Autism Treatment Account from a provider that has submitted an application for funding. The conflict of interest form will be signed prior to review of funding requests.~~

~~_____ (2) If an issue is to be decided by the Advisory Committee that involves potential conflict of interest with a member of the committee, it is the responsibility of the member to:~~

- ~~_____ a. Identify the potential conflict of interest.~~
- ~~_____ b. Not participate in discussion of the program or motion being considered.~~
- ~~_____ c. Not vote on the issue.~~

~~_____ (3) It is the responsibility of the Committee to:~~

- ~~_____ a. Award funds based on quality of application regardless of committee affiliation.~~
- ~~_____ b. Record in the minutes of the Advisory Committee Meeting the potential conflict of interest, and the use of the procedures and criteria of this policy.~~

~~**KEY: autism treatment, applied behavior analysis (ABA), autism spectrum disorders**~~

~~**Date of Enactment or Last Substantive Amendment: August 27, 2013**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-52-201; 26-52-202]**~~

Health, Family Health and
Preparedness, Emergency Medical
Services
R426-3-600
Cost, Quality, and Access Goals for
Ground Ambulance Providers

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 40427
FILED: 05/13/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the licensing requirements for cost, quality, and access goals.

SUMMARY OF THE RULE OR CHANGE: Clarification of requirements for establishing cost, quality, and access goals for Emergency Medical Services.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no effect on state budget. This amendment makes no changes to the administrative costs. No additional work or state requirements are mandated.

◆ **LOCAL GOVERNMENTS:** Fiscal impacts should be minimal. Administrative time will be required to establish cost, quality, and access goals. These amendments do not increase current requirements.

◆ **SMALL BUSINESSES:** Fiscal impacts should be minimal. Administrative time will be required to establish cost, quality, and access goals. These amendments do not increase current requirements.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Fiscal impacts should be minimal. Administrative time will be required to establish cost, quality, and access goals. These amendments do not increase current requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost, quality, and access goals may establish lower or higher costs depending on the decisions made by local governments. These amendments do not increase current requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There may be a slight fiscal impact to business as a result of the administrative time of EMS providers to track the establishment of the goals but there are no additional requirements.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R426. Health, Family Health and Preparedness, Emergency Medical Services.**R426-3. Licensure.****R426-3-600. Cost, Quality, and Access Goals for Ground Ambulance Providers.**

(1) A local government shall establish emergency medical service goals pursuant to Title 26-8a-408(7).

~~[(2) Cost, quality and access goals should be reviewed by the local government and the licensed ground ambulance provider every two years, and shall be submitted to the Department as part of the re-licensing application every four years.]~~

(2) Goals shall be renewed every four years in concurrence with the licensure process for the EMS licensed ground ambulance provider. All local governments in a licensed service area are required to participate.

(3) Goals may be amended, if necessary, due to:

- (a) unforeseen changes in service delivery,
- (b) community impacts, or
- (c) significant unforeseen impact in the geographical service area.

(4) Goals shall be written, approved by local governments, and submitted to the Department with licensure and re-licensure application by the EMS licensed ground ambulance provider for the geographical service area.

~~[(5) Cost and revenues for goals may include the following:~~

~~(a) all forecasted costs involved in the provision of ambulance services in the geographical service area, which may include:~~

- ~~(i) expenses for equipment,~~
- ~~(ii) personnel,~~
- ~~(iii) maintenance,~~
- ~~(iv) facilities,~~
- ~~(v) insurance,~~
- ~~(vi) taxes, and~~
- ~~(vii) dispatching fees;~~

~~(b) all forecasted revenues involved in the provision of ambulance services in the geographical service area, which may include:~~

- ~~(i) Department approved rates charged to patients,~~
- ~~(ii) reimbursements,~~
- ~~(iii) local funds,~~
- ~~(iv) Department grants,~~
- ~~(v) outside grants,~~
- ~~(vi) gifts, and~~
- ~~(vii) related subsidies.~~

~~(6) Quality goals may include the following:~~

- ~~(a) appropriate licensure service levels rationale,~~

- ~~(b) local medical direction;~~
- ~~(c) coordination improvement with designated emergency medical dispatch;~~
- ~~(d) appropriate patient destinations;~~
- ~~(e) quality assurance process;~~
- ~~(f) recruitment plans;~~
- ~~(g) retention plans;~~
- ~~(h) training of response personnel; and~~
- ~~(i) accreditation.~~
- ~~(7) Access goals may include the following:~~
 - ~~(a) quantity of permitted vehicles available;~~
 - ~~(b) response times;~~
 - ~~(c) numbers and availability of response personnel;~~
 - ~~(d) mutual aid agreements; and~~
 - ~~(e) planning for stand-by events requiring an ambulance on scene such as:~~
 - ~~(i) mass gatherings;~~
 - ~~(ii) sporting events;~~
 - ~~(iii) commercial;~~
 - ~~(iv) any special event; or~~
 - ~~(v) disaster response planning and participation in disaster response exercises.]~~
- (5) Local governments may choose to recognize EMS providers who have achieved accreditation by a Department approved accreditation organization as meeting the cost, quality, and access goals.
- (6) Cost goals shall indicate the expected financial cost to the local government(s) and patients for the level of service provided.
- (7) Quality goals shall indicate the expected level of service plus any additional foreseen improvements or advancements in service expectations.
- (8) Access goals shall indicate the local government's expectation for access to the EMS system by any individual within the local government's geographic area.

KEY: emergency medical services, licensure
Date of Enactment or Last Substantive Amendment: [September 24,]2016
Authorizing, and Implemented or Interpreted Law: 26-8a

Health, Family Health and
 Preparedness, Emergency Medical
 Services
R426-9
 Trauma and EMS System Facility
 Designations

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 40426
 FILED: 05/13/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments align trauma data rules with national level updates and provide clarity on data element requirements.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) replace references from ICD-9 to ICD-10; 2) update inclusion criteria to include a hospital stay of longer than 12 hours (as measured from the time of Emergency Department arrival to patient discharge); 3) remove the list of required data elements which is replaced by Subsection R426-9-7(1)(c); 4) no longer require referring hospital information except hospital transfer and hospital name; and 5) replace full Utah Trauma Data Dictionary with addendum that includes only additional elements not included in the National Traffic Data Standard.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated fiscal impact to the state budget because amendments update and clarify standards.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated fiscal impact to local government budgets because amendments update and clarify standards.
- ◆ **SMALL BUSINESSES:** There is no impact on small businesses. Reporting is currently required, and amendments update and clarify reportable data elements.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated fiscal impacts. Reporting is currently required, and amendments update and clarify reportable data elements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons will not have any additional compliance costs. The amendments update and clarify existing requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact upon business because the proposed changes clarify but do not change any currently required reporting requirements.

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

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 EMERGENCY MEDICAL SERVICES
 3760 S HIGHLAND DR
 SALT LAKE CITY, UT 84106
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-9. Trauma and EMS System Facility Designations.

R426-9-100. Authority and Purpose for Trauma System Standards.

(1) Authority - This rule is established under Title 26, Chapter 8a, 252, Statewide Trauma System, which authorizes the Department to:

- (a) establish and actively supervise a statewide trauma system;
- (b) establish, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport, and transfer of trauma patients to the most appropriate health care facility; and
- (c) designate trauma care facilities consistent with the trauma center designation requirements and verification process established by the Department and applicable statutes.

(2) This rule provides standards for the categorization of all hospitals and the voluntary designation of Trauma Centers to assist physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.

(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

R426-9-700. Data Requirements for an Inclusive Trauma System.

(1) All hospitals shall collect, and monthly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system. Designated trauma centers shall provide such data in a[n] standardized electronic format approved by the Department. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. In order to ensure consistent patient data collection, a trauma patient is defined as a patient sustaining a traumatic injury and meeting the following criteria:~~[The inclusion criteria for a trauma patient are as follows:]~~

(a) At least one of the following injury diagnostic codes: [ICD9 Diagnostic Codes between 800 and 959.9 (trauma); and] ICD10

Diagnostic Codes: S00-S00 with 7th character modifiers of A, B, or C only, T07, T14, T20-T28 with 7th character modifier of A, T30-T32, T79.A1-T79.A9 with 7th character modifier of A excluding the following isolated injuries: S00, S10, S20, S30, S40, S50, S60, S70, S80, S90. Late effect codes, which are represented using the same range of injury diagnosis codes but with the 7th digit modifier code of D through S are also excluded; and

- (b) At least one of the following patient conditions:
 - ~~[(i) Injury resulted in death;~~
 - ~~— (ii) Admitted to the]Stay at a hospital greater than 12 hours (as measured from the Emergency Department arrival to patient discharge); [for 24 hours or longer;~~
 - ~~— (iii) Patient] transferred in or out of reporting hospital via EMS transport (including air ambulance); death resulting from the traumatic injury (independent of hospital admission or hospital transfer status. [and~~

~~— (iv) Patient transported via air ambulance, independent of hospital admission or hospital transfer status.~~

~~— (e) Exclusion criteria are ICD9 Diagnostic Codes:~~

- ~~— (i) 930-939.9 (foreign bodies)~~
- ~~— (ii) 905-909.9 (late effects of injury)~~
- ~~— (iii) 910-924.9 (superficial injuries, including blisters, contusions, abrasions, and insect bites)~~

~~(2) The information shall be in a National Trauma Data Standard standardized electronic format and include the following NTDS data elements:~~

~~— (a) Demographic Data:~~

- ~~— D_01 Patient's Home Zip Code~~
- ~~— D_02 Patient's Home Country~~
- ~~— D_03 Patient's Home State~~
- ~~— D_04 Patient's Home County~~
- ~~— D_05 Patient's Home City~~
- ~~— D_06 Alternate Home Residence~~
- ~~— D_07 Date of Birth~~
- ~~— D_08 Age~~
- ~~— D_09 Age Unit~~
- ~~— D_10 Race~~
- ~~— D_11 Ethnicity~~
- ~~— D_12 Sex~~

~~— (b) Injury Information:~~

- ~~— I_01 Injury Incident Date~~
- ~~— I_02 Injury Incident Time~~
- ~~— I_03 Work-Related~~
- ~~— I_04 Patient's Occupational Industry~~
- ~~— I_05 Patient's Occupation~~
- ~~— I_06 ICD-9 Primary External Cause Code~~
- ~~— I_07 ICD-10 Primary External Cause Code~~
- ~~— I_08 ICD-9 Place Of Occurrence External Cause Code~~
- ~~— I_09 ICD-10 Place Of Occurrence External Cause Code~~
- ~~— I_10 ICD-9 Additional External Cause Code~~
- ~~— I_11 ICD-10 Additional External Cause Code~~
- ~~— I_12 Incident Location Zip Code~~
- ~~— I_13 Incident Country~~
- ~~— I_14 Incident State~~
- ~~— I_15 Incident County~~
- ~~— I_16 Incident City~~
- ~~— I_17 Protective Devices~~
- ~~— I_18 Child Specific Restraint~~
- ~~— I_19 Airbag Deployment~~

- ~~I_20 Report Of Physical Abuse~~
- ~~I_21 Investigation Of Physical Abuse~~
- ~~I_22 Caregiver At Discharge~~
- ~~(e) Pre-Hospital Information~~
- ~~P_01 EMS Dispatch Date~~
- ~~P_02 EMS Dispatch Time~~
- ~~P_03 EMS Unit Arrival Date At Scene Or Transferring Facility~~
- ~~P_04 EMS Unit Arrival Time At Scene Or Transferring Facility~~
- ~~P_05 EMS Unit Departure Date From Scene Or Transferring Facility~~
- ~~P_06 EMS Unit Departure Time From Scene Or Transferring Facility~~
- ~~P_07 Transport Mode~~
- ~~P_08 Other Transport Mode~~
- ~~P_09 Initial Field Systolic Blood Pressure~~
- ~~P_10 Initial Field Pulse Rate~~
- ~~P_11 Initial Field Respiratory Rate~~
- ~~P_12 Initial Field Oxygen Saturation~~
- ~~P_13 Initial Field GCS -Eye~~
- ~~P_14 Initial Field GCS -Verbal~~
- ~~P_15 Initial Field GCS -Motor~~
- ~~P_16 Initial Field GCS -Total~~
- ~~P_17 Inter-Facility Transfer~~
- ~~P_18 Trauma Center Criteria~~
- ~~P_19 Vehicular, Pedestrian, Other Risk Injury~~
- ~~(d) Emergency Department Information~~
- ~~ED_01 ED/Hospital Arrival Date~~
- ~~ED_02 ED/Hospital Arrival Time~~
- ~~ED_03 Initial ED/Hospital Systolic Blood Pressure~~
- ~~ED_04 Initial ED/Hospital Pulse Rate~~
- ~~ED_05 Initial ED/Hospital Temperature~~
- ~~ED_06 Initial ED/Hospital Respiratory Rate~~
- ~~ED_07 Initial ED/Hospital Respiratory Assistance~~
- ~~ED_08 Initial ED/Hospital Oxygen Saturation~~
- ~~ED_09 Initial ED/Hospital Supplemental Oxygen~~
- ~~ED_10 Initial ED/Hospital GCS -Eye~~
- ~~ED_11 Initial ED/Hospital GCS -Verbal~~
- ~~ED_12 Initial ED/Hospital GCS -Motor~~
- ~~ED_13 Initial ED/Hospital GCS -Total~~
- ~~ED_14 Initial ED/Hospital GCS Assessment Qualifiers~~
- ~~ED_15 Initial ED/Hospital Height~~
- ~~ED_16 Initial ED/Hospital Weight~~
- ~~ED_17 Alcohol Use Indicator~~
- ~~ED_18 Drug Use Indicator~~
- ~~ED_19 ED Discharge Disposition~~
- ~~ED_20 Signs Of Life~~
- ~~ED_21 ED Discharge Date~~
- ~~ED_22 ED Discharge Time~~
- ~~(e) Hospital Procedure Information~~
- ~~HP_01 ICD-9 Hospital Procedures~~
- ~~HP_02 ICD-10 Hospital Procedures~~
- ~~HP_03 Hospital Procedure Start Date~~
- ~~HP_04 Hospital Procedure Start Time~~
- ~~(f) Diagnosis Information~~
- ~~DG_01 Co-Morbid Conditions~~
- ~~DG_02 ICD-9 Injury Diagnoses~~
- ~~DG_03 ICD-10 Injury Diagnoses~~
- ~~(g) Injury Severity Information~~
- ~~IS_01 AIS Predot Code~~
- ~~IS_02 AIS Severity~~
- ~~IS_03 ISS Body Region~~
- ~~IS_04 AIS Version~~
- ~~IS_05 Locally Calculated ISS~~
- ~~(h) Outcome Information~~
- ~~O_01 Total ICU Length Of Stay~~
- ~~O_02 Total Ventilator Days~~
- ~~O_03 Hospital Discharge Date~~
- ~~O_04 Hospital Discharge Time~~
- ~~O_05 Hospital Discharge Disposition~~
- ~~(i) Financial Information~~
- ~~F_01 Primary Method Of Payment~~
- ~~(x) Quality Assurance Information~~
- ~~Q_01 Hospital Complications~~
- ~~(3) Additional data elements, not included in the NTDS, to be submitted include:~~
- ~~(a) Demographic Information~~
- ~~A.1 Tracking Number~~
- ~~A.2 Hospital Number~~
- ~~A.10 Medical Record Number~~
- ~~A.11 Social Security Number~~
- ~~(b) Injury Information~~
- ~~B.3 Injury Cause Code~~
- ~~B.4 Trauma Type~~
- ~~B.19 Injury Details~~
- ~~(c) Pre-hospital Information~~
- ~~D.3 EMS Agency~~
- ~~D.4 EMS Origin~~
- ~~D.8 EMS Respond Date~~
- ~~D.7 EMS Respond Time~~
- ~~D.14 EMS Destination Arrival Date~~
- ~~D.13 EMS Destination Arrival Time~~
- ~~D.15 EMS Destination~~
- ~~D.16 EMS Trip Form Received~~
- ~~D.24 Initial Field GCS Assessment Qualifiers~~
- ~~(d) Referring Hospital Information~~
- ~~C.1 Hospital Transfer~~
- ~~C.2 Transport Mode into Referring Hospital~~
- ~~C.3 Referring Hospital~~
- ~~C.4 Referring Hospital Arrival Date~~
- ~~C.5 Referring Hospital Arrival Time~~
- ~~C.6 Referring Hospital Discharge Date~~
- ~~C.7 Referring Hospital Discharge Time~~
- ~~C.8 Referring Hospital Admission Type~~
- ~~C.9 Referring Hospital Pulse~~
- ~~C.10 Referring Hospital Respiratory Rate~~
- ~~C.11 Referring Hospital Systolic Blood Pressure~~
- ~~C.12 Referring Hospital GCS -Eye~~
- ~~C.13 Referring Hospital GCS -Verbal~~
- ~~C.14 Referring Hospital GCS -Motor~~
- ~~C.15 Referring Hospital GCS Assessment Qualifiers~~
- ~~C.16 Referring Hospital GCS Total~~
- ~~C.17 Referring Hospital Procedures~~
- ~~(e) Emergency Department Information~~
- ~~E.1 ED Admit Type~~
- ~~E.2 ED Admit Service~~
- ~~E.6 ED Admission Date~~

~~_____ E.5 ED Admission Time~~
~~_____ E.14 ED Transferring EMS Agency~~
~~_____ E.15 ED Discharge Destination Hospital~~
~~_____ (f) Inpatient Information~~
~~_____ E.10 Inpatient Admission Date~~
~~_____ E.9 Inpatient Admission Time~~
~~_____ E.12 Hospital Discharge Date~~
~~_____ E.11 Hospital Discharge Time~~
~~_____ E.16 Transfer Reason~~
~~_____ E.18 Hospital Discharge Destination Hospital~~
~~_____ E.19 DC Transferring EMS Agency~~
~~_____ (vii) Outcome Information~~
~~_____ E.20 Outcome]~~

(c) The Department adopt by reference the National Trauma Data Standard Data Dictionary for 2016 Admissions published by the American College of Surgeons, and the Utah Trauma Registry State Required Elements for 2016 published by the Department.

KEY: emergency medical services, trauma, reporting, trauma center designation

Date of Enactment or Last Substantive Amendment: [~~August 21, 2015~~]**2016**

Authorizing, and Implemented or Interpreted Law: 26-8a-252

Natural Resources, Wildlife Resources

R657-5

Taking Big Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40403

FILED: 05/05/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the big game rule.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule align the rule with current statute changes resulting from the 2016 Legislative Session under H.B. 84.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule amendment removes the age restriction for 12- to 13-year-olds to apply for limited entry and once-in-a-lifetime permits in the big game drawing. Since this will not increase workload for the agency, the Division of Wildlife Resources (DWR) determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget since the changes will not

increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since the amendment only adjusts the age for which a person can apply for limited entry permits, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment simply makes an age adjustment and allows for additional opportunities for sportsmen 12 to 13 years of age. It does not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment simply makes an age adjustment and allows for additional opportunities for sportsmen 12 to 13 years of age. It does not have the potential to generate a cost or savings impact to sportsmen or the other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this amendment will not create additional costs for those who participate in wildlife-related activities in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not have a potential to create an impact on businesses.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-5. Taking Big Game.

R657-5-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are

published in the guidebook of the Wildlife Board for taking big game.

R657-5-4. Age Requirements and Restrictions.

(1)(a) Subject to the exceptions in subsection (c), a person 12 years of age or older may apply for or obtain a permit to hunt big game. A person 11 years of age may apply for a permit to hunt big game if that person's 12th birthday falls within the calendar year for which the permit is issued.

(b) A person may not use a permit to hunt big game before their 12th birthday.

~~[(c) A person who is younger than 14 years of age may not apply for or obtain the following types of big game permits issued by the division through a public drawing:~~

~~(i) premium limited entry;~~

~~(ii) limited entry;~~

~~(iii) once-in-a-lifetime; and~~

~~(iv) cooperative wildlife management unit.~~

~~(d) A person who is 13 years of age may apply for or obtain a type of permit listed in Subsection(1)(c) if that person's 14th birthday falls within the calendar year for which the permit is issued.~~

~~(e) antlerless deer, antlerless elk, and doe pronghorn permits are not limited entry, premium limited entry or cooperative wildlife management unit permits for purposes of determining a 12 or 13 year olds eligibility to apply for or obtain through a public drawing administered by the division.]~~

(2)(a) A person at least 12 years of age and under 16 years of age must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

KEY: wildlife, game laws, big game seasons

Date of Enactment or Last Substantive Amendment: [February 8], 2016

Notice of Continuation: October 5, 2015

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6

**Natural Resources, Wildlife Resources
R657-23
Utah Hunter Education Program**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40404

FILED: 05/05/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to: 1) eliminate the minimum number of hours required for both the

traditional/instructor led classroom course and the online course practical testing day while still ensuring compliance with the International Hunter Education Association-USA (IHEA-USA) hunter education standards; and 2) maintain a live-fire component in the hunter education course without requiring a shooting/marksmanship test.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to better align with the IHEA-USA minimum hunter education standards for use in the United States to ensure consistency and to maintain reciprocity agreements among the states.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-11 and Section 23-19-12

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule is being amended to better align with the IHEA-USA standards. The Division of Wildlife Resources (DWR) determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget and can be implemented with current budget and personnel.

◆ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This rule is aligning the state's minimum hunter education requirements with that of the IHEA-USA. Therefore, this amendment does not impose any additional requirements on other persons nor generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule is aligning the state's minimum hunter education requirements with that of the IHEA-USA. Therefore, this amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is better aligning the states hunter education minimum requirements with the IHEA-USA to ensure consistency and to maintain reciprocity agreements among the states. Therefore, the division determines that there are not any additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-23. Utah Hunter Education Program.

R657-23-1. Purpose and Authority.

Under authority of Section 23-19-11, this rule provides the process and requirements for:

- (1) hunter education instructor and student training; and
- (2) presenting and obtaining proof of having successfully completed an approved hunter education course.

R657-23-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Approved hunter education course" means any hunter education course that qualifies a person to receive a resident hunting license in the state, province, or country in which the hunter education course is offered.
 - (b) "Authorized division representative" means a volunteer hunter education instructor who has been approved by the division to issue duplicate blue cards.
 - (c) "Blue Card" means the certificate of completion issued by the division for having passed a Utah hunter education course or an approved hunter education course.
 - (d) "Certificate of completion" means a card, certificate, or other document issued by the wildlife agency of a state, province, or country, and signed by a hunter education instructor, verifying successful completion of an approved hunter education course.
 - (e) "Hunter Education Registration Certificate" means a document purchased from the division that is valid for 365 days from date of purchase which is required to sign up for and graduate from the hunter education course. This document becomes a valid hunting license upon validation of course completion by a certified hunter education instructor.
 - (f) "~~Practical exercise and testing day~~" means a student has successfully completed the hunter education course online and shall participate in taking a written test, a practical shooting test, and instruction on Field day means an instructor-lead practical exercise which may include instruction in and student demonstration in the safe use of firearms ~~[safety and]~~, hunter responsibility ~~[during a minimum of five hours with a]~~, a written exam, and a live fire exercise with a certified hunter education instructor as prescribed by the Utah Hunter Education Program administration.

(g) "Trainer" means a volunteer hunter education instructor or Division employee who has been certified by the division to train hunter education instructors.

(h) "Instructor" means a volunteer hunter education instructor or division employee who has been ~~certified~~ approved by the division to teach the hunter education program to students.

(i) "Online hunter education course" means a Division-approved hunter education course that is completed online ~~[substituting the minimum 12 hours classroom requirement, and is taken through the division's Internet address]~~ prior to attending a field day.

(j) "Student" means a person who is registered in a hunter education course being taught by a certified hunter education instructor.

(k) "~~Traditional~~ Instructor-lead hunter education course" means a hunter education course that ~~[is a minimum of 12 classroom hours, a written test]~~ meets the International Hunter Education Association -- USA minimum standards for hunter education and that is lead by an instructor and includes, a written exam and a [practical shooting test] live fire exercise.

R657-23-3. Hunter Education Required.

(1)(a) To obtain a hunting license, any person born after December 31, 1965, must present proof of having passed a division approved hunter education course.

(b) A person may take a hunter education course offered by the division as provided in Subsection (2), ~~(3),~~ (4).

(2) Completion of a ~~traditional~~ instructor-lead hunter education course requires students to:

(a) purchase a hunter education registration certificate from a Division authorized licensed vendor ~~[-];~~

(b) attend the ~~[minimum 12-hour classroom]~~ instructor-lead course;

(c) behave in a safe and responsible manner in class;

(d) obtain a passing score of at least 75% on a written ~~[test]~~ exam; and

(e) ~~[obtain a passing score of at least 50% on a shooting practical test.]~~ participate in a live fire exercise demonstrating safe firearms handling.

(3) Completion of the online hunter education course requires students to:

(a) purchase a hunter education registration certificate from a Division authorized licensed vendor.

(b) pre-register for the field day by contacting the instructor by mail, e-mail or telephone;

(c) ~~[comprehensively read each chapter of the online workbook, and complete and obtain a passing score of at least 80% of each quiz that is provided after each chapter of the workbook;]~~ successfully complete a division-approved online course and provide documentation of completion to the hunter education instructor prior to participating in a field day;

(d) behave in a safe and responsible manner while attending the field day;

(e) obtain a passing score of at least 75% on a written ~~[test]~~ exam; and

(f) ~~[obtain a passing score of at least 50% on a shooting practical test.]~~ participate in a live fire exercise demonstrating safe firearms handling.

(4)(a) The division will issue a Blue Card to each individual who successfully completes the hunter education course.

~~[(b) A Blue Card shall not be issued to a person who has not successfully completed the hunter education requirements.]~~

(5) A member of the United States Armed Forces ~~[or]~~ on active duty, reserve duty, or having veteran status, or a member of the Utah National Guard is exempt from the ~~[shooting practical test]~~ live fire exercise required in Subsections 2 and 3 above if they can provide ~~[a copy of their federal form 201 from the military outlining their firearms training]~~ their active or reserve status Military identification card or valid documentation of veteran status to the hunter education instructor prior to the ~~[firearms practical test]~~ live fire exercise.

(6) The division shall accept other states, provinces, and countries criteria and qualifications for their respective courses, which meet or exceed the International Hunter Education Association-USA hunter education standards.

R657-23-4. Documents Accepted as Proof of Completion of a Hunter Education Course.

(1) The division and division approved license agents shall accept proof of completion of an approved hunter education course from other states, provinces, and countries whose criteria and qualifications for their respective courses, meet or exceed the International Hunter Education Association-USA hunter education standards in accordance with Section 23-19-11.

(2)(a) Any person who has completed an approved hunter education course in another state, province, or country and becomes a Utah resident must obtain a transfer Blue Card prior to purchasing a resident hunting license.

(b) The person must present proof of completion of an approved hunter education course to a division office as required under Subsection (1).

(3)(a) If an applicant for a nonresident hunting license is not able to present a hunting license with the hunter education number noted on it or a certificate of completion as provided in Subsection (1), the division may contact another state, province, or country to verify the completion of a hunter education course so that a nonresident hunting license may be issued.

(4)(a) If an applicant for a resident or nonresident hunting license has completed a hunter education course in Utah but is not able to present a hunting license ~~[or a certificate of completion as provided in Subsection (1)]~~ with the hunter education number noted on it, the division may research the division's hunter education records to verify that the applicant has completed the hunter education course.

(b) Upon issuance of the hunting license, the division shall indicate the applicant's hunter education number on the face of the hunting license.

(5)(a) If a Blue Card is lost or destroyed, a person may apply by mail or in person at a division office ~~[, or may contact an authorized division representative]~~ to obtain a duplicate Blue Card. The person must complete an affidavit and request a record's search.

(b) Upon verification of completion of the hunter education course, the division ~~[, or authorized division representative]~~ may issue the person a duplicate Blue Card.

(6) The division requires any person whose records cannot be found or who cannot be verified as having completed a hunter education course to take the complete course as required under Section R657-23-3.

(7) For the purpose of issuing a hunting license, the division may, upon request, provide verification to another state's wildlife agency that a resident or former resident of Utah has met the Utah hunter education requirements.

(8) The division may charge a fee for the services provided in Subsections (2), (3), (4), and (5).

R657-23-5. Hunter Education Instructor Training.

(1) A person must be 21 years of age or older to become a certified hunter education instructor.

(2) Completion of a hunter education instructor course requires a person to: ~~[EITHER]~~

~~[(a) attend the 18-hour classroom course conducted by a trainer;~~

~~(b) pass a criminal background check assessing suitability to work with children under the age of 18 years and to serve as an instructor;~~

~~(c) obtain a passing score of at least 80% on a written test; and~~

~~(d) obtain a passing score of at least 50% on a shooting practical test.~~

~~[OR]~~

(a) Complete the Division's ~~[online]~~ instructor training course.

(b) Pass a criminal background check assessing suitability to work with children under the age of 18 years and to serve as an instructor;

(c) Attend a ~~[6-hour workshop]~~ training course conducted by a trainer~~[-];~~

(d) Obtain a passing score of at least 75% on a written ~~[test]~~ exam; and

(e) ~~[Obtain a passing score of at least 50% on a shooting practical test.]~~ Participate in a live fire exercise or a range safety training course.

(3) The division shall issue a hunter education instructor card to each individual who successfully completes the hunter education instructor course.

KEY: wildlife, game laws, hunter education

Date of Enactment or Last Substantive Amendment: [August 21, 2008]2016

Notice of Continuation: December 5, 2012

Authorizing, and Implemented or Interpreted Law: 23-19-11

Tax Commission, Auditing
R865-6F-28
Enterprise Zone Corporate Franchise
Tax Credits Pursuant to Utah Code
Ann. Sections 63N-2-201 through 63N-
2-215

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40417

FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed as a result of H.B. 31 from the 2016 General Session.

SUMMARY OF THE RULE OR CHANGE: H.B. 31 (2016) removes the determination of whether an applicant qualifies for the enterprise zone credit and the amount of credit for which a successful applicant applies from the Tax Commission to GOED. Accordingly, this section is no longer necessary.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-2-201 and Section 63N-2-215

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--Any revenue impacts were considered in H.B. 31 (2016).
- ◆ LOCAL GOVERNMENTS: None--Any revenue impacts were considered in H.B. 31 (2016).
- ◆ SMALL BUSINESSES: None--Any revenue impacts were considered in H.B. 31 (2016).
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Any revenue impacts were considered in H.B. 31 (2016).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The Tax Commission section is removed since the Tax Commission is no longer involved in the determination of whether an applicant qualifies for the enterprise zone credit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact--Potential fiscal impacts considered in H.B. 31 (2016).

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Rebecca Rockwell, Commissioner

R865. Tax Commission, Auditing.**R865-6F. Franchise Tax.**

~~[R865-6F-28. Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 63N-2-201 through 63N-2-215.~~

- ~~(1) Definitions:~~
- ~~(a) "Based" means exclusively stored or maintained at a facility owned by the taxpayer:~~
- ~~(i) that is designed, constructed, and used to store or maintain equipment:~~
- ~~(A) that is transported outside of the enterprise zone; and~~
- ~~(B) for which the credit is taken;~~
- ~~(ii) where the equipment is located when it is not being used at facilities outside the enterprise zone, as evidenced by invoices, equipment logs, photographs, or similar documentation; and~~
- ~~(iii) from where the use of the equipment is directed or managed.~~
- ~~(b) "Business engaged in retail trade" means a business that makes a retail sale as defined in Section 59-12-102.~~
- ~~(c) "Construction work" does not include facility maintenance or repair work.~~
- ~~(d) "Employee" means a person who qualifies as an employee under Internal Revenue Service Regulation 26 CFR 31.3401(e)(1).~~
- ~~(e) "Public utilities business" means a public utility under Section 54-2-1.~~
- ~~(f) "Qualifying investment" does not include an investment made by a member of a unitary group in plant, equipment, or other depreciable property of another member of that unitary group.~~
- ~~(g) "Taxpayer" means the person claiming the tax credits in Section 63N-2-213.~~
- ~~(h) "Transfer" pursuant to Section 63N-2-211, means the relocation of assets and operations of a business, including personnel, plant, property, and equipment.~~
- ~~(i) "Unitary group" is as defined in Section 59-7-101.~~
- ~~(2) For purposes of the investment tax credit, an investment is a qualifying investment if the plant, equipment, or other depreciable property for which the credit is taken is:~~
- ~~(a)(i) located within the boundaries of the enterprise zone; and~~
- ~~(ii) used exclusively in business operations conducted within the enterprise zone; or~~
- ~~(b) in the case of equipment or other depreciable property, based in the enterprise zone.~~
- ~~(3) The following examples relate to the investment tax credit:~~
- ~~(a) A furniture manufacturer operates a manufacturing facility that is located in an enterprise zone. The manufacturer purchases two trucks that are used exclusively at the facility and used to pick up raw materials from suppliers, some or all of whom~~

~~may be outside the enterprise zone, and to deliver finished product to final customers, some or all of whom may be outside the enterprise zone. The trucks qualify for the investment tax credit because they are used exclusively in a business operation, the furniture manufacturing facility, that is located within the enterprise zone, even if they are stored or maintained at a facility located outside of the enterprise zone.~~

~~(b) If the same manufacturer described in Subsection (3) (a) had two facilities, one located within the enterprise zone, and one located outside the enterprise zone, and used the same two trucks for the same purposes for both facilities. The trucks are not based at a facility in the enterprise zone. The trucks would not qualify for the investment tax credit because they are not used exclusively at the facility located within the enterprise zone, and are not based in the enterprise zone.~~

~~(c) A business consists of a mine office located in an enterprise zone and a mine located outside the enterprise zone. Mining equipment is used exclusively at the mine and is not based in the enterprise zone. The business may claim the investment tax credit for plant, equipment, or other depreciable property located in the mine office, but not for plant, equipment, or other depreciable property used in the mine outside the enterprise zone.~~

~~(d) A business purchases equipment such as an oil rig, which is transported outside the enterprise zone to service facilities such as oil fields. If the use of the equipment is directed or managed from the enterprise zone and the equipment returns to a facility, within the enterprise zone, that is owned by the business for regular maintenance or storage, the equipment is based in the enterprise zone and therefore qualifies for the investment tax credit.~~

~~(e) The same business described in Subsection (3)(d) purchases equipment that is primarily stored or maintained at facilities that are located outside of the enterprise zone, but which may be occasionally stored or maintained in the enterprise zone. This equipment would not be based in the enterprise zone, and would not qualify for the investment tax credit, even if the business has other facilities in the enterprise zone.~~

~~(4) A business entity that conducts non-retail operations and is engaged in retail trade is primarily engaged in retail trade if the retail trade operations constitute more than 50% of the business entity's total operations.~~

~~(5) An employee whose duties include both non-construction work and construction work does not perform a construction job if the construction work performed by the employee constitutes a de minimis portion of the employee's total duties.~~

~~(6) Corporate franchise tax credits may not be used to offset or reduce the \$100 minimum tax per corporation.~~

~~(7) Records and supporting documentation shall be maintained for three years after the date any returns are filed to support the credits taken. For example: If credits are originally taken in 1988 and unused portions are carried forward to 1992, records to support the original credits taken in 1988 must be maintained for three years after the date the 1992 return is filed.~~

~~(8) If an enterprise zone designation is revoked prior to the expiration of the period for which it was designated, only tax credits earned prior to the loss of that designation will be allowed.]~~

KEY: ~~_~~taxation, franchises, historic preservation, trucking industries

Date of Enactment or Last Substantive Amendment: ~~_~~[July 26, 2012]2016

Notice of Continuation: ~~_~~January 3, 2012

Authorizing, and Implemented or Interpreted Law: 9-2-401 through 9-2-415; 16-10a-1501 through 16-10a-1533; 53B-8a-112; 59-1-1301 through 59-1-1309; 59-6-102; 59-7; 59-7-101; 59-7-102; 59-7-104 through 59-7-106; 59-7-108; 59-7-109; 59-7-110; 59-7-112; 59-7-302 through 59-7-321; 59-7-402; 59-7-403; 59-7-501; 59-7-502; 59-7-505; 59-7-601 through 59-7-614; 59-7-608; 59-7-701; 59-7-703; 59-10-603; 59-13-202; 59-13-301; 63M-1; 63N-2-201 through 63N-2-215

Tax Commission, Auditing
R865-9I-37
Enterprise Zone Individual Income Tax
Credits Pursuant to Utah Code Ann.
Sections 63N-2-201 through 63N-2-215

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40418

FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed as a result of H.B. 31 from the 2016 General Session.

SUMMARY OF THE RULE OR CHANGE: H.B. 31 (2016) removes the determination of whether an applicant qualifies for the enterprise zone credit and the amount of credit for which a successful applicant applies from the Tax Commission to GOED. Accordingly, this section is no longer necessary.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-2-201 and Section 63N-2-202 and Section 63N-2-203 and Section 63N-2-204 and Section 63N-2-205 and Section 63N-2-206 and Section 63N-2-207 and Section 63N-2-208 and Section 63N-2-209 and Section 63N-2-210 and Section 63N-2-211 and Section 63N-2-212 and Section 63N-2-213 and Section 63N-2-214 and Section 63N-2-215

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--Any revenue impacts were considered in H.B. 31 (2016).
- ◆ **LOCAL GOVERNMENTS:** None--Any revenue impacts were considered in H.B. 31 (2016).
- ◆ **SMALL BUSINESSES:** None--Any revenue impacts were considered in H.B. 31 (2016).

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Any revenue impacts were considered in H.B. 31 (2016).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The Tax Commission section is removed since the Tax Commission is no longer involved in the determination of whether an applicant qualifies for the enterprise zone credit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact--Potential revenue impact addressed in H.B. 31 (2016).

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Rebecca Rockwell, Commissioner

R865. Tax Commission, Auditing.

R865-91. Income Tax.

~~[R865-91-37. Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63N-2-201 through 63N-2-215.~~

~~_____ (1) Definitions:~~

~~_____ (a) "Based" means exclusively stored or maintained at a facility owned by the taxpayer:~~

~~_____ (i) that is designed, constructed, and used to store or maintain equipment:~~

~~_____ (A) that is transported outside of the enterprise zone; and~~

~~_____ (B) for which the credit is taken;~~

~~_____ (ii) where the equipment is located when it is not being used at facilities outside the enterprise zone, as evidenced by invoices, equipment logs, photographs, or similar documentation; and~~

~~_____ (iii) from where the use of the equipment is directed or managed:~~

~~_____ (b) "Business engaged in retail trade" means a business that makes a retail sale as defined in Section 59-12-102.~~

~~_____ (c) "Construction work" does not include facility maintenance or repair work.~~

~~_____ (d) "Employee" means a person who qualifies as an employee under Internal Revenue Service Regulation 26 CFR 31.3401(e)(1).~~

~~_____ (e) "Public utilities business" means a public utility under Section 54-2-1.~~

~~_____ (f) "Taxpayer" means the person claiming the tax credits in Section 63N-2-213.~~

~~_____ (g) "Transfer" pursuant to Section 63N-2-211, means the relocation of assets and operations of a business, including personnel, plant, property, and equipment.~~

~~_____ (2) For purposes of the investment tax credit, an investment is a qualifying investment if the plant, equipment, or other depreciable property for which the credit is taken is:~~

~~_____ (a)(i) located within the boundaries of the enterprise zone; and~~

~~_____ (ii) used exclusively in business operations conducted within the enterprise zone or~~

~~_____ (b) in the case of equipment or other depreciable property, based in the enterprise zone.~~

~~_____ (3) The following examples relate to the investment tax credit:~~

~~_____ (a) A furniture manufacturer operates a manufacturing facility that is located in an enterprise zone. The manufacturer purchases two trucks that are used exclusively at the facility and used to pick up raw materials from suppliers, some or all of whom may be outside the enterprise zone, and to deliver finished product to final customers, some or all of whom may be outside the enterprise zone. The trucks qualify for the investment tax credit because they are used exclusively in a business operation, the furniture manufacturing facility, that is located within the enterprise zone, even if they are stored or maintained at a facility located outside of the enterprise zone.~~

~~_____ (b) If the same manufacturer described in Subsection (3)~~

~~(a) had two facilities, one located within the enterprise zone, and one located outside the enterprise zone, and used the same two trucks for the same purposes for both facilities. The trucks are not based at a facility in the enterprise zone. The trucks would not qualify for the investment tax credit because they are not used exclusively at the facility located within the enterprise zone, and are not based in the enterprise zone.~~

~~_____ (c) A business consists of a mine office located in an enterprise zone and a mine located outside the enterprise zone. Mining equipment is used exclusively at the mine and is not based in the enterprise zone. The business may claim the investment tax credit for plant, equipment, or other depreciable property located in the mine office, but not for plant, equipment, or other depreciable property used in the mine outside the enterprise zone.~~

~~_____ (d) A business purchases equipment such as an oil rig, which is transported outside the enterprise zone to service facilities such as oil fields. If the use of the equipment is directed or managed from the enterprise zone and the equipment returns to a facility, within the enterprise zone, that is owned by the business for regular maintenance or storage, the equipment is based in the enterprise zone and therefore qualifies for the investment tax credit.~~

~~_____ (e) The same business described in Subsection (3)(d) purchases equipment that is primarily stored or maintained at facilities that are located outside of the enterprise zone, but which may be occasionally stored or maintained in the enterprise zone.~~

~~This equipment would not be based in the enterprise zone, and would not qualify for the investment tax credit, even if the business has other facilities in the enterprise zone.~~

~~(4) A business entity that conducts non-retail operations and is engaged in retail trade is primarily engaged in retail trade if the retail trade operations constitute more than 50% of the business entity's total operations.~~

~~(5) An employee whose duties include both non-construction work and construction work does not perform a construction job if the construction work performed by the employee constitutes a de minimis portion of the employee's total duties.~~

~~(6) Records and supporting documentation shall be maintained for three years after the date any returns are filed to support the credits taken. For example: If credits are originally taken in 1988 and unused portions are carried forward to 1992, records to support the original credits taken in 1988 must be maintained for three years after the date the 1992 return is filed.~~

~~(7) If an enterprise zone designation is revoked prior to the expiration of the period for which it was designated, only tax credits earned prior to the loss of that designation will be allowed.]~~

KEY: historic preservation, income tax, tax returns, enterprise zones

Date of Enactment or Last Substantive Amendment: ~~[February 21, 2013]~~2016

Notice of Continuation: January 3, 2012

Authorizing, and Implemented or Interpreted Law: 31A-32A-106; 53B-8a-112; 59-1-1301 through 59-1-1309; 59-2-1201 through 59-2-1220; 59-6-102; 59-7-3; 59-10; 59-10-103; 59-10-108 through 59-10-122; 59-10-108.5; 59-10-114; 59-10-124; 59-10-127; 59-10-128; 59-10-129; 59-10-130; 59-10-207; 59-10-210; 59-10-303; 59-10-401 through 59-10-403; 59-10-405.5; 59-10-406 through 59-10-408; 59-10-501; 59-10-503; 59-10-504; 59-10-507; 59-10-512; 58-10-514; 59-10-516; 59-10-517; 59-10-522; 59-10-533; 59-10-536; 59-10-602; 59-10-603; 59-10-1003; 59-10-1006; 59-10-1014; 59-10-1017; 59-10-1021; 59-10-1023; 59-10-1106; 59-10-1403; 59-10-1403.2; 59-10-1405; 59-13-202; 59-13-301; 59-13-302; 63M-1; 63N-2-201 through 63N-2-215

Tax Commission, Motor Vehicle

R873-22M-34

Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40419

FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is amended to comply with H.B. 156 from the 2016 General Session.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment recognizes the exception to the section's prohibition on "69" format license plates that was enacted by H.B. 156 (2016).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-104 and Section 41-1a-411

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--Any revenue impacts were considered in H.B. 156 (2016).

♦ **LOCAL GOVERNMENTS:** None--Any revenue impacts were considered in H.B. 156 (2016).

♦ **SMALL BUSINESSES:** None--Any revenue impacts were considered in H.B. 156 (2016).

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Any revenue impacts were considered in H.B. 156 (2016).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed section recognizes that H.B. 156 (2016) allows use of the "69" format in personalized license in situations beyond those currently in the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact--Potential revenue impacts are addressed in H.B. 156 (2016).

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

TAX COMMISSION

MOTOR VEHICLE

210 N 1950 W

SALT LAKE CITY, UT 84134

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Rebecca Rockwell, Commissioner

R873. Tax Commission, Motor Vehicle.

R873-22M. Motor Vehicle.

R873-22M-34. Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411.

(1) The personalized plate is a non-public forum. Nothing in the issuance of a personalized plate creates a designated or limited public forum. The presence of a personalized plate on a vehicle does not make the plate a traditional public forum.

(2) Pursuant to ~~[Section]~~Subsection 41-1a-411(2), the division may not issue personalized license plates in the following formats:

(a) Combination of letters, words, or numbers with any connotation that is vulgar, derogatory, profane, or obscene.

(b) Combinations of letters, words, or numbers that connote breasts, genitalia, pubic area, buttocks, or relate to sexual and eliminatory functions. Additionally, except as provided in Subsection 41-1a-411(3), "69" formats are prohibited unless used in a combination with the vehicle make, model, style, type, or commonly used or readily understood abbreviations of those terms, for example, "69 CHEV."

(c) Combinations of letters, words, or numbers that connote:

(i) any intoxicant or any illicit narcotic or drug;

(ii) the sale, use, seller, purveyor, or user of any intoxicant or any illicit narcotic or drug; or

(iii) the physiological or mental state produced by any intoxicant or any illicit narcotic or drug.

(d) Combinations of letters, words, or numbers that express contempt, ridicule, or superiority of a race, religion, deity, ethnic heritage, gender, or political affiliation.

(e)(i) Combinations of letters, words, or numbers that express affiliations or actions that may be construed to suggest endangerment to the public welfare.

(ii) Examples of letters, words, or numbers described in Subsection (2)(e)(i) include words, signs, or symbols that represent:

(A) illegal activity;

(B) organized crime associations; or

(C) gang or gang terminology.

(iii) The division shall consult with local, state, and national law enforcement agencies to establish criteria to determine whether a combination of letters, words, or numbers express affiliations or actions that may be construed to suggest endangerment to the public welfare.

(3) If the division denies a requested combination, the applicant may request a review of the denial, in writing, within 15 days from the date of notification. The request must be directed to the Director of the Motor Vehicle Division and should include a detailed statement of the reasons why the applicant believes the requested license plates are not offensive or misleading.

(4) The director shall review the format for connotations that may reasonably be detected through linguistic, numerical, or phonetic modes of communication. The review may include:

(a) translation from foreign languages;

(b) an upside down or reverse reading of the requested format; and

(c) the use of references such as dictionaries or glossaries of slang, foreign language, or drug terms.

(5) The director shall consider the applicant's declared definition of the format, if provided.

(6) If the requested format is rejected by the director, the division shall notify the applicant in writing of the right to appeal the decision through the appeals process outlined in Tax Commission rule R861-1A-22.

(7) If, after issuance of a personalized license plate, the commission becomes aware through written complaint that the format may be prohibited under Subsection ~~[R873-22M-34(1)]~~(2), the division shall again review the format.

(8) If the division determines pursuant to Subsection ~~[R873-22M-34]~~(2) that the issued format is prohibited, the holder of the plates shall be notified in writing and directed to surrender the plates. This determination is subject to the review and appeal procedures outlined in Subsections (3) through (7).

(9) A holder required to surrender license plates shall be issued a refund for the amount of the personalized license plate application fee and for the prorated amount of the personalized license plate annual renewal fee, or shall be allowed to apply for replacement personalized license plates at no additional cost.

(10) If the holder of plates found to be prohibited fails to voluntarily surrender the plates within 30 days after the mailing of the notice of the division's final decision that the format is prohibited, the division shall cancel the personalized license plates and suspend the vehicle registration.

KEY: taxation, motor vehicles, aircraft, license plates

Date of Enactment or Last Substantive Amendment: ~~[October 1, 2012]~~2016

Notice of Continuation: January 3, 2012

Authorizing, and Implemented or Interpreted Law: 41-1a-102; 41-1a-104; 41-1a-108; 41-1a-116; 41-1a-211; 41-1a-215; 41-1a-214; 41-1a-401; 41-1a-402; 41-1a-411; 41-1a-413; 41-1a-414; 41-1a-416; 41-1a-418; 41-1a-419; 41-1a-420; 41-1a-421; 41-1a-422; 41-1a-522; 41-1a-701; 41-1a-1001; 41-1a-1002; 41-1a-1004; 41-1a-1005; 41-1a-1009 through 41-1a-1011; 41-1a-1101; 41-1a-1209; 41-1a-1211; 41-1a-1220; 41-6-44; 53-8-205; 59-12-104; 59-2-103; 72-10-109 through 72-10-112; 72-10-102

Tax Commission, Motor Vehicle Enforcement **R877-23V-20**

Reasonable Cause to Deny, Suspend, or Revoke a License Issued Under Title 41, Chapter 3 Pursuant to Utah Code Ann. Section 41-3-209

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40420

FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is amended to provide more specific guidance on reasonable cause to deny, suspend, or revoke license issued under Title 41, Chapter 3.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment expands the section to apply to licensees, as well as license applicants and clarifies that the Motor Vehicle Enforcement Division bears the burden of rebutting the presumption that this rule sets forth.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-3-209

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--The proposed amendment clarifies the commission's interpretation of reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3.
- ◆ LOCAL GOVERNMENTS: None--The proposed amendment clarifies the commission's interpretation of reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3.
- ◆ SMALL BUSINESSES: None--The proposed amendment clarifies the commission's interpretation of reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--The proposed amendment clarifies the commission's interpretation of reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment clarifies the commission's interpretation of reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact--The section only addresses the Commission's interpretation of certain Motor Vehicle Enforcement Division statutes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
MOTOR VEHICLE ENFORCEMENT
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Rebecca Rockwell by phone at 801-297-3906, or by Internet E-mail at rockwell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Rebecca Rockwell, Commissioner

R877. Tax Commission, Motor Vehicle Enforcement.

R877-23V. Motor Vehicle Enforcement.

R877-23V-20. Reasonable Cause to Deny, Suspend, or Revoke a License [Issued] Under Title 41, Chapter 3 Pursuant to Utah Code Ann. Section 41-3-209.

(1) ~~[There]~~ Subject to Subsection (2), there is a rebuttable presumption that reasonable cause to deny, suspend, or revoke a license ~~[issued]~~ under Title 41, Chapter 3 does not include a violation of a state or federal law that otherwise constitutes reasonable cause ~~[to deny, suspend, or revoke a license]~~ under Subsection 41-3-209(2) if the licensee or license applicant~~[-~~

~~_____ (1) indicates on the license application that the applicant] who has been charged with, found in violation of, or convicted of a state or federal law that constitutes reasonable cause to deny, suspend, or revoke a license under Subsection 41-3-209(2)[;]~~ has ~~_____ (2)(a)(i) [has] completed any court-ordered probation or parole; or~~ ~~_____ (3)(ii) [if the license applicant has entered into a plea in abeyance;]~~ met [the] any conditions of ~~[that]~~ a plea in abeyance; and ~~_____ (4)(b) paid any required criminal restitution and fines.~~

(2) The division may rebut the presumption under Subsection (1) by presenting evidence to the commission establishing that the license should be denied, suspended, or revoked.

KEY: taxation, motor vehicles

Date of Enactment or Last Substantive Amendment: [~~October 22, 2015~~]2016

Notice of Continuation: January 3, 2012

Authorizing, and Implemented or Interpreted Law: 41-1a-712; 41-3-105; 41-3-201; 41-3-202; 41-3-210; 41-3-301; 41-3-302; 41-3-305; 41-3-503; 41-3-505; 41-3-506; 41-3-507

Tax Commission, Property Tax
R884-24P-10
Taxation of Underground Rights in Land That Contains Deposits of Oil or Gas Pursuant to Utah Code Ann. Sections 59-2-201 and 59-2-210

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40421

FILED: 05/12/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment corrects a long-standing error in the section and is nonsubstantive in nature.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment codifies long-standing practice by replacing the phrase "will shall not" with "may not". This corrects an error in the rule that had been sent to the Office of Administrative Rules (OAR) when the phrase "will not be allowed", which was intended to read "shall not be included", was inadvertently sent to OAR as "will shall not be included". Finally, the proposed amendment makes technical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-201 and Section 59-2-210

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--Property tax revenues are local revenues.
- ◆ **LOCAL GOVERNMENTS:** None--The proposed amendment is nonsubstantive in nature.
- ◆ **SMALL BUSINESSES:** None--The proposed amendment is nonsubstantive in nature.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The proposed amendment is nonsubstantive in nature.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment corrects an error in the rule. This correction matches the long-standing practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact--This is a nonsubstantive technical amendment.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2016

AUTHORIZED BY: Rebecca Rockwell, Commissioner

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-10. Taxation of Underground Rights in Land That Contains Deposits of Oil or Gas Pursuant to Utah Code Ann. Sections 59-2-201 and 59-2-210.

[A-](1) Definitions.

[1-](a) "Person" is as defined in Section 68-3-12.

[2-](b) "Working interest owner" means the owner of an interest in oil, gas, or other hydrocarbon substances burdened with a share of the expenses of developing and operating the property.

[3-](c) "Unit operator" means a person who operates all producing wells in a unit.

[4-](d) "Independent operator" means a person operating an oil or gas producing property not in a unit.

[5-](e) One person can, at the same time, be a unit operator, a working interest owner, and an independent operator and must comply with all requirements of this rule based upon the person's status in the respective situations.

[6-](f) "Expected annual production" means the future economic production of an oil and gas property as estimated by the Property Tax Division using decline curve analysis. Expected annual production does not include production used on the same well, lease, or unit for the purpose of repressuring or pressure maintenance.

[7-](g) "Product price" means:

[a-](i) Oil: The weighted average posted price for the calendar year preceding January 1, specific for the field in which the well is operating as designated by the Division of Oil, Gas, and Mining. The weighted average posted price is determined by weighing each individual posted price based on the number of days it was posted during the year, adjusting for gravity, transportation, escalation, or deescalation.

[b-](ii) Gas:

[(+)](A) If sold under contract, the price shall be the stated price as of January 1, adjusted for escalation and deescalation.

[(-)](B) If sold on the spot market or to a direct end-user, the price shall be the average price received for the 12-month period immediately preceding January 1, adjusted for escalation and deescalation.

[8-](h) "Future net revenue" means annual revenues less costs of the working interests and royalty interest.

[9-](i) "Revenue" means expected annual gross revenue, calculated by multiplying the product price by expected annual production for the remaining economic life of the property.

[+0-](j) "Costs" means expected annual allowable costs applied against revenue of cost-bearing interests:

[a-](i) Examples of allowable costs include management salaries; labor; payroll taxes and benefits; workers' compensation insurance; general insurance; taxes (excluding income and property taxes); supplies and tools; power; maintenance and repairs; office; accounting; engineering; treatment; legal fees; transportation; miscellaneous; capital expenditures; and the imputed cost of self consumed product.

[b-](ii) Interest, depreciation, or any expense not directly related to the unit [~~will shall~~ may] not be included as allowable costs.

[+-](k) "Production asset" means any asset located at the well site that is used to bring oil or gas products to a point of sale or transfer of ownership.

[B-](2) The discount rate shall be determined by the Property Tax Division using methods such as the weighted cost of capital method.

[+](a) The cost of debt shall consider market yields. The cost of equity shall be determined by the capital asset pricing

model, risk premium model, discounted cash flow model, a combination thereof, or any other accepted methodology.

[2-](b) The discount rate shall reflect the current yield requirements of investors purchasing similar properties, taking into consideration income, income taxes, risk, expenses, inflation, and physical and locational characteristics.

[3-](c) The discount rate shall contain the same elements as the expected income stream.

[C-](3) Assessment Procedures.

[4-](a) Underground rights in lands containing deposits of oil or gas and the related tangible property shall be assessed by the Property Tax Division in the name of the unit operator, the independent operator, or other person as the facts may warrant.

[2-](b) The taxable value of underground oil and gas rights shall be determined by discounting future net revenues to their present value as of the lien date of the assessment year and then subtracting the value of applicable exempt federal, state, and Indian royalty interests.

[3-](c) The reasonable taxable value of productive underground oil and gas rights shall be determined by the methods described in [~~C-2. of this rule~~]Subsection (3)(b) or such other valuation method that the Tax Commission believes to be reasonably determinative of the property's fair market value.

[4-](d) The value of the production assets shall be considered in the value of the oil and gas reserves as determined in [~~C-2. above~~]Subsection (3)(b). Any other tangible property shall be separately valued at fair market value by the Property Tax Division.

[5-](e) The minimum value of the property shall be the value of the production assets.

[D-](4) Collection by Operator.

[4-](a) The unit operator may request the Property Tax Division to separately list the value of the working interest, and the value of the royalty interest on the Assessment Record. When such a request is made, the unit operator is responsible to provide the Property Tax Division with the necessary information needed to compile this list. The unit operator may make a reasonable estimate of the ad valorem tax liability for a given period and may withhold funds from amounts due to royalty. Withheld funds shall be sufficient to ensure payment of the ad valorem tax on each fractional interest according to the estimate made.

[a-](i) If a unit operating agreement exists between the unit operator and the fractional working interest owners, the unit operator may withhold or collect the tax according to the terms of that agreement.

[b-](ii) In any case, the unit operator and the fractional interest owner may make agreements or arrangements for

withholding or otherwise collecting this tax. This may be done whether or not that practice is consistent with the preceding paragraphs so long as all requirements of the law are met. When a fractional interest owner has had funds withheld to cover the estimated ad valorem tax liability and the operator fails to remit such taxes to the county when due, the fractional interest owner shall be indemnified from any further ad valorem tax liability to the extent of the withholding.

[e-](iii) The unit operator shall compare the amount withheld to the taxes actually due, and return any excess amount to the fractional interest owner within 60 days after the delinquent date of the tax. At the request of the fractional interest owner the excess may be retained by the unit operator and applied toward the fractional interest owner's tax liability for the subsequent year.

[2-](b) The penalty provided for in Section 59-2-210 is intended to ensure collection by the county of the entire tax due. Any unit operator who has paid this county imposed penalty, and thereafter collects from the fractional interest holders any part of their tax due, may retain those funds as reimbursement against the penalty paid.

[3-](c) Interest on delinquent taxes shall be assessed as set forth in Section 59-2-1331.

[4-](d) Each unit operator may be required to submit to the Property Tax Division a listing of all fractional interest owners and their interests upon specific request of the Property Tax Division. Working interest owners, upon request, shall be required to submit similar information to unit operators.

KEY: taxation, personal property, property tax, appraisals

Date of Enactment or Last Substantive Amendment: [January 4], 2016

Notice of Continuation: January 3, 2012

Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

Transportation, Program Development **R926-14**

Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 40409

FILED: 05/10/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: An emergency amendment to this rule is necessary due to passage of H.B. 232 during the 2016 General Session. H.B. 232 amends Utah Code Section 72-4-303, which governs how the Utah State Scenic Byway Committee designates state highways as scenic byways, and the requirements for segmenting non-scenic property from a scenic byway designation. H.B. 232 requires the Department to amend this rule to conform to the requirements of the legislation. H.B. 232 takes effect on 05/10/2016. This 120-day emergency rule needs to be in place to prevent the Department from being out of compliance with the statute

because there is not sufficient time to complete a standard rulemaking process before 05/10/2016.

SUMMARY OF THE RULE OR CHANGE: The amended Section 72-4-303 allows owners of property situated adjacent to a state scenic byway, National Scenic Byway, or All-American Road to submit a request to Utah State Scenic Byway Committee that their property be segmented from the designated scenic byway, National Scenic Byway, or All-American Road, if the property owner believes the property is within a non-scenic area as defined by Section 72-4-303. The amendment to the rule sets forth the process for the Scenic Byway Committee to follow when determining if segmentation requests should be granted, and an appeal process for property owners to follow when their requests are denied.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-4-303

EMERGENCY RULE REASON AND JUSTIFICATION: **REGULAR RULEMAKING PROCEDURES WOULD** place the agency in violation of federal or state law.

JUSTIFICATION: H.B. 232 was signed by the Governor on 03/22/2016 and became effective on 05/10/2016. Regular rulemaking procedures will take longer than the time the Department has before the bill takes effect, thus placing the Department in violation of Utah Code Section 72-4-303 as of

05/10/2016. This 120-day emergency rule will prevent the Department from violating the statute.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department anticipates that this amendment will result in additional costs to the state. The H.B. 232 amendment to Utah Code Section 72-4-303 requires the Office of Tourism, Film, and Global Branding within the Governor's Office of Economic Development (GOED), acting as Chair of the Scenic Byway Committee, to cover the costs of engaging the services of private adjudicative law judges. The fiscal note attached to H.B. 232 states, "To the extent that requests for segmentation are denied by the Utah State Scenic Byway Committee and the owner of real property appeals, this bill could cost approximately \$5,000 per instance from the General Fund for the committee to hire an administrative law judge." Therefore, GOED will face additional costs.

◆ **LOCAL GOVERNMENTS:** The Department anticipates that this amendment will not result in additional costs to local governments. Section 72-4-303 requires the legislative bodies of the local governments where a requested segmentation is to occur to get involved in reviewing segmentation requests when they are filed. However, GOED (Scenic Byway Committee) is required to cover the costs of engaging the services of private adjudicative law judges, not local governments.

◆ **SMALL BUSINESSES:** This amendment may result in additional costs to small businesses, but the Department does not possess sufficient information to conclude that it will at this time.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment may result in additional costs to persons other than small businesses, businesses, or local government entities, but the Department does not possess sufficient information to conclude that it will at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment may result in compliance costs for affected persons, but the Department does not possess sufficient information to conclude that it will or what those costs might be at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Legislature has changed the state law that governs how owners of private property situated adjacent to state designated scenic byways, National Scenic Byways, and All-American Roads may seek segmentation of their property if it is within a non-scenic area. This amendment to Rule R926-14 sets forth procedures that property owners will follow to request segmentation and the Department will follow to apply the legislature's new requirements. I do not believe this amendment itself will have a fiscal impact on businesses.

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

PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

EFFECTIVE: 05/10/2016

AUTHORIZED BY: Carlos Braceras, Executive Director

R926. Transportation, Program Development.

R926-14. Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes.

R926-14-1. Purpose.

The purpose of this rule is to establish the following:

- (1) administration of the Utah Scenic Byway program;
- (2) the criteria that a highway shall possess to be considered for designation as a state scenic byway;
- (3) the process for nominating a highway to be designated as a state scenic byway;
- (4) the process for nominating an existing state scenic byway to be considered for designation as a National Scenic Byway or All-American Road;
- (5) the process and criteria for removing the designation of a highway as a scenic byway or segmentation of a portion thereof; and
- (6) the requirements for public hearings to be conducted regarding proposed changes to the scenic byway status of corridor, and related notifications.

R926-14-2. Authority.

The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Code: Title 52, Chapter 4; Title 63G, Chapter 3; and the Designation of Highways Act, Title 72, Chapter 4.

R926-14-3. Definitions.

Terms used in this rule are defined in Title 72, Chapter 4. The following additional terms are defined for this rule:

- (1) "All-American Road" means a scenic byway designation made at the national level for state scenic byways that significantly meet criteria for multiple qualities out of the six defined intrinsic qualities.
- (2) "America's Byways" means the brand utilized by the National Scenic Byways Program for promotion of the National Scenic Byways and All American Roads.
- (3) "Committee" or "State Committee" means the Utah State Scenic Byway Committee as defined in Title 74, Chapter 4 and does not refer to any local scenic byway committee herein defined.
- (4) "Corridor management plan" means a written document prepared by the local scenic byway committee in accordance with federal policies that specifies the actions,

procedures, controls, operational practices, and administrative strategies necessary to maintain the intrinsic qualities of a scenic byway.

(5) "De-designation" means removing a current state scenic byway designation by the committee from an entire existing scenic byway.

(6) "Department" means the Utah Department of Transportation.

(7) "Designation" means selection of a roadway by the committee as a state scenic byway or selection of an existing state scenic byway by the U.S. Secretary of Transportation as one of America's Byways.

(8) "Federal policies" means those rules outlining the National Scenic Byway Program and that set forth the criteria for designating roadways as National Scenic Byways or All-American Roads, specifically the FHWA Interim Policy.

(9) "Local legislative body" means the elected governing board of a political subdivision, such as a town, city, county, or tribal government.

(10) "GOED" means the Utah Governor's Office of Economic Development.

([+0]11) "Grant" means discretionary funding available on a competitive basis to designated scenic byways from the Federal Highway Administration through the National Scenic Byways Program.

([+1]12) "Intrinsic quality" means scenic, historic, recreational, cultural, archaeological, or natural features that are considered representative, unique, irreplaceable, or distinctly characteristic of an area. The National Scenic Byways Program further defines each of these qualities.

([+2]13) "Local Scenic Byway Committee" means the committee consisting of the local byway coordinator and representatives from nearby local legislative bodies, agencies, tourism related groups and interested individuals that recommends and prioritizes various projects and applications relating to a scenic byway. The local scenic byway committee promotes and preserves intrinsic values along the byway.

([+3]14) "Local Byway Coordinator" means an individual recognized by the local scenic byway committee as chair. If a local scenic byway committee does not exist for a scenic byway, the local byway coordinator is an individual recognized by the state committee chair as the person to contact for applications and other administrative business for the state scenic byway.

([+4]15) "National Scenic Byway" means a scenic byway designation made at the national level for byways that significantly meet criteria for at least one quality out of the six defined intrinsic qualities.

([+5]16) "National Scenic Byways Program" or "NSBP" means a program provided by the Federal Highway Administration to promote the recognition and enjoyment of America's memorable roads.

([+6]17) "State Scenic Byway" means a Utah roadway corridor that has been duly designated by the committee for its intrinsic qualities.

([+7]18) "Status" refers to the current designation of a scenic byway, i.e., state scenic byway, National Scenic Byway, All-American Road, undesignated roadway, segmented scenic byway or de-designated scenic byway.

R926-14-4. Utah State Scenic Byway Committee Organization and Administration.

(1) The authorization of the committee, its membership, administration, powers, and duties are defined in Title 72, Chapter 4.

(2) The committee shall conduct business to administer the State Scenic Byway program within the State of Utah. This business shall include, but not be limited to:

(a) designating, de-designating, ~~and~~ hearing appeals of segmentation denials of state scenic byways, and consideration of segmentation under a Request for Agency Action;

(b) recommending considerations for National and All-American Road recognition to the Legislature;

(c) recommending applications to the NSBP;

(d) prioritizing applications for Scenic Byway Discretionary funding and other funding that may be available; and

(e) other business as may be needed to administer the scenic byway program.

(3) The committee shall meet to conduct business necessary to administer the state scenic byway program.

(a) The meeting is intended to be an in-person gathering of the full committee at a single anchor location. Where the need arises, and as authorized by Title 52, Chapter 4, individual members may request to be connected to the meeting via teleconference, video conference, web conference, or other emerging electronic technology, if they make the request at least three days prior to the committee meeting to allow for arrangements to be made for the connection.

(b) All additional meetings called by the chair, including committee meetings to consider factors associated with a Request for Agency Action to segment property adjacent to a scenic byway, may be held as either in-person or electronic meetings, at the discretion of the chair, as authorized by Title 52, Chapter 4.

(i) Electronic meetings may be fully electronic, i.e. each member may join on an individual remote connection (depending on the technology used), but an anchor location must be provided for the public at one or more connections, preferably at a conference room available to either the department or the Utah Office of Tourism, that is large enough to accommodate anticipated demand.

(ii) Electronic meetings may be via teleconference, video conference, web conference, or other emerging electronic technology, at the discretion of the chair, as long as adequate time is provided to set up the required electronic connections for all participants and the technology used is generally publicly available.

(iii) All meetings, whether in-person or electronic, must be advertised and accessible to the public for both hearing and comment, which in the case of electronic meetings will require publication of connection details and anchor locations.

(iv) The published agenda for electronic meetings needs to include details on the format of how and when public comment will be received and addressed by the committee. For example, comment during a web conference may be taken continuously via a chat window, then read by the moderator during the time set aside for public input, with committee responding. In a teleconference, public participants may be requested to hold their comments until a designated period is opened by the chair.

R926-14-5. Criteria Required of a Highway to Be Considered for Designation as a State Scenic Byway.

(1) A road being considered for state scenic byway designation must meet all of the following criteria:

(a) the nominated road must possess at least two unusual, exceptional, or distinctive intrinsic qualities, as defined;

(b) the nominated road may be either a planned or existing route and in the case of a planned route, legal public access, safety standards and all-weather pavement must be guaranteed at completion of construction;

(c) roadway safety on the nominated road must be evaluated against and guided by American Association of State Highway and Transportation Officials (AASHTO) safety standards for federal aid primary or secondary roads;

(d) the nominated road must have strong local support for byway designation and the proponents must demonstrate this support and coordination;

(e) the nominated road must accommodate recreational vehicles or provisions should be made for travel by recreational vehicles;

(f) the nominated road need not lead to or provide connection to other road networks; it may be dead-ended, or provide only a single outlet for traffic;

(g) the nominated road need not be open during the winter months, but seasonal road closures must be clearly posted, shown on applicable maps, and specified in any promotional literature; and

(h) the nominated road may include portions of the Interstate Highway System, but only if the Interstate component is a small part of the mileage of the overall nominated scenic byway and is included primarily for continuity of travel.

(2) It is the intent of these criteria to be restrictive in nature so as to limit the number of designated state scenic byways in order to maintain the quality and integrity of the scenic byway system.

R926-14-6. Process for Nominating a Highway to Be Designated a State Scenic Byway.

(1) Nominations for a corridor to be designated a state scenic byway shall be forwarded to the committee by a local legislative body.

(2) The nomination application must demonstrate how the nominated road meets the criteria to qualify as a state scenic byway.

(3) The committee will act on a byway-related application only after the responsible organization has held public hearings and submitted minutes of the hearings, including names and addresses of people making comments, a detailed summary of comments made, and proof of public notification.

(4) The committee will consider the nomination after review of the application and after a presentation by the nominating sponsor group, either at the byway location, or at a committee meeting. The committee will vote on proposed designations at the next committee meeting. The committee will report the results of the vote to the nomination sponsor.

(5) Individual communities along the byway corridor that do not support the designation of the byway within the limits of their community have the statutory right, as prescribed in Title 72, Chapter 4, to opt out of any new byway designation through official

segmentation action of their local legislative body, but they become ineligible for byway grants and promotional considerations by doing so.

(6) Upon approval by the committee of a scenic byway nomination, the committee shall notify the Utah Office of Tourism, the department and other interested agencies of the new designation and of the approved alignment and limits of the designated corridor.

(a) The committee will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

(7) On receiving notification of a newly designated state scenic byway, the department shall amend Rule 926-13 to include the description of the byway and the date of its approval. The department shall forward to the NSBP any electronic files needed to describe or display the new byway in online maps, brochures, or other publications of the NSBP. The department will add the scenic byway to the official highway map at its next printing.

R926-14-7. Process for Nominating a Highway to Be Designated a National Scenic Byway or All-American Road.

In addition to state recognition, state scenic byways may be nominated to the National Scenic Byways Program so that they may be recognized as a byway of national significance through designation as a National Scenic Byway or All-American Road.

(1) Local scenic byway committees shall notify the state committee of their intent to apply for National Scenic Byway or All-American Road status and the state committee shall in turn notify the Legislature of this intent.

(2) Local scenic byway committees desiring national designation are required by the National Scenic Byways Program to prepare nomination applications, adhering to the criteria outlined in applicable federal policies.

(a) A corridor management plan for the byway will be required by the NSBP to be prepared before a nomination application will be considered. The required information and criteria to be included in the corridor management plan are outlined in the federal policies.

(b) The NSBP will issue a call for applications, at which time the local scenic byway committee may submit a nomination application as long as the state scenic byway has been approved for consideration in accordance with the requirements of Title 72, Chapter 4.

(3) Local scenic byway committees are to confer with the state committee during the preparation of a corridor management plan and will submit their nomination applications to the committee for review prior to submitting to the NSBP.

(4) The committee will refer all considerations for America's Byways designations to the Legislature for approval, along with the recommendation of the committee. As required in Title 72, Chapter 4, Legislative approval must be obtained before any application for nomination may be submitted to the NSBP.

(5) Upon approval by the NSBP of a National Scenic Byway nomination, the committee shall notify the Utah Office of Tourism, the department and other interested agencies of the new designation and of any differences in alignment or limits as related to existing state scenic byway designations.

(a) The committee will make a request to these agencies that they modify reference of the segment, to reflect the change in

scenic byway status, on maps and in materials and website applications identifying scenic byways.

(6) On receiving notification of a change in byway status to National Scenic Byway or All-American Road, the department shall amend Rule 926-13 to update the description of the byway to reflect the approved changes and the date of NSBP approval.

R926-14-8. Process and Criteria for Removing the Designation of a Highway as a Scenic Byway or Segmentation of a Portion Thereof.

(1) The committee may de-designate a scenic byway if the intrinsic values for which the corridor was designated have become significantly degraded and no longer meet the requirements for which it was originally designated.

(2) The local legislative body may remove designation on a localized segment of a designated byway if the intrinsic values within the segment have become degraded or if the segment being considered was included primarily for continuity of travel along the designated corridor, does not in and of itself contain the intrinsic values for which the corridor was designated, and the segmentation has strong community-based support.

(3) Highways that are part of the National Highway System (NHS) are still subject to certain federal outdoor advertising regulations, regardless of their scenic byway status. When considering a de-designation or segmentation on an NHS route, either the committee or the local legislative body should become familiar with the regulatory differences between scenic byway status and NHS status, since de-designation or segmentation would not affect the ongoing applicability of NHS regulations and may not always produce the desired effect.

(4) De-designated corridors and communities or parcels segmented out of the scenic byway designation are no longer subject to byways-related regulations and are no longer eligible for byways-related grants and promotional considerations.

(5) Committee processes for de-designation may be initiated by the committee itself or by request from a local legislative body.

(6) ~~Alternatively,~~ segmentation of specific parcels or portions of a scenic byway may be considered directly by the local legislative body of a county, city, or town where the segmentation is proposed, as provided in Title 72, Chapter 4. The same public hearing requirements are followed for local legislative actions as are provided herein for committee actions.

(7) Alternately, segmentation of specific parcels of property adjacent to a scenic byway may be requested by the property owner by submitting a written Request for Agency Action, as provided in the Administrative Procedures Act, Title 63G, Chapter 4, Part 2.

(a) The Request for Agency Action shall contain the information required by 63G-4-201(3)(a), and shall include a statement why the owner considers the property to be non-scenic as defined in 72-4-301.

(b) The written Request for Agency Action shall be mailed to the Office of Tourism, Film and Global Branding within the GOED, with a copy of the request mailed to the Program Development Group within the Utah Department of Transportation to the attention of Program Development;

(c) Segmentation of property under a Request for Agency Action shall take effect 60 days after receipt of the written request

by the Office of Tourism within GOED, unless the committee demonstrates to an administrative law judge within 60 days, with subsequent action by the administrative law judge, that the property fails to meet the definition of "non-scenic" as defined in 72-4-301;

(i) Pursuant to Section 72-4-303(3)(d), "receipt" of the request for Agency Action shall be the date on which the mailed copy of the request is received by GOED's Office of Tourism.

(ii) Requests for Agency Action shall be mailed to:
GOED OFFICE OF TOURISM

Attention: Scenic Byway Committee
300 North State Street

Council Hall/ Capitol Hill
Salt Lake City Utah 84114

(iii) A copy of the Request for Agency Action shall be mailed to:

Program Development Group of the
Utah Department of Transportation

P.O. Box 143600
4501 South 2700 West

Salt Lake City Utah 84114

(d) a request for agency action segmentation is classified as an informal adjudicative proceeding.

([7]8) Requests to the committee for de-designation of state scenic byways shall be submitted by a local legislative body along or adjacent to the scenic byway corridor. Each request shall include discussion of the specific reasons for de-designation. Reasons may include, but are not limited to:

(a) segment or corridor is no longer consistent with the state's criteria for selection as a scenic byway;

(b) failure to have maintained or enhanced intrinsic values for which the scenic byway was designated;

(c) degradation of the intrinsic values for which the scenic byway was selected;

(d) segment of byway is not representative of the intrinsic values for which the scenic byway was designated and was included primarily for connectivity; or

(e) state scenic byway designation has become a liability to the corridor.

([8]9) Local legislative bodies shall inform the committee and UDOT Program Development of their action to segment within 30 days of the date of the action to segment. The local legislative body shall include the discussion of the specific reasons for segmenting. Reasons may include, but are not limited to those identified in R926-14-8(7)(a) through (e).

([9]10) Parcels on existing byways may not be segmented out of a byway solely for the purpose of evading state and federal regulations pertaining to byway designation, but must also be considered non-scenic or otherwise meet the criteria listed in Paragraph (7). However, towns, cities, and counties may remove themselves entirely for any purpose, as provided in Title 72, Chapter 4.

([10]11) State and federal highway regulations require that no regulated outdoor advertising be located within 500 feet of a designated scenic area. Therefore, the size of any parcel or parcels being considered for segmentation would need to be large enough to meet that offset requirement.

([11]12) Upon receipt of the local legislative body's action to segment, the committee chair will add the action to the agenda of the next committee meeting.

(~~13~~13) The local legislative body shall provide the committee the following information at the next committee meeting:

- (a) the date of segmentation, being the day the local legislative body took action on the request to segment;
- (b) the defined limits of the segmented portion of the scenic byway, including route and milepost details and definitions;
- (c) the approved meeting minutes from the public meeting(s); and
- (d) a copy of the signed resolution from the local legislative body.

(~~13~~14) After the responsible legislative body has heard and denied a request to segment a state scenic byway, the denial can be appealed to the committee. The appeal must include information regarding the public hearings, minutes of the hearings, including names and addresses of people making comments, a detailed summary of comments made, and proof of public notification.

(~~14~~15) Following discussion of the request or appeal, the committee will vote on the request for de-designation or appeal of the denial of segmentation. The committee will then forward the result of the vote to the requesting local legislative body or appealing party. For segmentation denial appeals heard by the committee and for de-designation actions, the date of approval by the committee is considered the official date of the segmentation or de-designation, for the intent and purpose of how it affects byway program eligibility and subjection to byway regulations.

(~~15~~16) Upon approval or disapproval of a de-designation or segmentation request or decision on appeal, the acting body, whether the committee or the local legislative body, shall notify the Utah Office of Tourism, the department and other interested agencies of the action taken.

(a) In the case of approval of a de-designation or segmentation, the acting body will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

(b) In the case where the committee approves the de-designation of a scenic byway that had also been designated as a National Scenic Byway, the committee will inform the National Scenic Byway Program of the decision and make a request to the NSBP that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

(c) In the case of a local legislative action on a segmentation request, the local legislative body shall also notify the committee and the local byway coordinator of the action taken. For segmentation requests heard by a local legislative body, the date of approval by the local legislative body is considered the official date of the segmentation, for the intent and purpose of how it affects byway program eligibility and subjection to byway regulations.

(~~16~~17) Appeals to the committee concerning local legislative actions are handled as provided in Title 72[-], Chapter 4.

(~~17~~18) [~~On~~Upon receiving notification of segmentation or de-designation, the department shall amend Rule 926-13 to update the description of the byway to reflect the approved changes. The department shall forward to the NSBP any changes that would have a substantive effect on online maps, brochures, or other publications of the NSBP. The department will also show substantive changes on the official highway map at its next printing.

R926-14-9. Local Government Consent.

Consent of affected local governments along the byway corridor is required by Title 72, Chapter 4 for any change in scenic byway status.

R926-14-10. Requirements for Public Hearings to Be Conducted Regarding Changes to Status of a State Scenic Byway and Related Notifications.

(1) Whenever changes to the scenic byway status of a corridor or of a segment thereof are considered, one or more public hearings must be held for the purpose of receiving the public's views and to respond to questions and concerns expressed before action is taken.

(2) Upon the receipt of a Request for Agency Action from a property owner to segment property adjacent to a scenic byway, the Chair of the committee shall call a meeting for the committee to consider factors associated with the request, including consideration of information listed in paragraph (4).

(3) For all other changes to scenic byway status:

(a) The organization initiating the request for change in status is responsible for arrangement, notification, and execution of the hearing(s). The responsible organization may be:

- (i) an organization (local scenic byway committee, community, county or association of governments) submitting an application or request to the committee;
- (ii) the committee, in the case of a process initiated by the committee itself; or
- (iii) a local legislative body considering a segmentation request.

(b) The hearing(s) shall be held in the area affected by the proposed status changes.

(c) Multiple hearings in varied locations may be appropriate, based on the length of the corridor or the affected area within the corridor. The committee chair will review and approve the number and locations of hearings as proposed by the nominating organization to ensure collection of a broad base of public comments throughout the length of the corridor where the scenic byway status changes are proposed.

(d) The responsible organization shall invite the state committee and the local scenic byway committee to attend the public hearing(s).

(2) The required public hearing(s) may be held separately, or as an identifiable agenda item of a regular meeting of a local legislative body.

(3) Notification of all public hearings shall be made as required by the laws governing the responsible organization.

(4) At a minimum, the following information related to the proposed change in status is to be addressed at each public hearing:

- (a) the impact on outdoor advertising;
- (b) the potential impact of traffic volumes;
- (c) the potential impact of land use along the byway;
- (d) the potential impact on grant eligibility; and
- (e) the potential impact on the local tourist industry.

(5) The responsible organization shall keep minutes of the hearing, including a detailed summary of comments and the names and addresses of those making comments and shall make these available to the committee, along with proof of required notifications.

R926-14-11. Requirements for Consideration of Adjudicative Proceedings Associated with a Segmentation Request Submitted by a Property Owner Under a Request for Agency Action.

(1) If the committee determines at a public hearing that property associated with a property owner's request for agency action to segment property does not meet the definition of non-scenic as defined in 72-4-301, the Chair of the committee shall notify the property owner that its Request for Agency Action is denied pending administrative hearing.

(2) The Chair of the committee shall notify the property owner in writing of:

(3) The committee's denial of the Request for Agency Action;

(4) the Committee's intent to have the matter considered by an administrative law judge;

(5) A list of available administrative law judges, if known.

(6) No more than 10 days after the written notice is sent advising the property owner of the committee's denial of the request

for agency action and intent to have the matter considered by an administrative law judge, the property owner shall notify the committee in writing of their agreement on selection of the administrative law judge named by the committee, or advise the committee of an alternate judge agreed upon by the committee.

(7) Administrative Hearings initiated under this provision shall be designated as informal hearings under the Utah Administrative Procedures Act and conducted as set forth in Utah Code Section 63G-4-203.

KEY: transportation, scenic byways, highways

Date of Enactment or Last Substantive Amendment: May 10, 2016

Notice of Continuation: June 16, 2015

Authorizing, and Implemented or Interpreted Law: 52-4-207; 63G-3-201; 72-4-301; 72-4-301.5; 72-4-302; 72-4-303; 72-4-304

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 Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Education, Administration **R277-707** Enhancement for Accelerated Students Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40428
FILED: 05/16/2016

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: Article X, Section 3, vests general control and supervision over public education in the Board; Section 53A-17a-165 allows the Board to adopt rules for the expenditure of funds appropriated for Enhancement for Accelerated Students Program; and Section 53A-1-401 allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R277-707 continues to be necessary because it provides procedures for distributing funds appropriated under Section 53A-17a-165 to local education agencies. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 05/16/2016

Environmental Quality, Air Quality **R307-210** Stationary Sources

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40422
FILED: 05/12/2016

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: Rule R307-210 was enacted under the authority of Subsection 19-2-104(1)(a). Section 19-2-104 gives the Utah Air Quality Board the power to make

rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source."

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 by interested persons supporting or opposing Rule R307-210.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Environmental Protection Agency (EPA) has delegated the authority to "develop and submit" procedures for "implementing and enforcing standards of performance for new sources" in Utah to the state under 42 U.S.C. 7411(c). Rule R307-210 is a part of those procedures. The Division believes it is in Utah's best interest to remain in control of implementing and enforcing standards of performance for new sources rather than giving that authority to the federal government. Therefore, Rule R307-210 should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 05/12/2016

Heritage and Arts, History
R455-3

**Memberships, Sales, Gifts, Bequests,
 Endowments**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 40406
 FILED: 05/05/2016

**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 9-8-206 and 9-8-207 authorize the Division to establish administrative processes for handling disposition of proceeds and membership dues and make adjustments to prices of various publications.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Hundreds annually review or establish memberships. The society continues to need a method to handle memberships, sales, gifts, and endowments. Prices for the sale of historical magazines, books published by the division, microfilm, photos, and other published documents need to be established by the director, in consultation with the board. The society is authorized to receive gifts, grants, donations, bequests, devises, and endowments of money or property. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HERITAGE AND ARTS
 HISTORY
 300 RIO GRANDE ST
 SALT LAKE CITY, UT 84101-1182
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Alycia Aldrich by phone at 801-245-7226, by FAX at 801-533-3503, or by Internet E-mail at aaldrich@utah.gov

AUTHORIZED BY: Julie Fisher, Executive Director

EFFECTIVE: 05/05/2016

Heritage and Arts, History
R455-4

Ancient Human Remains

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 40405
 FILED: 05/05/2016

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 9-8-309 defines the Antiquities Section's duties with respect to recovery, disposition, and determination of ownership of ancient human remains found on nonfederal lands that are not state lands in the state of Utah. This rule outlines how the Antiquities Section will ensure that ancient human remains are given respectful, lawful, and scientifically-sound treatment; that landowners are not harmed or burdened by a discovery of ancient human remains on their property; and that steps are taken to determine lawful ownership of recovered human remains.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R455-4 is justified as Section 9-8-309 defines the Antiquities Section as the agency responsible for ancient human remains found on nonfederal lands that are not state lands in Utah. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HERITAGE AND ARTS
 HISTORY
 300 RIO GRANDE ST
 SALT LAKE CITY, UT 84101-1182
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Alycia Aldrich by phone at 801-245-7226, by FAX at 801-533-3503, or by Internet E-mail at aaldrich@utah.gov

AUTHORIZED BY: Julie Fisher, Executive Director

EFFECTIVE: 05/05/2016

**Heritage and Arts, History
 R455-8
 Preservation Easements**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 40410
 FILED: 05/10/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule ensures the adequate handling of preservation easements and their proper recordings in accordance with Sections 9-8-503 and 9-8-504.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Though the Division rarely accepts easements, there are instances (usually involving high-profile, publicly-owned properties) when it is helpful to all parties concerned, including the state, for the Division to accept easements. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HERITAGE AND ARTS
 HISTORY
 300 RIO GRANDE ST
 SALT LAKE CITY, UT 84101-1182
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Alycia Aldrich by phone at 801-245-7226, by FAX at 801-533-3503, or by Internet E-mail at aaldrich@utah.gov

AUTHORIZED BY: Julie Fisher, Executive Director

EFFECTIVE: 05/10/2016

**Workforce Services, Unemployment
 Insurance
 R994-302
 Employer Contribution Payments**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 40400
 FILED: 05/03/2016

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 35A-4-302 provides that employers must make contributions to the trust fund "in accordance with rules the department may prescribe". This rule explains how and when contributions are to be made.

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 during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is essential to explain to employers when and how to make the required contribution payments. It also requires an employer to notify the Department of certain changes, like death of an owner, and any receivership proceedings. The rule allows for extensions in some circumstances and adjustments or refunds in the event of an overpayment. The rule is essential to explain the process for filing contributions. Therefore, this rule should be continued.

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 Office 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

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/03/2016

**Workforce Services, Unemployment
 Insurance
 R994-308
 Bond Requirement**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION
 DAR FILE NO.: 40401
 FILED: 05/03/2016**

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 35A-4-308(1)(a) provides the department can require a bond when necessary to ensure compliance with the Employment Security Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule explains to employers when a bond will be required. The rule provides examples of when the department will require bonds or has required bonds in the past. The rule is necessary to explain to employers that a bond will be required if they fail to pay contributions or if they are in an industry where the rate of past failures to comply is high. Therefore, this rule should be continued.

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 Office 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

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/03/2016

End of the Five-Year Notices of Review and Statements of Continuation Section

**NOTICES OF
LEGISLATIVE NONREAUTHORIZATION**

Section 63G-3-502 provides that "every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature." To do this, the Legislature's Administrative Rules Review Committee prepares omnibus legislation each year. As part of this legislation, the Legislature may elect not to reauthorize a rule or a part of a rule down to the complete paragraph level. When this occurs, the Office of Administrative Rules files a **NOTICE OF LEGISLATIVE NONREAUTHORIZATION** to document the Legislature's action and removes the rule or part of a rule from the *Utah Administrative Code*. The list below represents administrative rules that the Legislature has elected not to reauthorize.

Legislative nonreauthorization of administrative rules is governed by Section 63G-3-502.

Environmental Quality, Air Quality

R307-230

NOx Emission Limits for Natural Gas-
Fired Water Heaters

LEGISLATIVE NONREAUTHORIZATION

DAR FILE NO.: 40408

FILED: 05/10/2016

SUMMARY: This rule was not reauthorized by the Legislature during the 2016 General Session under S.B. 88. It will be removed from the *Utah Administrative Code* as of 05/10/2016.

EFFECTIVE: 05/10/2016

End of the Notices of Legislative Nonreauthorization Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Corrections

Administration

No. 40039 (AMD): R251-109. Sex Offender Treatment Providers
Published: 01/15/2016
Effective: 05/04/2016

Crime Victim Reparations

Administration

No. 40177 (AMD): R270-1-17. Prescription or Over-the-Counter Medications
Published: 02/15/2016
Effective: 05/13/2016

Environmental Quality

Air Quality

No. 39848 (AMD): R307-801. Utah Asbestos Rule
Published: 11/01/2015
Effective: 05/05/2016

No. 39848 (CPR): R307-801. Utah Asbestos Rule
Published: 03/01/2016
Effective: 05/05/2016

No. 40207 (AMD): R307-841-8. Renovator Certification and Dust Sampling Technician Certification
Published: 03/01/2016
Effective: 05/05/2016

Waste Management and Radiation Control, Radiation

No. 39991 (AMD): R313-22. Specific Licenses
Published: 01/01/2016
Effective: 05/09/2016

No. 39991 (CPR): R313-22. Specific Licenses
Published: 04/01/2016
Effective: 05/09/2016

Governor

Economic Development

No. 40028 (R&R): R357-7. Utah Capital Investment Board
Published: 01/15/2016
Effective: 05/16/2016

No. 40028 (CPR): R357-7. Utah Capital Investment Board
Published: 04/01/2016
Effective: 05/16/2016

Health

Family Health and Preparedness, Licensing

No. 40243 (AMD): R432-550. Birthing Centers
Published: 04/01/2016
Effective: 05/16/2016

Human Services

Administration

No. 40264 (NEW): R495-885. Employee Background Screenings
Published: 04/01/2016
Effective: 05/11/2016

Child and Family Services

No. 40255 (R&R): R512-40. Adoptive Home Studies, Recruitment, Approval
Published: 04/01/2016
Effective: 05/09/2016

NOTICES OF RULE EFFECTIVE DATES

No. 40256 (AMD): R512-41. Qualifying Adoptive Families
and Adoption Placement
Published: 04/01/2016
Effective: 05/09/2016

No. 40258 (AMD): R512-44. Choose Life Adoption Support
Restricted Account
Published: 04/01/2016
Effective: 05/09/2016

No. 40257 (AMD): R512-43. Adoption Assistance
Published: 04/01/2016
Effective: 05/09/2016

Workforce Services
Employment Development
No. 40241 (AMD): R986-200-240. Additional Payments
Available Under Certain Circumstances
Published: 03/15/2016
Effective: 05/03/2016

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2016 through May 16, 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 Office of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-19	Facility Use Rules	40226	NSC	03/11/2016	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40044	NSC	01/15/2016	Not Printed
<u>Finance</u>					
R25-7-10	Reimbursement for Transportation	40042	AMD	02/23/2016	2016-2/4
R25-15	Change Date and Set Aside Provisions for Annual Leave II	39943	NEW	01/13/2016	2015-23/6
<u>Purchasing and General Services</u>					
R33-6-114	Technology Acquisitions for Executive Branch Procurement Units	40048	AMD	02/23/2016	2016-2/6
R33-12-502	Technology Modifications	40047	AMD	02/23/2016	2016-2/7
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-3	Government Records Access and Management Act	40234	5YR	02/29/2016	2016-6/27
R51-4	ADA Complaint Procedure	40235	5YR	02/29/2016	2016-6/27
<u>Horse Racing Commission (Utah)</u>					
R52-7	Horse Racing	39951	AMD	02/02/2016	2015-24/4
<u>Marketing and Development</u>					
R65-8	Management of the Junior Livestock Show Appropriation	40233	5YR	02/29/2016	2016-6/28
<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	40201	5YR	02/08/2016	2016-5/23
R68-7	Utah Pesticide Control Rule	40232	5YR	02/29/2016	2016-6/28
R68-9	Utah Noxious Weed Act	39965	AMD	02/02/2016	2015-24/8
R68-18	Quarantine Pertaining to Karnal Bunt	40200	5YR	02/08/2016	2016-5/23
<u>Regulatory Services</u>					
R70-330	Raw Milk for Retail	40268	5YR	03/16/2016	2016-8/91
R70-370	Butter	40270	5YR	03/16/2016	2016-8/91
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	40269	5YR	03/16/2016	2016-8/92
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	40149	5YR	01/20/2016	2016-4/77

R70-530 Food Protection 39950 AMD 02/02/2016 2015-24/12

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1 Scope, Definitions, and General Provisions 40376 5YR 05/02/2016 2016-10/73
 R81-2 State Stores 40378 5YR 05/02/2016 2016-10/74
 R81-3 Package Agencies 40379 5YR 05/02/2016 2016-10/74
 R81-4A Restaurant Liquor Licenses 40381 5YR 05/02/2016 2016-10/75
 R81-5 Club Licenses 40382 5YR 05/02/2016 2016-10/76
 R81-6 Special Use Permits 40383 5YR 05/02/2016 2016-10/76
 R81-7 Event Permits 40384 5YR 05/02/2016 2016-10/77
 R81-8 Manufacturer Licenses (Distillery, Winery, Brewery) 40385 5YR 05/02/2016 2016-10/77
 R81-9 Liquor Warehousing Licenses 40386 5YR 05/02/2016 2016-10/78
 R81-11 Beer Wholesaler Licenses 40387 5YR 05/02/2016 2016-10/79
 R81-12 Local Industry Representative Licenses (Distillery, Winery, Brewery) 40388 5YR 05/02/2016 2016-10/79

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-4 Capitol Preservation Board General Procurement Rule 40092 5YR 01/11/2016 2016-3/507

COMMERCE

Administration

R151-4 Department of Commerce Administrative Procedures Act Rule 40265 5YR 03/15/2016 2016-7/63
 R151-14 New Automobile Franchise Act Rule 40293 5YR 03/31/2016 2016-8/92

Consumer Protection

R152-11 Utah Consumer Sales Practices Act 40342 5YR 04/19/2016 2016-10/80
 R152-26 Telephone Fraud Prevention Act 40341 5YR 04/19/2016 2016-10/80

Corporations and Commercial Code

R154-2 Utah Uniform Commercial Code, Revised Article 9 Rules 40371 5YR 05/02/2016 2016-10/81

Occupational and Professional Licensing

R156-3a Architect Licensing Act Rule 40058 5YR 01/07/2016 2016-3/507
 R156-9 Funeral Service Licensing Act Rule 40354 5YR 04/26/2016 2016-10/81
 R156-9a Uniform Athlete Agents Act Rule 40071 5YR 01/07/2016 2016-3/508
 R156-17b Pharmacy Practice Act Rule 40217 AMD 04/21/2016 2016-6/4
 R156-17b-614a Operating Standards - General Operating Standards, Class A and B Pharmacy 40218 AMD 04/21/2016 2016-6/11
 R156-26a Certified Public Accountant Licensing Act Rule 39982 AMD 02/11/2016 2016-1/4
 R156-37 Utah Controlled Substances Act Rule 40216 AMD 04/21/2016 2016-6/14
 R156-37f Controlled Substance Database Act Rule 39923 AMD 01/07/2016 2015-23/7
 R156-40 Recreational Therapy Practice Act Rule 40352 5YR 04/26/2016 2016-10/82
 R156-46b Division Utah Administrative Procedures Act Rule 40052 5YR 01/05/2016 2016-3/509
 R156-47b Massage Therapy Practice Act Rule 40000 AMD 03/08/2016 2016-2/8
 R156-55a Utah Construction Trades Licensing Act Rule 40219 AMD 04/21/2016 2016-6/16
 R156-55a-303b Continuing Education - Standards 40344 NSC 05/11/2016 Not Printed
 R156-55c Plumber Licensing Act Rule 40131 NSC 02/02/2016 Not Printed
 R156-55d Burglar Alarm Licensing Rule 40164 AMD 03/24/2016 2016-4/10
 R156-57 Respiratory Care Practices Act Rule 40355 5YR 04/26/2016 2016-10/83
 R156-60b-102 Definitions 39924 AMD 01/07/2016 2015-23/12
 R156-60c Clinical Mental Health Counselor Licensing Act Rule 39911 AMD 01/07/2016 2015-23/14
 R156-60d Substance Use Disorder Counselor Act Rule 40055 5YR 01/05/2016 2016-3/509
 R156-67 Utah Medical Practice Act Rule 40196 5YR 02/08/2016 2016-5/24
 R156-69 Dentist and Dental Hygienist Practice Act Rule 40150 5YR 01/21/2016 2016-4/77
 R156-73 Chiropractic Physician Practice Act Rule 40208 5YR 02/11/2016 2016-5/25
 R156-77 Direct-Entry Midwife Act Rule 40353 5YR 04/26/2016 2016-10/83

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R156-78-102	Definitions	39912	AMD	01/07/2016	2015-23/16
R156-82-201	Security	39980	AMD	02/08/2016	2016-1/12
<u>Real Estate</u>					
R162-2f	Real Estate Licensing and Practices Rules	40041	AMD	02/23/2016	2016-2/11
R162-2f-202b	Principal Broker Licensing Fees and Procedures	40364	NSC	05/11/2016	Not Printed
COMMUNICATIONS AUTHORITY BOARD (UTAH)					
<u>Administration</u>					
R174-1	Utah 911 Advisory Committee	40397	5YR	05/02/2016	2016-10/84
CORRECTIONS					
<u>Administration</u>					
R251-109	Sex Offender Treatment Providers	40039	AMD	05/04/2016	2016-2/16
CRIME VICTIM REPARATIONS					
<u>Administration</u>					
R270-1-17	Prescription or Over-the-Counter Medications	40177	AMD	05/13/2016	2016-4/13
R270-5	Electronic Meetings	40148	NEW	04/06/2016	2016-4/14
EDUCATION					
<u>Administration</u>					
R277-99-2	Definitions	40247	NSC	03/29/2016	Not Printed
R277-107-6	Public Education Employees	40248	NSC	03/29/2016	Not Printed
R277-207	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	39837	NEW	01/11/2016	2015-21/17
R277-402-4	LEA Responsibilities	40249	NSC	03/29/2016	Not Printed
R277-404	Requirements for Assessments of Student Achievement	40097	NSC	02/02/2016	Not Printed
R277-482	Charter School Timelines and Approval Processes	40284	5YR	03/30/2016	2016-8/93
R277-494	Charter, Online, Home, and Private School Student Participation in Extracurricular or Co-curricular School Activities	40098	AMD	03/09/2016	2016-3/6
R277-497	School Grading System	39984	AMD	02/08/2016	2016-1/13
R277-505	Administrative License Areas of Concentration and Programs	40285	5YR	03/30/2016	2016-8/93
R277-507-1	Definitions	40250	NSC	03/29/2016	Not Printed
R277-510	Educator Licensing - Highly Qualified Assignment	40099	5YR	01/14/2016	2016-3/510
R277-510	Educator Licensing - Highly Qualified Assignment	40100	AMD	03/09/2016	2016-3/8
R277-510-5	NCLB Highly Qualified Assignments - Secondary Teachers 6-12	40362	NSC	05/11/2016	Not Printed
R277-616-3	Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School	40251	NSC	03/29/2016	Not Printed
R277-700-7	Student Mastery and Assessment of Core Standards	40252	NSC	03/29/2016	Not Printed
R277-702-4	Eligibility for GED Testing	40253	NSC	03/29/2016	Not Printed
R277-705	Secondary School Completion and Diplomas	39936	AMD	01/07/2016	2015-23/17
R277-707	Enhancement for Accelerated Students Program	40428	5YR	05/16/2016	Not Printed
R277-716	Alternative Language Services for Utah Students	40211	5YR	02/16/2016	2016-5/25
R277-716	Alternative Language Services for Utah Students	40212	AMD	04/07/2016	2016-5/3
R277-726	Statewide Online Education Program	39996	AMD	02/08/2016	2016-1/15
R277-752	Adult Students with Disabilities and Informed Consent	40274	EMR	03/18/2016	2016-8/87
R277-920	Implementation of the School Turnaround and Leadership Development Act	39789	NEW	02/08/2016	2015-20/70

R277-920-3	Superintendent's Designation of Low Performing Schools and Waiver Authority	39997	AMD	02/08/2016	2016-1/20
R277-920-4	Implementation of the School Turnaround and Leadership Development Act	40286	NSC	04/05/2016	Not Printed

Rehabilitation

R280-204	Utah State Office of Rehabilitation Employee Background Check Requirement	40101	5YR	01/14/2016	2016-3/510
R280-204	Utah State Office of Rehabilitation Employee Background Check Requirement	40102	AMD	03/09/2016	2016-3/11

ENVIRONMENTAL QUALITY

Air Quality

R307-101-2	Definitions	39994	AMD	03/03/2016	2016-1/21
R307-104	Conflict of Interest	39995	NEW	03/03/2016	2016-1/28
R307-110-28	Regional Haze	39849	AMD	02/04/2016	2015-21/45
R307-210	Stationary Sources	40294	EXT	04/04/2016	2016-9/141
R307-210	Stationary Sources	40422	5YR	05/12/2016	Not Printed
R307-230	NOx Emission Limits for Natural Gas-Fired Water Heaters	40408	LNR	05/10/2016	Not Printed
R307-312-5	Hot Mix Asphalt Plants	39844	AMD	02/04/2016	2015-21/46
R307-328-4	Loading of Tank Trucks, Trailers, Railroad Tank Cars, and Other Transport Vehicles	39845	AMD	02/04/2016	2015-21/47
R307-351-4	Standards for Rotogravure, Flexographic, and Specialty Printing Operations	40225	NSC	03/11/2016	Not Printed
R307-403-2	Applicability	40193	NSC	02/25/2016	Not Printed
R307-405-3	Definitions	39846	AMD	02/04/2016	2015-21/48
R307-415-3	Definitions	39847	AMD	02/04/2016	2015-21/50
R307-801	Utah Asbestos Rule	39848	AMD	05/05/2016	2015-21/53
R307-801	Utah Asbestos Rule	39848	CPR	05/05/2016	2016-5/18
R307-841-8	Renovator Certification and Dust Sampling Technician Certification	40207	AMD	05/05/2016	2016-5/7

Drinking Water

R309-105-4	General	40031	AMD	05/01/2016	2016-2/19
R309-110-4	Definitions	40032	AMD	05/01/2016	2016-2/20
R309-200-5	Primary Drinking Water Standards	40033	AMD	05/01/2016	2016-2/23
R309-210	Monitoring and Water Quality: Distribution System Monitoring Requirements	40034	AMD	05/01/2016	2016-2/26
R309-211	Monitoring and Water Quality: Distribution System – Total Coliform Requirements	40035	NEW	05/01/2016	2016-2/33
R309-215	Monitoring and Water Quality: Treatment Plant Monitoring Requirements	40036	AMD	05/01/2016	2016-2/40
R309-220	Monitoring and Water Quality: Public Notification Requirements	40037	AMD	05/01/2016	2016-2/46
R309-225	Monitoring and Water Quality: Consumer Confidence Reports	40038	AMD	05/01/2016	2016-2/53

Radiation Control

R313-15	Standards for Protection Against Radiation	39989	AMD	03/15/2016	2016-1/29
R313-19-34	Terms and Conditions of Licenses	39990	AMD	03/15/2016	2016-1/32
R313-24	Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements	39992	AMD	03/15/2016	2016-1/38

Waste Management and Radiation Control, Radiation

R313-15	Standards for Protection Against Radiation	40003	NSC	01/15/2016	Not Printed
R313-16-230	Registration of Radiation Machines	40004	NSC	01/15/2016	Not Printed
R313-18-11	Posting of Notices to Workers	40007	NSC	01/15/2016	Not Printed
R313-21	General Licenses	40008	NSC	01/15/2016	Not Printed
R313-22	Specific Licenses	40009	NSC	01/15/2016	Not Printed
R313-22	Specific Licenses	39991	AMD	05/09/2016	2016-1/33
R313-22	Specific Licenses	39991	CPR	05/09/2016	2016-7/44
R313-26	Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities	40259	5YR	03/10/2016	2016-7/63
R313-27	Medical Use Advisory Committee	40230	NSC	03/08/2016	Not Printed

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R313-32-2	Clarifications or Exceptions	40010	NSC	01/15/2016	Not Printed
R313-70	Payments, Categories and Types of Fees	40011	NSC	01/15/2016	Not Printed
<u>Waste Management and Radiation Control, Waste Management</u>					
R315-1	Utah Hazardous Waste Definitions and References	40117	REP	04/15/2016	2016-3/14
R315-2	General Requirements - Identification and Listing of Hazardous Waste	40118	REP	04/15/2016	2016-3/14
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	40119	REP	04/15/2016	2016-3/15
R315-4	Procedures for Decisionmaking	40120	REP	04/15/2016	2016-3/16
R315-5	Hazardous Waste Generator Requirements	40121	REP	04/15/2016	2016-3/17
R315-6	Hazardous Waste Transporter Requirements	40122	REP	04/15/2016	2016-3/18
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	40123	REP	04/15/2016	2016-3/18
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	40124	REP	04/15/2016	2016-3/19
R315-9	Emergency Controls	40125	REP	04/15/2016	2016-3/20
R315-12	Administrative Procedures	40126	REP	04/15/2016	2016-3/21
R315-13	Land Disposal Restrictions	40127	REP	04/15/2016	2016-3/21
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R315-261	General Requirements - Identification and Listing of Hazardous Waste	40278	NSC	04/15/2016	Not Printed
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R315-262	Hazardous Waste Generator Requirements	40279	NSC	04/15/2016	Not Printed
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R655-11	Requirements for the Design, Construction and Abandonment of Dams	40175	AMD	03/24/2016	2016-4/68
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R657-33	Taking Bear	40093	AMD	03/09/2016	2016-3/490
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R850-11	Procurement	39961	AMD	01/21/2016	2015-24/50
R850-30-400	Special Use Leases	40185	AMD	03/23/2016	2016-4/73
R850-50	Range Management	39960	AMD	01/21/2016	2015-24/52

R850-50	Range Management	40184	NSC	02/17/2016	Not Printed
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R994-302	Employer Contribution Payments	40400	5YR	05/03/2016	Not Printed
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>accelerated learning</u> Education, Administration	40428	R277-707	5YR	05/16/2016	Not Printed
<u>accident prevention</u> Public Safety, Driver License	40143	R708-20	5YR	01/19/2016	2016-4/83
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<u>adjudicative proceedings</u> Commerce, Administration	40265 40293	R151-4 R151-14	5YR 5YR	03/15/2016 03/31/2016	2016-7/63 2016-8/92
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	40135	R652-80	5YR	01/14/2016	2016-3/531
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	39960	R850-50	AMD	01/21/2016	2015-24/52
	40184	R850-50	NSC	02/17/2016	Not Printed
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	40306	R512-44	5YR	04/14/2016	2016-9/136
	40258	R512-44	AMD	05/09/2016	2016-7/34
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	40186	R455-9	5YR	02/02/2016	2016-5/27
<u>historic sites</u>					
Heritage and Arts, History	40187	R455-6	5YR	02/02/2016	2016-5/26
	40410	R455-8	5YR	05/10/2016	Not Printed
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Heritage and Arts, History	40406	R455-3	5YR	05/05/2016	Not Printed
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Agriculture and Food, Horse Racing Commission (Utah)	39951	R52-7	AMD	02/02/2016	2015-24/4
<u>hospital policy</u>					
Health, Center for Health Data, Health Care Statistics	40172	R428-10	R&R	03/25/2016	2016-4/43
	40173	R428-11	REP	03/25/2016	2016-4/45
<u>HOT Lanes</u>					
Transportation Commission, Administration	40205	R940-1	EXT	02/09/2016	2016-5/30
<u>hotel convention center incentives</u>					
Governor, Economic Development	40027	R357-13	NEW	03/14/2016	2016-2/76
<u>hourly child care centers</u>					
Health, Child Care Center Licensing Committee	39902	R381-60	AMD	01/31/2016	2015-22/34
	40163	R381-60	AMD	03/30/2016	2016-4/15
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	40014	R460-4	NSC	01/15/2016	Not Printed
	40015	R460-5	NSC	01/15/2016	Not Printed
	40016	R460-6	NSC	01/15/2016	Not Printed
	40017	R460-8	NSC	01/15/2016	Not Printed
Navajo Trust Fund, Trustees	40025	R661-7	NEW	02/29/2016	2016-2/113
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Housing Corporation (Utah), Administration	40012	R460-2	AMD	03/09/2016	2016-2/90
	40018	R460-3	AMD	03/09/2016	2016-2/92
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Human Services, Administration	40264	R495-885	NEW	05/11/2016	2016-7/18
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Natural Resources, Parks and Recreation	40215	R651-637	AMD	04/21/2016	2016-6/23
<u>import restrictions</u>					
Natural Resources, Wildlife Resources	40094	R657-3	AMD	03/09/2016	2016-3/486

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Public Service Commission, Administration	39934	R746-409	AMD	03/30/2016	2015-23/42
	39934	R746-409	CPR	03/30/2016	2016-3/504
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Commerce, Real Estate	40041	R162-2f	AMD	02/23/2016	2016-2/11
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Agriculture and Food, Plant Industry	40232	R68-7	5YR	02/29/2016	2016-6/28
Agriculture and Food, Regulatory Services	39950	R70-530	AMD	02/02/2016	2015-24/12
Environmental Quality, Waste Management and Radiation Control, Radiation	40004	R313-16-230	NSC	01/15/2016	Not Printed
	40007	R313-18-11	NSC	01/15/2016	Not Printed
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	39945	R590-154	AMD	01/15/2016	2015-23/40
	40237	R590-177	5YR	02/29/2016	2016-6/33
	40005	R590-212	REP	03/16/2016	2016-2/99
Insurance, Title and Escrow Commission	40006	R592-17	NEW	03/16/2016	2016-2/101
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Insurance, Administration	40346	R590-208	5YR	04/21/2016	2016-10/85
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	40238	R590-200	5YR	02/29/2016	2016-6/34
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Public Safety, Highway Patrol	39850	R714-500	AMD	01/21/2016	2015-22/144
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Technology Services, Administration	40030	R895-5	AMD	02/23/2016	2016-2/118
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